

104TH CONGRESS
1ST SESSION

H. R. 2530

To provide for deficit reduction and achieve a balanced budget by fiscal year 2002.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 25, 1995

Mr. ORTON (for himself, Mr. STENHOLM, Mr. PETERSON of Minnesota, Mr. CONDIT, Mr. PAYNE of Virginia, Mr. BROWDER, Mrs. LINCOLN, Mr. BREWSTER, Mr. TANNER, Mr. BAESLER, Mr. MINGE, Mr. HALL of Texas, Mr. HAYES, Mr. PETE GEREN of Texas, Mr. CRAMER, Mr. ROSE, Mr. SISISKY, Mr. SABO, Mr. POSHARD, and Mr. ROEMER) introduced the following bill; which was referred to the Committee on the Budget, and in addition to the Committees on Agriculture, Banking and Financial Services, Commerce, Economic and Educational Opportunities, Government Reform and Oversight, House Oversight, the Judiciary, National Security, Resources, Rules, Transportation and Infrastructure, Veterans' Affairs, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for deficit reduction and achieve a balanced budget by fiscal year 2002.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Common Sense Balanced Budget Act of 1995”.

1 (b) TABLE OF CONTENTS.—

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CHAPTER 3—RESTRICTED USES OF CONTINUING RESOLUTIONS

- Sec. 14871. Restrictions respecting continuing resolutions.

Subtitle J—Technical and Conforming Amendments

- Sec. 14901. Amendments to the Congressional Budget and Impoundment Control Act of 1974.
- Sec. 14902. Technical and conforming amendments to the Rules of the House of representatives.
- Sec. 14903. President’s budget.

Subtitle K—Truth in Legislating

- Sec. 14951. Identity, sponsor, and cost of certain provisions required to be reported.

1 **TITLE I—ENERGY, NATURAL**
2 **RESOURCES AND ENVIRONMENT**
3 **Subtitle A—Energy**

4 **SEC. 1101. PRIVATIZATION OF URANIUM ENRICHMENT.**

5 (a) REFERENCE.—Except as otherwise expressly pro-
6 vided, whenever in this section an amendment or repeal
7 is expressed in terms of an amendment to, or repeal of,
8 a section or other provision, the reference shall be consid-
9 ered to be made to a section or other provision of the
10 Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

1 (b) PRODUCTION FACILITY.—Paragraph v. of section
2 11 (42 U.S.C. 2014 v.) is amended by striking “or the
3 construction and operation of a uranium enrichment pro-
4 duction facility using Atomic Vapor Laser Isotope Separation
5 technology”.

6 (c) DEFINITIONS.—Section 1201 (42 U.S.C. 2297)
7 is amended—

8 (1) in paragraph (4), by inserting before the pe-
9 riod the following: “and any successor corporation
10 established through privatization of the Corpora-
11 tion”;

12 (2) by redesignating paragraphs (10) through
13 (13) as paragraphs (14) through (17), respectively,
14 and by inserting after paragraph (9) the following
15 new paragraphs:

16 “(10) The term ‘low-level radioactive waste’ has
17 the meaning given such term in section 102(9) of
18 the Low-Level Radioactive Waste Policy Amend-
19 ments Act of 1985 (42 U.S.C. 2021b(9)).

20 “(11) The term ‘mixed waste’ has the meaning
21 given such term in section 1004(41) of the Solid
22 Waste Disposal Act (42 U.S.C. 6903(41)).

23 “(12) The term ‘privatization’ means the trans-
24 fer of ownership of the Corporation to private inves-
25 tors pursuant to chapter 25.

1 “(13) The term ‘privatization date’ means the
2 date on which 100 percent of ownership of the Cor-
3 poration has been transferred to private investors.”;

4 (3) by inserting after paragraph (17) (as redес-
5 ignated) the following new paragraph:

6 “(18) The term ‘transition date’ means July 1,
7 1993.”; and

8 (4) by redesignating the unredesignated para-
9 graph (14) as paragraph (19).

10 (d) EMPLOYEES OF THE CORPORATION.—

11 (1) PARAGRAPH (2).—Paragraphs (1) and (2)
12 of section 1305(e) (42 U.S.C. 2297b-4(e)(1)(2)) are
13 amended to read as follows:

14 “(A) IN GENERAL.—It is the purpose of
15 this subsection to ensure that the privatization
16 of the Corporation shall not result in any ad-
17 verse effects on the pension benefits of employ-
18 ees at facilities that are operated, directly or
19 under contract, in the performance of the func-
20 tions vested in the Corporation.

21 “(B) APPLICABILITY OF EXISTING COL-
22 LECTIVE BARGAINING AGREEMENT.—The Cor-
23 poration shall abide by the terms of the collec-
24 tive bargaining agreement in effect on the pri-
25 vatization date at each individual facility.”.

1 (2) PARAGRAPH (4).—Paragraph (4) of section
2 1305(e) (42 U.S.C. 2297b–4(e)(4)) is amended—

3 (A) by striking “AND DETAILEES” in the
4 heading;

5 (B) by striking the first sentence;

6 (C) in the second sentence, by inserting
7 “from other Federal employment” after “trans-
8 fer to the Corporation”; and

9 (D) by striking the last sentence.

10 (e) MARKETING AND CONTRACTING AUTHORITY.—

11 (1) MARKETING AUTHORITY.—Section 1401(a)
12 (42 U.S.C. 2297c(a)) is amended effective on the
13 privatization date (as defined in section 1201(13) of
14 the Atomic Energy Act of 1954)—

15 (A) by amending the subsection heading to
16 read “MARKETING AUTHORITY.—”; and

17 (B) by striking the first sentence.

18 (2) TRANSFER OF CONTRACTS.—Section
19 1401(b) (42 U.S.C. 2297c(b)) is amended—

20 (A) in paragraph (2)(B), by adding at the
21 end the following: “The privatization of the
22 Corporation shall not affect the terms of, or the
23 rights or obligations of the parties to, any such
24 power purchase contract.”; and

25 (B) by adding at the end the following:

1 “(3) EFFECT OF TRANSFER.—

2 “(A) As a result of the transfer pursuant
3 to paragraph (1), all rights, privileges, and ben-
4 efits under such contracts, agreements, and
5 leases, including the right to amend, modify, ex-
6 tend, revise, or terminate any of such contracts,
7 agreements, or leases were irrevocably assigned
8 to the Corporation for its exclusive benefit.

9 “(B) Notwithstanding the transfer pursu-
10 ant to paragraph (1), the United States shall
11 remain obligated to the parties to the contracts,
12 agreements, and leases transferred pursuant to
13 paragraph (1) for the performance of the obli-
14 gations of the United States thereunder during
15 the term thereof. The Corporation shall reim-
16 burse the United States for any amount paid by
17 the United States in respect of such obligations
18 arising after the privatization date to the extent
19 such amount is a legal and valid obligation of
20 the Corporation then due.

21 “(C) After the privatization date, upon any
22 material amendment, modification, extension,
23 revision, replacement, or termination of any
24 contract, agreement, or lease transferred under
25 paragraph (1), the United States shall be re-

1 leased from further obligation under such con-
2 tract, agreement, or lease, except that such ac-
3 tion shall not release the United States from
4 obligations arising under such contract, agree-
5 ment, or lease prior to such time.”.

6 (3) PRICING.—Section 1402 (42 U.S.C. 2297c-
7 1) is amended to read as follows:

8 **“SEC. 1402. PRICING.**

9 “The Corporation shall establish prices for its prod-
10 ucts, materials, and services provided to customers on a
11 basis that will allow it to attain the normal business objec-
12 tives of a profitmaking corporation.”.

13 (4) LEASING OF GASEOUS DIFFUSION FACILI-
14 TIES OF DEPARTMENT.—Effective on the privatiza-
15 tion date (as defined in section 1201(13) of the
16 Atomic Energy Act of 1954), section 1403 (42
17 U.S.C. 2297c-2) is amended by adding at the end
18 the following:

19 “(h) LOW-LEVEL RADIOACTIVE WASTE AND MIXED
20 WASTE.—

21 “(1) RESPONSIBILITY OF THE DEPARTMENT;
22 COSTS.—

23 “(A) With respect to low-level radioactive
24 waste and mixed waste generated by the Cor-
25 poration as a result of the operation of the fa-

1 facilities and related property leased by the Cor-
2 poration pursuant to subsection (a) or as a re-
3 sult of treatment of such wastes at a location
4 other than the facilities and related property
5 leased by the Corporation pursuant to sub-
6 section (a) the Department, at the request of
7 the Corporation, shall—

8 “(i) accept for treatment or disposal
9 of all such wastes for which treatment or
10 disposal technologies and capacities exist,
11 whether within the Department or else-
12 where; and

13 “(ii) accept for storage (or ultimately
14 treatment or disposal) all such wastes for
15 which treatment and disposal technologies
16 or capacities do not exist, pending develop-
17 ment of such technologies or availability of
18 such capacities for such wastes.

19 “(B) All low-level wastes and mixed wastes
20 that the Department accepts for treatment,
21 storage, or disposal pursuant to subparagraph
22 (A) shall, for the purpose of any permits, li-
23 censes, authorizations, agreements, or orders
24 involving the Department and other Federal
25 agencies or State or local governments, be

1 deemed to be generated by the Department and
2 the Department shall handle such wastes in ac-
3 cordance with any such permits, licenses, au-
4 thorizations, agreements, or orders. The De-
5 partment shall obtain any additional permits, li-
6 censes, or authorizations necessary to handle
7 such wastes, shall amend any such agreements
8 or orders as necessary to handle such wastes,
9 and shall handle such wastes in accordance
10 therewith.

11 “(C) The Corporation shall reimburse the
12 Department for the treatment, storage, or dis-
13 posal of low-level radioactive waste or mixed
14 waste pursuant to subparagraph (A) in an
15 amount equal to the Department’s costs but in
16 no event greater than an amount equal to that
17 which would be charged by commercial, State,
18 regional, or interstate compact entities for
19 treatment, storage, or disposal of such waste.

20 “(2) AGREEMENTS WITH OTHER PERSONS.—
21 The Corporation may also enter into agreements for
22 the treatment, storage, or disposal of low-level radio-
23 active waste and mixed waste generated by the Cor-
24 poration as a result of the operation of the facilities
25 and related property leased by the Corporation pur-

1 suant to subsection (a) with any person other than
2 the Department that is authorized by applicable laws
3 and regulations to treat, store, or dispose of such
4 wastes.”.

5 (5) LIABILITIES.—

6 (A) Subsection (a) of section 1406 (42
7 U.S.C. 2297c-5(a)) is amended—

8 (i) by inserting “AND PRIVATIZA-
9 TION” after “TRANSITION” in the heading;
10 and

11 (ii) by adding at the end the follow-
12 ing: “As of the privatization date, all liabil-
13 ities attributable to the operation of the
14 Corporation from the transition date to the
15 privatization date shall be direct liabilities
16 of the United States.”.

17 (B) Subsection (b) of section 1406 (42
18 U.S.C. 2297c-5(b)) is amended—

19 (i) by inserting “AND PRIVATIZA-
20 TION” after “TRANSITION” in the heading;
21 and

22 (ii) by adding at the end the follow-
23 ing: “As of the privatization date, any
24 judgment entered against the Corporation
25 imposing liability arising out of the oper-

1 ation of the Corporation from the transi-
2 tion date to the privatization date shall be
3 considered a judgment against the United
4 States.”.

5 (C) Subsection (d) of section 1406 (42
6 U.S.C. 2297c-5(d)) is amended—

7 (i) by inserting “AND PRIVATIZA-
8 TION” after “TRANSITION” in the heading;
9 and

10 (ii) by striking “the transition date”
11 and inserting “the privatization date (or,
12 in the event the privatization date does not
13 occur, the transition date)”.

14 (6) TRANSFER OF URANIUM.—Title II (42
15 U.S.C. 2297 et seq.) is amended by redesignating
16 section 1408 as section 1409 and by inserting after
17 section 1407 the following:

18 **“SEC. 1408. TRANSFER OF URANIUM.**

19 “The Secretary may, before the privatization date,
20 transfer to the Corporation without charge raw uranium,
21 low-enriched uranium, and highly enriched uranium.”.

22 (f) PRIVATIZATION OF THE CORPORATION.—

23 (1) ESTABLISHMENT OF PRIVATE CORPORA-
24 TION.—Chapter 25 (42 U.S.C. 2297d et seq.) is

1 amended by adding at the end the following new sec-
2 tion:

3 **“SEC. 1503. ESTABLISHMENT OF PRIVATE CORPORATION.**

4 “(a) ESTABLISHMENT.—

5 “(1) IN GENERAL.—In order to facilitate pri-
6 vatization, the Corporation may provide for the es-
7 tablishment of a private corporation organized under
8 the laws of any of the several States. Such corpora-
9 tion shall have among its purposes the following:

10 “(A) To help maintain a reliable and eco-
11 nomical domestic source of uranium enrichment
12 services.

13 “(B) To undertake any and all activities as
14 provided in its corporate charter.

15 “(2) AUTHORITIES.—The corporation estab-
16 lished pursuant to paragraph (1) shall be authorized
17 to—

18 “(A) enrich uranium, provide for uranium
19 to be enriched by others, or acquire enriched
20 uranium (including low-enriched uranium de-
21 rived from highly enriched uranium);

22 “(B) conduct, or provide for conducting,
23 those research and development activities relat-
24 ed to uranium enrichment and related processes
25 and activities the corporation considers nec-

1 essary or advisable to maintain itself as a com-
2 mercial enterprise operating on a profitable and
3 efficient basis;

4 “(C) enter into transactions regarding ura-
5 nium, enriched uranium, or depleted uranium
6 with—

7 “(i) persons licensed under section 53,
8 63, 103, or 104 in accordance with the li-
9 censes held by those persons;

10 “(ii) persons in accordance with, and
11 within the period of, an agreement for co-
12 operation arranged under section 123; or

13 “(iii) persons otherwise authorized by
14 law to enter into such transactions;

15 “(D) enter into contracts with persons li-
16 censed under section 53, 63, 103, or 104, for
17 as long as the corporation considers necessary
18 or desirable, to provide uranium or uranium en-
19 richment and related services;

20 “(E) enter into contracts to provide ura-
21 nium or uranium enrichment and related serv-
22 ices in accordance with, and within the period
23 of, an agreement for cooperation arranged
24 under section 123 or as otherwise authorized by
25 law; and

1 “(F) take any and all such other actions as
2 are permitted by the law of the jurisdiction of
3 incorporation of the corporation.

4 “(3) TRANSFER OF ASSETS.—For purposes of
5 implementing the privatization, the Corporation may
6 transfer some or all of its assets and obligations to
7 the corporation established pursuant to this section,
8 including—

9 “(A) all of the Corporation’s assets, includ-
10 ing all contracts, agreements, and leases, in-
11 cluding all uranium enrichment contracts and
12 power purchase contracts;

13 “(B) all funds in accounts of the Corpora-
14 tion held by the Treasury or on deposit with
15 any bank or other financial institution;

16 “(C) all of the Corporation’s rights, duties,
17 and obligations, accruing subsequent to the pri-
18 vatization date, under the power purchase con-
19 tracts covered by section 1401(b)(2)(B); and

20 “(D) all of the Corporation’s rights, duties,
21 and obligations, accruing subsequent to the pri-
22 vatization date, under the lease agreement be-
23 tween the Department and the Corporation exe-
24 cuted by the Department and the Corporation
25 pursuant to section 1403.

1 “(4) MERGER OR CONSOLIDATION.—For pur-
2 poses of implementing the privatization, the Cor-
3 poration may merge or consolidate with the corpora-
4 tion established pursuant to subsection (a)(1) if such
5 action is contemplated by the plan for privatization
6 approved by the President under section 1502(b).
7 The Board shall have exclusive authority to approve
8 such merger or consolidation and to take all further
9 actions necessary to consummate such merger or
10 consolidation, and no action by or in respect of
11 shareholders shall be required. The merger or con-
12 solidation shall be effected in accordance with, and
13 have the effects of a merger or consolidation under,
14 the laws of the jurisdiction of incorporation of the
15 surviving corporation, and all rights and benefits
16 provided under this title to the Corporation shall
17 apply to the surviving corporation as if it were the
18 Corporation.

19 “(5) TAX TREATMENT OF PRIVATIZATION.—

20 “(A) TRANSFER OF ASSETS OR MERGER.—

21 No income, gain, or loss shall be recognized by
22 any person by reason of the transfer of the Cor-
23 poration’s assets to, or the Corporation’s merg-
24 er with, the corporation established pursuant to

1 subsection (a)(1) in connection with the privat-
2 ization.

3 “(B) CANCELLATION OF DEBT AND COM-
4 MON STOCK.—No income, gain, or loss shall be
5 recognized by any person by reason of any can-
6 cellation of any obligation or common stock of
7 the Corporation in connection with the privat-
8 ization.

9 “(b) OSHA REQUIREMENTS.—For purposes of the
10 regulation of radiological and nonradiological hazards
11 under the Occupational Safety and Health Act of 1970,
12 the corporation established pursuant to subsection (a)(1)
13 shall be treated in the same manner as other employers
14 licensed by the Nuclear Regulatory Commission. Any
15 interagency agreement entered into between the Nuclear
16 Regulatory Commission and the Occupational Safety and
17 Health Administration governing the scope of their respec-
18 tive regulatory authorities shall apply to the corporation
19 as if the corporation were a Nuclear Regulatory Commis-
20 sion licensee.

21 “(c) LEGAL STATUS OF PRIVATE CORPORATION.—

22 “(1) NOT FEDERAL AGENCY.—The corporation
23 established pursuant to subsection (a)(1) shall not
24 be an agency, instrumentality, or establishment of
25 the United States Government and shall not be a

1 Government corporation or Government-controlled
2 corporation.

3 “(2) NO RECOURSE AGAINST UNITED
4 STATES.—Obligations of the corporation established
5 pursuant to subsection (a)(1) shall not be obliga-
6 tions of, or guaranteed as to principal or interest by,
7 the Corporation or the United States, and the obli-
8 gations shall so plainly state.

9 “(3) NO CLAIMS COURT JURISDICTION.—No ac-
10 tion under section 1491 of title 28, United States
11 Code, shall be allowable against the United States
12 based on the actions of the corporation established
13 pursuant to subsection (a)(1).

14 “(d) BOARD OF DIRECTOR’S ELECTION AFTER PUB-
15 LIC OFFERING.—In the event that the privatization is im-
16 plemented by means of a public offering, an election of
17 the members of the board of directors of the Corporation
18 by the shareholders shall be conducted before the end of
19 the 1-year period beginning the date shares are first of-
20 fered to the public pursuant to such public offering.

21 “(e) ADEQUATE PROCEEDS.—The Secretary of En-
22 ergy shall not allow the privatization of the Corporation
23 unless before the sale date the Secretary determines that
24 the estimated sum of the gross proceeds from the sale of
25 the Corporation will be an adequate amount.”.

1 (2) OWNERSHIP LIMITATIONS.—Chapter 25 (as
2 amended by paragraph (1)) is amended by adding at
3 the end the following new section:

4 **“SEC. 1504. OWNERSHIP LIMITATIONS.**

5 “(a) SECURITIES LIMITATION.—In the event that the
6 privatization is implemented by means of a public offering,
7 during a period of 3 years beginning on the privatization
8 date, no person, directly or indirectly, may acquire or hold
9 securities representing more than 10 percent of the total
10 votes of all outstanding voting securities of the Corpora-
11 tion.

12 “(b) APPLICATION.—Subsection (a) shall not apply—

13 “(1) to any employee stock ownership plan of
14 the Corporation,

15 “(2) to underwriting syndicates holding shares
16 for resale, or

17 “(3) in the case of shares beneficially held for
18 others, to commercial banks, broker-dealers, clearing
19 corporations, or other nominees.

20 “(c) No director, officer, or employee of the Corpora-
21 tion may acquire any securities, or any right to acquire
22 securities, of the Corporation—

23 “(1) in the public offering of securities of the
24 Corporation in the implementation of the privatiza-
25 tion,

1 “(2) pursuant to any agreement, arrangement,
2 or understanding entered into before the privatiza-
3 tion date, or

4 “(3) before the election of directors of the Cor-
5 poration under section 1503(d) on any terms more
6 favorable than those offered to the general public.”.

7 (3) EXEMPTION FROM LIABILITY.—Chapter 25
8 (as amended by paragraph (2)) is amended by add-
9 ing at the end the following new section:

10 **“SEC. 1505. EXEMPTION FROM LIABILITY.**

11 “(a) IN GENERAL.—No director, officer, employee, or
12 agent of the Corporation shall be liable, for money dam-
13 ages or otherwise, to any party if, with respect to the sub-
14 ject matter of the action, suit, or proceeding, such person
15 was fulfilling a duty, in connection with any action taken
16 in connection with the privatization, which such person in
17 good faith reasonably believed to be required by law or
18 vested in such person.

19 “(b) EXCEPTION.—The privatization shall be subject
20 to the Securities Act of 1933 and the Securities Exchange
21 Act of 1934. The exemption set forth in subsection (a)
22 shall not apply to claims arising under such Acts or under
23 the Constitution or laws of any State, territory, or posses-
24 sion of the United States relating to transactions in secu-

1 rities, which claims are in connection with a public offer-
2 ing implementing the privatization.”.

3 (4) RESOLUTION OF CERTAIN ISSUES.—Chap-
4 ter 25 (as amended by paragraph (3)) is amended
5 by adding at the end the following new section:

6 **“SEC. 1506. RESOLUTION OF CERTAIN ISSUES.**

7 “(a) CORPORATION ACTIONS.—Notwithstanding any
8 provision of any agreement to which the Corporation is
9 a party, the Corporation shall not be considered to be in
10 breach, default, or violation of any such agreement be-
11 cause of any provision of this chapter or any action the
12 Corporation is required to take under this chapter.

13 “(b) RIGHT TO SUE WITHDRAWN.—The United
14 States hereby withdraws any stated or implied consent for
15 the United States, or any agent or officer of the United
16 States, to be sued by any person for any legal, equitable,
17 or other relief with respect to any claim arising out of,
18 or resulting from, acts or omissions under this chapter.”.

19 (5) APPLICATION OF PRIVATIZATION PRO-
20 CEEDS.—Chapter 25 (as amended by paragraph (4))
21 is amended by adding at the end the following new
22 section:

23 **“SEC. 1507. APPLICATION OF PRIVATIZATION PROCEEDS.**

24 “The proceeds from the privatization shall be in-
25 cluded in the budget baseline required by the Balanced

1 Budget and Emergency Deficit Control Act of 1985 and
2 shall be counted as an offset to direct spending for pur-
3 poses of section 252 of such Act, notwithstanding section
4 257(e) of such Act.”.

5 (6) CONFORMING AMENDMENT.—The table of
6 contents for chapter 25 is amended by inserting
7 after the item for section 1502 the following:

“Sec. 1503. Establishment of private corporation.

“Sec. 1504. Ownership limitations.

“Sec. 1505. Exemption from liability.

“Sec. 1506. Resolution of certain issues.

“Sec. 1507. Application of privatization proceeds.”.

8 (7) Section 193 (42 U.S.C. 2243) is amended
9 by adding at the end the following:

10 “(f) LIMITATION.—If the privatization of the United
11 States Enrichment Corporation results in the Corporation
12 being—

13 “(1) owned, controlled, or dominated by a for-
14 eign corporation or a foreign government, or

15 “(2) otherwise inimical to the common defense
16 or security of the United States,

17 any license held by the Corporation under sections 53 and
18 63 shall be terminated.”.

19 (8) PERIOD FOR CONGRESSIONAL REVIEW.—
20 Section 1502(d) (42 U.S.C. 2297d–1(d)) is amended
21 by striking “less than 60 days after notification of
22 the Congress” and inserting “less than 60 days after

1 the date of the report to Congress by the Comptrol-
2 ler General under subsection (c)’’.

3 (g) PERIODIC CERTIFICATION OF COMPLIANCE.—
4 Section 1701(c)(2) (42 U.S.C. 2297f(c)(2)) is amended by
5 striking ‘‘ANNUAL APPLICATION FOR CERTIFICATE OF
6 COMPLIANCE.—The Corporation shall apply at least annu-
7 ally to the Nuclear Regulatory Commission for a certifi-
8 cate of compliance under paragraph (1).’’ and inserting
9 ‘‘PERIODIC APPLICATION FOR CERTIFICATE OF COMPLI-
10 ANCE.—The Corporation shall apply to the Nuclear Regu-
11 latory Commission for a certificate of compliance under
12 paragraph (1) periodically, as determined by the Nuclear
13 Regulatory Commission, but not less than every 5 years.’’.

14 (h) LICENSING OF OTHER TECHNOLOGIES.—Sub-
15 section (a) of section 1702 (42 U.S.C. 2297f-1(a)) is
16 amended by striking ‘‘other than’’ and inserting ‘‘includ-
17 ing’’.

18 (i) CONFORMING AMENDMENTS.—

19 (1) REPEALS IN ATOMIC ENERGY ACT OF 1954
20 AS OF THE PRIVATIZATION DATE.—

21 (A) REPEALS.—As of the privatization
22 date (as defined in section 1201(13) of the
23 Atomic Energy Act of 1954), the following sec-
24 tions (as in effect on such privatization date) of
25 the Atomic Energy Act of 1954 are repealed:

- 1 (i) Section 1202.
- 2 (ii) Sections 1301 through 1304.
- 3 (iii) Sections 1306 through 1316.
- 4 (iv) Sections 1404 and 1405.
- 5 (v) Section 1601.
- 6 (vi) Sections 1603 through 1607.

7 (B) CONFORMING AMENDMENT.—The
8 table of contents of such Act is amended by re-
9 pealing the items referring to sections repealed
10 by paragraph (1).

11 (2) STATUTORY MODIFICATIONS.—As of such
12 privatization date, the following shall take effect:

13 (A) For purposes of title I of the Atomic
14 Energy Act of 1954, all references in such Act
15 to the “United States Enrichment Corporation”
16 shall be deemed to be references to the corpora-
17 tion established pursuant to section 1503 of the
18 Atomic Energy Act of 1954 (as added by sub-
19 section (f)(1)).

20 (B) Section 1018(1) of the Energy Policy
21 Act of 1992 (42 U.S.C. 2296b–7(1)) is amend-
22 ed by striking “the United States” and all that
23 follows through the period and inserting “the
24 corporation referred to in section 1201(4) of
25 the Atomic Energy Act of 1954.”.

1 (C) Section 9101(3) of title 31, United
2 States Code, is amended by striking subpara-
3 graph (N), as added by section 902(b) of Public
4 Law 102-486.

5 (3) REVISION OF SECTION 1305.—As of such
6 privatization date, section 1305 of the Atomic En-
7 ergy Act of 1954 (42 U.S.C 2297b-4) is amended—

8 (A) by repealing subsections (a), (b), (c),
9 and (d), and

10 (B) in subsection (e)—

11 (i) by striking the subsection designa-
12 tion and heading,

13 (ii) by redesignating paragraphs (1)
14 and (2) (as added by subsection (d)(1)) as
15 subsections (a) and (b) and by moving the
16 margins 2-ems to the left,

17 (iii) by striking paragraph (3), and

18 (iv) by redesignating paragraph (4)
19 (as amended by subsection (d)(2)) as sub-
20 section (c), and by moving the margins 2-
21 ems to the left.

1 **SEC. 1102. MAKING PERMANENT NUCLEAR REGULATORY**
2 **COMMISSION ANNUAL CHARGES.**

3 Paragraph (3) of section 6101(a)(3) of the Omnibus
4 Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3))
5 is repealed.

6 **SEC. 1103. COGENERATION.**

7 Section 804(2)(B) of the National Energy Conserva-
8 tion Policy Act (42 U.S.C. 8287c(2)(B)) is amended by
9 striking “, excluding any cogeneration process for other
10 than a federally owned building or buildings or other fed-
11 erally owned facilities”.

12 **SEC. 1104. FEMA RADIOLOGICAL EMERGENCY PREPARED-**
13 **NESS FEES.**

14 (a) IN GENERAL.—The Director of the Federal
15 Emergency Management Agency may assess and collect
16 fees applicable to persons subject to radiological emer-
17 gency preparedness regulations issued by the Director.

18 (b) REQUIREMENTS.—The assessment and collection
19 of fees by the Director under subsection (a) shall be fair
20 and equitable and shall reflect the full amount of costs
21 to the Agency of providing radiological emergency plan-
22 ning, preparedness, response, and associated services.
23 Such fees shall be assessed by the Director in a manner
24 which reflects the use of resources of the Agency for class-
25 es of regulated persons and the administrative costs of col-
26 lecting such fees.

1 (c) AMOUNT OF FEES.—The aggregate amount of
2 fees assessed under subsection (a) in a fiscal year shall
3 approximate, but not be less than, 100 percent of the
4 amounts anticipated by the Director to be obligated for
5 the radiological emergency preparedness program of the
6 Agency for such fiscal year.

7 (d) DEPOSIT OF FEES IN TREASURY.—Fees received
8 pursuant to subsection (a) shall be deposited in the gen-
9 eral fund of the Treasury as offsetting receipts.

10 **Subtitle B—Central Utah**

11 **SEC. 1121. PREPAYMENT OF CERTAIN REPAYMENT CON-** 12 **TRACTS BETWEEN THE UNITED STATES AND** 13 **THE CENTRAL UTAH WATER CONSERVANCY** 14 **DISTRICT.**

15 The second sentence of section 210 of the Central
16 Utah Project Completion Act (106 Stat. 4624) is amended
17 to read as follows: “The Secretary of the Interior shall
18 allow for prepayment of the repayment contract between
19 the United States and the Central Utah Water Conser-
20 vancy District dated December 28, 1965, and supple-
21 mented on November 26, 1985, providing for repayment
22 of the municipal and industrial water delivery facilities for
23 which repayment is provided pursuant to such contract,
24 under such terms and conditions as the Secretary deems
25 appropriate to protect the interest of the United States,

1 which shall be similar to the terms and conditions con-
2 tained in the supplemental contract that provided for the
3 prepayment of the Jordan Aqueduct dated October 28,
4 1993. The District shall exercise its right to prepayment
5 pursuant to this section by the end of fiscal year 2002.”.

6 **Subtitle C—Army Corps of**
7 **Engineers**

8 **SEC. 1131. REGULATORY PROGRAM FUND.**

9 (a) ESTABLISHMENT.—There is established in the
10 Treasury of the United States the “Army Civil Works
11 Regulatory Program Fund” (hereinafter in this section re-
12 ferred to as the “Regulatory Program Fund”) into which
13 shall be deposited fees collected by the Secretary of the
14 Army pursuant to subsection (b). Amounts deposited into
15 the Regulatory Program Fund are authorized to be appro-
16 priated to the Secretary of the Army to cover a portion
17 of the expenses incurred by the Department of the Army
18 in administering laws pertaining to the regulation of the
19 navigable waters of the United States, including wetlands.

20 (b) REGULATORY FEES.—

21 (1) COLLECTION.—Not later than 60 days after
22 the date of the enactment of this Act, the Secretary
23 of the Army shall establish fees for the evaluation of
24 commercial permit applications, for the recovery of
25 costs associated with the preparation of environ-

1 mental impact statements required by the National
2 Environmental Policy Act of 1969, and for the re-
3 covery of costs associated with wetlands delineations
4 for major developments affecting wetlands. The Sec-
5 retary shall collect such fees and deposit amounts
6 collected pursuant to this paragraph into the Regu-
7 latory Program Fund.

8 (2) FEES.—The fees described in paragraph (1)
9 shall be established by the Secretary of the Army at
10 rates that will allow for the recovery of receipts at
11 amounts sufficient to cover the costs for which the
12 fees are established under paragraph (1).

13 **Subtitle D—Helium Reserve**

14 **SEC. 1141. SALE OF HELIUM PROCESSING AND STORAGE** 15 **FACILITY.**

16 (a) SHORT TITLE.—This section may be cited as the
17 “Helium Act of 1995”.

18 (b) REFERENCES.—Except as otherwise expressly
19 provided, whenever in this section an amendment or repeal
20 is expressed in terms of an amendment to, or repeal of,
21 a section or other provision, the reference shall be consid-
22 ered to be made to a section or other provision of the He-
23 lium Act (50 U.S.C. 167 to 167n).

24 (c) AUTHORITY OF SECRETARY.—Sections 3, 4, and
25 5 are amended to read as follows:

1 **“SEC. 3. AUTHORITY OF SECRETARY.**

2 “(a) EXTRACTION AND DISPOSAL OF HELIUM ON
3 FEDERAL LANDS.—(1) The Secretary may enter into
4 agreements with private parties for the recovery and dis-
5 posal of helium on Federal lands upon such terms and
6 conditions as he deems fair, reasonable and necessary. The
7 Secretary may grant leasehold rights to any such helium.
8 The Secretary may not enter into any agreement by which
9 the Secretary sells such helium other than to a private
10 party with whom the Secretary has an agreement for re-
11 covery and disposal of helium. Such agreements may be
12 subject to such rules and regulations as may be prescribed
13 by the Secretary.

14 “(2) Any agreement under this subsection shall be
15 subject to the existing rights of any affected Federal oil
16 and gas lessee. Each such agreement (and any extension
17 or renewal thereof) shall contain such terms and condi-
18 tions as deemed appropriate by the Secretary.

19 “(3) This subsection shall not in any manner affect
20 or diminish the rights and obligations of the Secretary and
21 private parties under agreements to dispose of helium pro-
22 duced from Federal lands in existence at the enactment
23 of the Helium Act of 1995 except to the extent that such
24 agreements are renewed or extended after such date.

1 “(c) DISPOSAL OF FACILITIES.—(1) Within one year
2 after the date of enactment of the Helium Act of 1995,
3 the Secretary shall dispose of all facilities, equipment, and
4 other real and personal property, together with all inter-
5 ests therein, held by the United States for the purpose
6 of producing, refining, and marketing refined helium. The
7 disposal of such property shall be in accordance with the
8 provisions of law governing the disposal of excess or sur-
9 plus properties of the United States.

10 “(2) All proceeds accruing to the United States by
11 reason of the sale or other disposal of such property shall
12 be treated as moneys received under this chapter for pur-
13 poses of section 6(f). All costs associated with such sale
14 and disposal (including costs associated with termination
15 of personnel) and with the cessation of activities under
16 subsection (b) shall be paid from amounts available in the
17 helium production fund established under section 6(f).

18 “(3) Paragraph (1) shall not apply to any facilities,
19 equipment, or other real or personal property, or any in-
20 terest therein, necessary for the storage and transpor-
21 tation of crude helium.

22 “(d) EXISTING CONTRACTS.—All contracts which
23 were entered into by any person with the Secretary for
24 the purchase by such person from the Secretary of refined
25 helium and which are in effect on the date of the enact-

1 ment of the Helium Act of 1995 shall remain in force and
2 effect until the date on which the facilities referred to in
3 subsection (c) are disposed of. Any costs associated with
4 the termination of such contracts shall be paid from the
5 helium production fund established under section 6(f).

6 **“SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITH-**
7 **DRAWAL.**

8 “Whenever the Secretary provides helium storage,
9 withdrawal, or transportation services to any person, the
10 Secretary is authorized and directed to impose fees on
11 such person to reimburse the Secretary for the full costs
12 of providing such storage, transportation, and withdrawal.
13 All such fees received by the Secretary shall be treated
14 as moneys received under this Act for purposes of section
15 6(f).”.

16 (d) SALE OF CRUDE HELIUM.—Section 6 is amended
17 as follows:

18 (1) Subsection (a) is amended by striking out
19 “from the Secretary” and inserting “from persons
20 who have entered into enforceable contracts to pur-
21 chase an equivalent amount of crude helium from
22 the Secretary”.

23 (2) Subsection (b) is amended by inserting
24 “crude” before “helium” and by adding the follow-
25 ing at the end thereof: “Except as may be required

1 by reason of subsection (a), the Secretary shall not
2 make sales of crude helium under this section in
3 such amounts as will disrupt the market price of
4 crude helium.”.

5 (3) Subsection (c) is amended by inserting
6 “crude” before “helium” after the words “Sales of”
7 and by striking “together with interest as provided
8 in this subsection” and all that follows down
9 through the period at the end of such subsection and
10 inserting the following: “all funds required to be re-
11 paid to the United States as of October 1, 1994
12 under this section (hereinafter referred to as ‘repay-
13 able amounts’). The price at which crude helium is
14 sold by the Secretary shall not be less than the
15 amount determined by the Secretary as follows:

16 “(1) Divide the outstanding amount of such re-
17 payable amounts by the volume (in mcf) of crude he-
18 lium owned by the United States and stored in the
19 Bureau of Mines Cliffside Field at the time of the
20 sale concerned.

21 “(2) Adjust the amount determined under para-
22 graph (1) by the Consumer Price Index for years be-
23 ginning after December 31, 1994.”.

24 (4) Subsection (d) is amended to read as fol-
25 lows:

1 “(d) EXTRACTION OF HELIUM FROM DEPOSITS ON
2 FEDERAL LANDS.—All moneys received by the Secretary
3 from the sale or disposition of helium on Federal lands
4 shall be paid to the Treasury and credited against the
5 amounts required to be repaid to the Treasury under sub-
6 section (c) of this section.”.

7 (5) Subsection (e) is repealed.

8 (6) Subsection (f) is amended by inserting
9 “(1)” after “(f)” and by adding the following at the
10 end thereof:

11 “(2) Within 7 days after the commencement of each
12 fiscal year after the disposal of the facilities referred to
13 in section 4(c), all amounts in such fund in excess of
14 \$2,000,000 (or such lesser sum as the Secretary deems
15 necessary to carry out this Act during such fiscal year)
16 shall be paid to the Treasury and credited as provided in
17 paragraph (1). Upon repayment of all amounts referred
18 to in subsection (c), the fund established under this sec-
19 tion shall be terminated and all moneys received under this
20 Act shall be deposited in the Treasury as General Reve-
21 nues.”.

22 (e) ELIMINATION OF STOCKPILE.—Section 8 is
23 amended to read as follows:

1 **“SEC. 8. ELIMINATION OF STOCKPILE.**

2 “(a) REVIEW OF RESERVES.—Not later than Janu-
3 ary 1, 2014 the Secretary shall review the known helium
4 reserves in the United States and make a determination
5 as to the expected life of the domestic helium reserves
6 (other than federally owned helium stored at the Cliffside
7 Reservoir) at that time.

8 “(b) RESERVES BELOW 1 BCF IN 2014.—Not later
9 than January 1, 2014, if the Secretary determines that
10 domestic helium reserves (other than federally owned he-
11 lium stored at the Cliffside Reservoir) are less than 1 bil-
12 lion cubic feet (bcf), the Secretary shall commence making
13 sales of crude helium from helium reserves owned by the
14 United States in such amounts as may be necessary to
15 dispose of all such helium reserves in excess of 600 million
16 cubic feet (mcf) by January 1, 2019. The sales shall be
17 at such times and in such lots as the Secretary determines,
18 in consultation with the helium industry, necessary to
19 carry out this subsection. The price for all such sales, as
20 determined by the Secretary in consultation with the he-
21 lium industry, shall be such as will ensure repayment of
22 the amounts required to be repaid to the Treasury under
23 section 6(c) by the year 2019 with minimum market dis-
24 ruption. The date specified in this subsection for comple-
25 tion of such sales and for repayment of debt may be ex-
26 tended by the Secretary for a period of not to exceed 5

1 additional years if necessary in order to assure repayment
2 of such debt with minimum market disruption.

3 “(c) RESERVES ABOVE 1 BCF IN 2014.—Not later
4 than January 1, 2014, if the Secretary determines that
5 domestic helium reserves (other than federally owned he-
6 lium stored at the Cliffside Reservoir) are more than 1
7 billion cubic feet (bcf), the Secretary shall commence mak-
8 ing sales of crude helium from helium reserves owned by
9 the United States in such amounts as may be necessary
10 to dispose of all such helium reserves in excess of 600 mil-
11 lion cubic feet (mcf) by January 1, 2024. The sales shall
12 be at such times and in such lots as the Secretary deter-
13 mines, in consultation with the helium industry, necessary
14 to carry out this subsection with minimum disruption of
15 the market for crude helium.

16 “(d) DISCOVERY OF ADDITIONAL RESERVES.—The
17 discovery of additional helium reserves after the year 2014
18 shall not affect the duty of the Secretary to make sales
19 of helium as provided in subsection (b) or (c), as the case
20 may be.”.

21 (f) REPEAL OF AUTHORITY TO BORROW.—Sections
22 12 and 15 are repealed.

Subtitle E—Territories

**SEC. 1151. TERMINATION OF ANNUAL DIRECT ASSISTANCE
TO NORTHERN MARIANA ISLANDS.**

(a) IN GENERAL.—No annual payment may be made under section 701, 702, or 704 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1681 note), for any fiscal year beginning after September 30, 1995.

(b) ELIMINATION OF 7-YEAR EXTENSIONS.—

(1) IN GENERAL.—The Act of March 24, 1976 (90 Stat. 263; 16 U.S.C. 1681 note), is amended by striking sections 3 and 4.

(2) CONFORMING CHANGES.—(A) Section 5 of the Act of March 24, 1976 (90 Stat. 263; 16 U.S.C. 1681 note) is redesignated as section 3.

(B) Section 3 of such Act, as redesignated by subparagraph (A) of this paragraph, is amended—

(i) by striking “agreement identified in section 3 of this Act” and inserting “Agreement of the Special Representatives on Future United States Financial Assistance for the Government of the Northern Mariana Islands, executed June 10, 1985, between the special representative of the President of the United

1 States and the special representatives of the
2 Governor of the Northern Mariana Islands”;
3 and

4 (ii) by striking “Interior and Insular Af-
5 fairs” and inserting “Resources”.

6 **TITLE II—AGRICULTURAL**
7 **PROGRAMS**

8 **SEC. 2001. SHORT TITLE.**

9 This title may be cited as the “Agricultural Reconcili-
10 ation Act of 1995”.

11 **Subtitle A—Extension and Modi-**
12 **fication of Various Commodity**
13 **Programs**

14 **SEC. 2101. EXTENSION OF LOANS, PAYMENTS, AND ACRE-**
15 **AGE REDUCTION PROGRAMS FOR WHEAT**
16 **THROUGH 2002.**

17 (a) AGRICULTURAL ACT OF 1949.—Section 107B of
18 the Agricultural Act of 1949 (7 U.S.C. 1445b–3a) is
19 amended—

20 (1) in the section heading by striking “**1995**”
21 and inserting “**2002**”;

22 (2) in subsections (a)(1), (a)(4)(C), (b)(1),
23 (c)(1)(A), (c)(1)(B)(iii), (e)(1)(G), (e)(3)(A),
24 (e)(3)(C)(iii), (f)(1), (q), by striking “1995” each
25 place it appears and inserting “2002”;

1 (3) in the heading of subsection (c)(1)(B)(ii),
2 by striking “AND 1995” and inserting “THROUGH
3 2002”;

4 (4) in subsection (c)(1)(B)(ii), by striking “and
5 1995” and inserting “through 2002”;

6 (5) in subsection (c)(1)(E)(vii), by striking
7 “1997” and inserting “2002”;

8 (6) in the heading of subsection (e)(1)(G), by
9 striking “1995” and inserting “2002”; and

10 (7) in subsection (g)(1), by striking “and
11 1995” and inserting “through 2002”.

12 (b) FOOD SECURITY WHEAT RESERVE.—Section
13 302(i) of the Food Security Wheat Reserve Act of 1980
14 (7 U.S.C. 1736f–1(i)) is amended by striking “1995” both
15 places it appears and inserting “2002”.

16 (c) NONAPPLICABILITY OF CERTIFICATE REQUIRE-
17 MENTS.—Sections 379d through 379j of the Agricultural
18 Adjustment Act of 1938 (7 U.S.C. 1379d–1379j) shall not
19 be applicable to wheat processors or exporters during the
20 period June 1, 1996, through May 31, 2003.

21 (d) SUSPENSION OF LAND USE, WHEAT MARKETING
22 ALLOCATION, AND PRODUCER CERTIFICATE PROVI-
23 SIONS.—Sections 331 through 339, 379b, and 379c of the
24 Agricultural Adjustment Act of 1938 (7 U.S.C. 1331

1 through 1339, 1379b, and 1379c) shall not be applicable
2 to the 1996 through 2002 crops of wheat.

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

10 (f) NONAPPLICABILITY OF SECTION 107 OF AGRICUL-
11 TURAL ACT OF 1949.—Section 107 of the Agricultural Act
12 of 1949 (7 U.S.C. 1445a) shall not be applicable to the
13 1996 through 2002 crops of wheat.

14 **SEC. 2102. EXTENSION OF LOANS, PAYMENTS, AND ACRE-**
15 **AGE REDUCTION PROGRAMS FOR FEED**
16 **GRAINS THROUGH 2002.**

17 (a) AGRICULTURAL ACT OF 1949.—Section 105B of
18 the Agricultural Act of 1949 (7 U.S.C. 1444f) is amend-
19 ed—

20 (1) in the section heading, by striking “**1995**”
21 and inserting “**2002**”;

22 (2) in subsections (a)(1), (a)(4)(C), (a)(6),
23 (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(1)(G), (e)(1)(H),
24 (e)(2)(H), (e)(3)(A), (e)(3)(C)(iii), (f)(1), (p)(1),

1 (q)(1), and (r), by striking “1995” each place it ap-
2 pears and inserting “2002”;

3 (3) in the heading of subsection (c)(1)(B)(ii),
4 by striking “AND 1995” and inserting “THROUGH
5 2002”;

6 (4) in subsection (c)(1)(B)(ii), by striking “and
7 1995” and inserting “through 2002”;

8 (5) in subsection (c)(1)(E)(vii), by striking
9 “1997” and inserting “2002”;

10 (6) in the headings of subsections (e)(1)(G) and
11 (e)(1)(H), by striking “1995” both places it appears
12 and inserting “2002”; and

13 (7) in subsection (g)(1), by striking “and
14 1995” and inserting “through 2002”.

15 (b) RECOURSE LOAN PROGRAM FOR SILAGE.—Sec-
16 tion 403 of the Food Security Act of 1985 (7 U.S.C.
17 1444e-1) is amended by striking “1996” and inserting
18 “2002”.

19 (c) NONAPPLICABILITY OF SECTION 105 OF AGRICUL-
20 TURAL ACT OF 1949.—Section 105 of the Agricultural Act
21 of 1949 (7 U.S.C. 1444b) shall not be applicable to the
22 1996 through 2002 crops of feed grains.

1 **SEC. 2103. EXTENSION OF LOANS, PAYMENTS, AND ACRE-**
2 **AGE REDUCTION PROGRAMS FOR COTTON**
3 **THROUGH 2002.**

4 (a) EXTRA LONG STAPLE COTTON.—Section
5 103(h)(16) of the Agricultural Act of 1949 (7 U.S.C.
6 1444(h)(16)) is amended by striking “1996” and inserting
7 “2003”.

8 (b) UPLAND COTTON.—Section 103B of the Agricul-
9 tural Act of 1949 (7 U.S.C. 1444–2) is amended—

10 (1) in the section heading, by striking “**1997**”
11 and inserting “**2002**”;

12 (2) in subsections (a)(1), (b)(1), (c)(1)(A),
13 (c)(1)(B)(ii), (c)(1)(D)(v)(II), and (o), by striking
14 “1997” each place it appears and inserting “2002”;

15 (3) in the heading of subsection
16 (c)(1)(D)(v)(II), by striking “1997 CROPS” and in-
17 serting “2002 CROPS”;

18 (4) in subsection (e)(1)(D), by striking “the
19 1997 crop” and inserting “each of the 1997 through
20 2002 crops”;

21 (5) in subsections (e)(3)(A) and (f)(1), by strik-
22 ing “1995” each place it appears and inserting
23 “2002”; and

24 (6) in subparagraphs (B)(i), (D)(i), (E)(i), and
25 (F)(i) of subsection (a)(5), by striking “1998” each
26 place it appears and inserting “2003”.

1 (c) COTTONSEED AND COTTONSEED OIL.—Section
2 203(b) of the Agricultural Act of 1949 (7 U.S.C.
3 1446d(b)) is amended by striking “1995” and inserting
4 “2002”.

5 (d) AGRICULTURAL ADJUSTMENT ACT OF 1938.—
6 Section 374(a) of the Agricultural Adjustment Act of
7 1938 (7 U.S.C. 1374(a)) is amended by striking “1995”
8 each place it appears and inserting “2002”.

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

15 (f) SUSPENSION OF MISCELLANEOUS COTTON PROVI-
16 SIONS.—Section 103(a) of the Agricultural Act of 1949
17 (7 U.S.C. 1444(a)) shall not be applicable to the 1996
18 through 2002 crops.

19 (g) PRELIMINARY ALLOTMENTS FOR 2003 CROP OF
20 UPLAND COTTON.—Notwithstanding any other provision
21 of law, the permanent State, county, and farm base acre-
22 age allotments for the 1977 crop of upland cotton, ad-
23 justed for any underplantings in 1977 and reconstituted
24 as provided in section 379 of the Agricultural Adjustment

1 Act of 1938 (7 U.S.C. 1379), shall be the preliminary al-
2 lotments for the 2003 crop.

3 (h) COTTON CLASSIFICATION SERVICES.—The first
4 sentence of section 3a of the Act of March 3, 1927 (com-
5 monly known as the “Cotton Statistics and Estimates
6 Act”) (chapter 337; 7 U.S.C. 473a), is amended by strik-
7 ing “1996” and inserting “2002”.

8 **SEC. 2104. EXTENSION OF LOANS, PAYMENTS, AND ACRE-**
9 **AGE REDUCTION PROGRAMS FOR RICE**
10 **THROUGH 2002.**

11 Section 101B of the Agricultural Act of 1949 (7
12 U.S.C. 1441-2) is amended—

13 (1) in the section heading, by striking “**1995**”
14 and inserting “**2002**”;

15 (2) in subsections (a)(1), (a)(3), (b)(1),
16 (c)(1)(A), (c)(1)(B)(iii), (e)(3)(A), (f)(1), and (n),
17 by striking “1995” each place it appears and insert-
18 ing “2002”;

19 (3) in subsection (a)(5)(D)(i), by striking
20 “1996” and inserting “2001”;

21 (4) in the heading of subsection (c)(1)(B)(ii),
22 by striking “AND 1995” and inserting “THROUGH
23 2002”;

24 (5) in subsection (c)(1)(B)(ii), by striking “and
25 1995” and inserting “through 2002”;

1 (6) in subsection (c)(1)(D)(v)(II), by striking
2 “1997” and inserting “2002”; and

3 (7) in the heading of subsection
4 (c)(1)(D)(v)(II), by striking “1997 CROPS” and in-
5 serting “2002 CROPS”.

6 **SEC. 2105. EXTENSION OF LOANS AND PAYMENTS FOR OIL-**
7 **SEEDS THROUGH 2002.**

8 Section 205 of the Agricultural Act of 1949 (7 U.S.C.
9 1446f) is amended—

10 (1) in the section heading, by striking “**1995**”
11 and inserting “**2002**”;

12 (2) in subsections (b), (c), (e)(1), and (n), by
13 striking “1995” each place it appears and inserting
14 “2002”; and

15 (3) in subsections (c) and (h)(2), by striking
16 “1997” each places it appears and inserting “2002”.

17 **SEC. 2106. INCREASE IN FLEX ACRES.**

18 (a) WHEAT.—Subsection (c)(1)(C)(ii) of section
19 107B of the Agricultural Act of 1949 (7 U.S.C. 1445b-
20 3a) is amended by striking “85 percent” and inserting
21 “85 percent (through the 1995 crop of wheat) and 77 per-
22 cent (for the 1996 through 2002 crops)”.

23 (b) FEED GRAINS.—Subsection (c)(1)(C)(ii) of sec-
24 tion 105B of such Act (7 U.S.C. 1444f) is amended by
25 striking “85 percent” and inserting “85 percent (through

1 the 1995 crop) and 77 percent (for the 1996 through 2002
2 crops)”.

3 (c) UPLAND COTTON.—Subsection (c)(1)(C)(ii) of
4 section 103B of such Act (7 U.S.C. 1444–2) is amended
5 by striking “85 percent” and inserting “85 percent
6 (through the 1995 crop of upland cotton) and 77 percent
7 (for the 1996 through 2002 crops)”.

8 (d) RICE.—Subsection (c)(1)(C)(ii) of section 101B
9 of such Act (7 U.S.C. 1441–2) is amended by striking “85
10 percent” and inserting “85 percent (through the 1995
11 crop of rice) and 77 percent (for the 1996 through 2002
12 crops)”.

13 **SEC. 2107. REDUCTION IN 50/85 AND 0/85 PROGRAMS.**

14 (a) RICE.—Section 101B(c)(1)(D) of the Agricul-
15 tural Act of 1949 (7 U.S.C. 1441–2(c)(1)(D)) is amend-
16 ed—

17 (1) in the subparagraph heading, by striking
18 “50/85 PROGRAM” and inserting “50/80 PROGRAM”;

19 and

20 (2) in clause (i), by striking “8 percent for each
21 of the 1991 through 1993 crops, and 15 percent for
22 each of the 1994 through 1997 crops” both places
23 it appears and inserting “20 percent for each of the
24 1996 through 2002 crops”.

1 (b) COTTON.—Section 103B(c)(1)(D) of such Act (7
2 U.S.C. 1444–2(c)(1)(D)) is amended—

3 (1) in the subparagraph heading, by striking
4 “50/85 PROGRAM” and inserting “50/80 PROGRAM”;
5 and

6 (2) in clause (i), by striking “8 percent for each
7 of the 1991 through 1993 crops, and 15 percent for
8 each of the 1994 through 1997 crops” both places
9 it appears and inserting “20 percent for each of the
10 1996 through 2002 crops”.

11 (c) FEED GRAINS.—Section 105B(c)(1)(E) of such
12 Act (7 U.S.C. 1444f(c)(1)(E)) is amended—

13 (1) in the subparagraph heading, by striking
14 “0/85 PROGRAM” and inserting “0/80 PROGRAM”;
15 and

16 (2) in clause (i), by striking “8 percent for each
17 of the 1991 through 1993 crops, and 15 percent for
18 each of the 1994 through 1997 crops” both places
19 it appears and inserting “20 percent for each of the
20 1996 through 2002 crops”.

21 (d) WHEAT.—Section 107B(c)(1)(E) of such Act (7
22 U.S.C. 1445–3a(c)(1)(E)) is amended—

23 (1) in the subparagraph heading, by striking
24 “0/85 PROGRAM” and inserting “0/80 PROGRAM”;
25 and

1 “(c) SUGAR BEETS.—Subject to subsection (d), the
2 Secretary shall support the price of each crop of domesti-
3 cally grown sugar beets through loans at the level provided
4 for refined beet sugar produced from the 1995 crop of do-
5 mestically grown sugar beets.

6 “(d) ADJUSTMENT IN SUPPORT LEVEL.—

7 “(1) DOWNWARD ADJUSTMENT IN SUPPORT
8 LEVEL.—

9 “(A) IN GENERAL.—The Secretary shall
10 decrease the support price of domestically
11 grown sugarcane and sugar beets from the
12 price determined for the preceding crop, as es-
13 tablished under this section, if negotiated re-
14 ductions in export subsidies and domestic sub-
15 sidies provided for sugar of the European
16 Union and other major sugar growing, produc-
17 ing, and exporting countries (‘major countries’)
18 in the aggregate exceed the commitments made
19 as part of the Uruguay Round Agreements.

20 “(B) EXTENT OF REDUCTION.—The Sec-
21 retary shall not reduce the support price under
22 this section below a level that provides an equal
23 measure of support to that provided by any
24 other major country or customs union based on
25 an examination of both domestic and export

1 subsidies subject to reduction in the Agreement
2 on Agriculture referenced in 19 U.S.C.
3 3511(d)(2).

4 “(C) MAJOR COUNTRIES.—For purposes of
5 this subsection, the term ‘major countries’ in-
6 cludes all countries allocated a share of the tar-
7 iff rate quota for imported sugars and syrups
8 by the United States Trade Representative pur-
9 suant to additional U.S. note 5 of chapter 17
10 of the Harmonized Tariff Schedule, all coun-
11 tries of the European Union, and the People’s
12 Republic of China.

13 “(2) INCREASES IN SUPPORT LEVEL.—The Sec-
14 retary may increase the support level for each crop
15 of domestically grown sugarcane and sugar beets
16 from the level determined for the preceding crop
17 based on such factors as the Secretary determines
18 appropriate, including changes (during the 2 crop
19 years immediately preceding the crop year for which
20 the determination is made) in the cost of sugar
21 products, the cost of domestic sugar production, the
22 amount of any applicable assessments, and other
23 factors or circumstances that may adversely affect
24 domestic sugar production.

25 “(e) LOAN TYPE; PROCESSOR ASSURANCES.—

1 “(1) IN GENERAL.—Subject to paragraph (2),
2 the Secretary shall carry out this section through
3 the use of recourse loans.

4 “(2) MODIFICATION.—During any fiscal year in
5 which the tariff rate quota for imports of sugar into
6 the United States is set at, or is increased to, a level
7 that exceeds the minimum level for such imports
8 committed to by the United States under the Agree-
9 ment on Agriculture contained in the Uruguay
10 Round of Agreements of the General Agreement on
11 Tariffs and Trade, the Secretary shall carry out this
12 section by making available nonrecourse loans. Any
13 recourse loan previously made available by the Sec-
14 retary under this section during such fiscal year
15 shall be modified by the Secretary into a
16 nonrecourse loan.

17 “(3) PROCESSOR ASSURANCES.—In order to ef-
18 fectively support the prices of sugar beets and sugar-
19 cane received by the producer, the Secretary shall
20 obtain from each processor that receives a loan
21 under this section such assurances as the Secretary
22 considers adequate that, if the Secretary is required
23 under paragraph (2) to make nonrecourse loans
24 available, or modify recourse loans into nonrecourse
25 loans, each producer served by the processor will re-

1 ceive the appropriate minimum payment for sugar
2 beets and sugarcane delivered by the producer, as
3 determined by the Secretary.

4 “(f) ANNOUNCEMENTS.—In order to ensure the effi-
5 cient administration of the program under this section and
6 the effective support of the price of sugar, the Secretary
7 shall announce the type of loans available and the loan
8 rates for beet sugar and cane sugar for any fiscal year
9 under this section as far in advance as is practicable.

10 “(g) LOAN TERM.—

11 “(1) IN GENERAL.—Except as provided in para-
12 graph (2) and subsection (h), loans under this sec-
13 tion during any fiscal year shall be made available
14 not earlier than the beginning of the fiscal year and
15 shall mature at the end of 3 months.

16 “(2) EXTENSION.—The maturity of a loan
17 under this section may be extended for up to 2 addi-
18 tional 3-month periods, at the option of the bor-
19 rower, upon written request to the Commodity Cred-
20 it Corporation. The maturity of a loan may not be
21 extended under this paragraph beyond the end of
22 the fiscal year.

23 “(h) SUPPLEMENTARY LOANS.—Subject to sub-
24 section (d), the Secretary shall make available to eligible
25 processors price support loans with respect to sugar proc-

1 esseed from sugar beets and sugarcane harvested in the last
2 3 months of a fiscal year. Such loans shall mature at the
3 end of the fiscal year. The processor may repledge the
4 sugar as collateral for a price support loan in the subse-
5 quent fiscal year, except that the second loan shall—

6 “(1) be made at the loan rate in effect at the
7 time the second loan is made; and

8 “(2) mature in not more than 9 months less the
9 quantity of time that the first loan was in effect.

10 “(i) USE OF COMMODITY CREDIT CORPORATION.—

11 The Secretary shall use the funds, facilities, and authori-
12 ties of the Commodity Credit Corporation to carry out this
13 section.

14 “(j) MARKETING ASSESSMENTS.—The following as-
15 sessments shall be collected with respect to all sugar mar-
16 keted within the United States during the 1996 through
17 2003 fiscal years:

18 “(1) BEET SUGAR.—The first seller of beet
19 sugar produced from sugar beets or sugar beet mo-
20 lasses, or refined sugar refined outside of the United
21 States, shall remit to the Commodity Credit Cor-
22 poration a nonrefundable marketing assessment in
23 an amount equal to 1.1794 percent of the loan level
24 established under subsection (b) per pound of sugar
25 marketed.

1 “(2) CANE SUGAR.—The first seller of raw cane
2 sugar produced from sugarcane or sugarcane molas-
3 ses, shall remit to the Commodity Credit Corpora-
4 tion a nonrefundable marketing assessment in an
5 amount equal to 1.1 percent of the loan level estab-
6 lished under subsection (b) per pound of sugar mar-
7 keted (including the transfer or delivery of the sugar
8 to a refinery for further processing or marketing).

9 “(3) COLLECTION.—

10 “(A) TIMING.—Marketing assessments re-
11 quired under this subsection shall be collected
12 and remitted to the Commodity Credit Corpora-
13 tion within 30 days of the date that the sugar
14 is marketed.

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

19 “(4) PENALTIES.—If any person fails to remit
20 an assessment required by this subsection or fails to
21 comply with such requirements for recordkeeping or
22 otherwise as are required by the Secretary to carry
23 out this subsection, the person shall be liable to the
24 Secretary for a civil penalty up to an amount deter-
25 mined by multiplying—

1 “(A) the quantity of sugar involved in the
2 violation; by

3 “(B) the loan level for the applicable crop
4 of sugarcane or sugar beets from which the
5 sugar is produced.

6 For the purposes of this paragraph, refined sugar
7 shall be treated as produced from sugar beets.

8 “(5) ENFORCEMENT.—The Secretary may en-
9 force this subsection in the courts of the United
10 States.

11 “(6) REGULATIONS.—The Secretary shall pro-
12 mulgate regulations to carry out this subsection.

13 “(k) INFORMATION REPORTING.—

14 “(1) DUTY OF PROCESSORS AND REFINERS TO
15 REPORT.—All sugarcane processors, cane sugar re-
16 finers, and sugar beet processors shall furnish the
17 Secretary, on a monthly basis, such information as
18 the Secretary may require to administer sugar pro-
19 grams, including the quantity of purchases of sugar-
20 cane, sugar beets, and sugar, and production, impor-
21 tation, distribution, and stock levels of sugar.

22 “(2) DUTY OF PRODUCERS TO REPORT.—In
23 order to efficiently and effectively carry out the pro-
24 gram under this section, the Secretary may require
25 a producer of sugarcane or sugar beets to report, in

1 the manner prescribed by the Secretary, the produc-
2 er's sugarcane or sugar beet yields and acres planted
3 to sugarcane or sugar beets, respectively.

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

9 “(4) MONTHLY REPORTS.—Taking into consid-
10 eration the information received under paragraph
11 (1), the Secretary shall publish on a monthly basis
12 composite data on production, imports, distribution,
13 and stock levels of sugar.

14 “(I) SUGAR ESTIMATES.—

15 “(1) DOMESTIC REQUIREMENT.—Before the be-
16 ginning of each fiscal year, the Secretary shall esti-
17 mate the domestic sugar requirement of the United
18 States equal to Total Estimated Disappearance
19 minus the quantity of sugar that will be available
20 from carry-in stocks.

21 “(2) TOTAL DISAPPEARANCE.—For the pur-
22 poses of this subsection, the term “Total Estimated
23 Disappearance” means the quantity of sugar, as es-
24 timated by the Secretary, that will be consumed in
25 the United States during the fiscal year (other than

1 sugar imported for the production of polyhydric alco-
2 hol or to be refined and reexported in refined form
3 or in sugar containing products) plus the quantity of
4 sugar that would provide for adequate carryover
5 stocks.

6 “(3) QUARTERLY REESTIMATES.—The Sec-
7 retary shall make quarterly reestimates of sugar
8 consumption, stocks, production, and imports for a
9 fiscal year no later than the beginning of each of the
10 second through fourth quarters of the fiscal year.

11 “(m) DEFINITION OF MARKET.—For purposes of
12 this section, the term ‘market’ means to sell or otherwise
13 dispose of in commerce in the United States (including,
14 with respect to any integrated processor and refiner, the
15 movement of raw cane sugar into the refining process) and
16 deliver to a buyer.

17 “(n) CROPS.—This section shall be effective only for
18 the 1996 through 2002 crops of sugar beets and sugar-
19 cane.”.

20 “(b) CONFORMING AMENDMENT.—Part VII of subtitle
21 B of title III of the Agricultural Adjustment Act of 1938
22 (7 U.S.C. 1359aa et seq.) is repealed.

Subtitle C—Peanuts

SEC. 2301. EXTENSION OF PRICE SUPPORT PROGRAM FOR PEANUTS AND RELATED PROGRAMS.

(a) AGRICULTURAL ACT OF 1949.—Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c-3) is amended—

(1) in the section heading, by striking “1997” and inserting “2002”;

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

(3) in subsection (g)(1), by striking “1997 crops” the first place it appears and inserting “2002 crops”.

(b) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

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

(A) in the section heading, by striking “1997” and inserting “2002”;

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

(C) in subsection (b)(1)(A)—

1 (i) by striking “1997” and inserting
2 “2002”; and

3 (ii) in clause (i), by inserting before
4 the semicolon the following: “, for the
5 1991 through 1995 marketing years, and
6 the 1995 marketing year, for the 1996
7 through 2002 marketing years”; and

8 (D) in subsections (b)(1)(B), (b)(2)(A),
9 (b)(2)(C), (b)(3)(A), and (f), by striking
10 “1997” each place it appears and inserting
11 “2002”;

12 (2) in section 358b (7 U.S.C. 1358b)—

13 (A) in the section heading, by striking
14 “**1995**” and inserting “**2002**”; and

15 (B) in subsection (c), by striking “1995”
16 and inserting “2002”;

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

19 (4) in section 358e (7 U.S.C. 1359a)—

20 (A) in the section heading, by striking
21 “**1997**” and inserting “**2002**”; and

22 (B) in subsection (i), by striking “1997”
23 and inserting “2002”.

24 (c) FOOD, AGRICULTURE, CONSERVATION, AND
25 TRADE ACT OF 1990.—Title VIII of the Food, Agri-

1 culture, Conservation, and Trade Act of 1990 (Public Law
2 101-624; 104 Stat. 3459) is amended—

3 (1) in section 801 (104 Stat. 3459), by striking
4 “1995” and inserting “2002”;

5 (2) in section 807 (104 Stat. 3478), by striking
6 “1995” and inserting “2002”; and

7 (3) in section 808 (7 U.S.C. 1441 note), by
8 striking “1995” and inserting “2002”.

9 **SEC. 2302. NATIONAL POUNDAGE QUOTAS AND ACREAGE**

10 **ALLOTMENTS.**

11 (a) ESTABLISHMENT.—Subsection (a)(1) of section
12 358-1 of the Agricultural Adjustment Act of 1938 (7
13 U.S.C. 1358-1) is amended to read as follows:

14 “(1) ESTABLISHMENT.—The national poundage
15 quota for peanuts for each of the 1991 through
16 2002 marketing years shall be established by the
17 Secretary at a level that is equal to the quantity of
18 peanuts (in tons) that the Secretary estimates will
19 be devoted in each such marketing year to domestic
20 edible and related uses. Beginning with the 1996
21 marketing year, the Secretary shall exclude seed
22 uses from the estimate of domestic edible and relat-
23 ed uses, but shall include the estimated quantity of
24 peanuts and peanut products to be imported into the

1 United States for the marketing year for which the
2 quota is being established.”.

3 (b) EXCLUSIONS FROM FARM POUNDAGE QUOTA.—

4 Subsection (b) of such section is amended—

5 (1) in paragraph (1)(B), by striking clauses (i)
6 and (ii) and inserting the following new clauses:

7 “(i) through the 1995 marketing year,
8 any increases for undermarketings from
9 previous years; or

10 “(ii) through the 2002 marketing
11 year, any increases resulting from the allo-
12 cation of quotas voluntarily released for 1
13 year under paragraph (7).”; and

14 (2) in paragraph (3)(B), by striking clauses (i)
15 and (ii) and inserting the following new clauses:

16 “(i) through the 1995 marketing year,
17 any increases for undermarketings of
18 quota peanuts from previous years; or

19 “(ii) through the 2002 marketing
20 year, any increase resulting from the allo-
21 cation of quotas voluntarily released for 1
22 year under paragraph (7).”.

23 (c) TEMPORARY QUOTA ALLOCATION.—Subsection

24 (b)(2) of such section is amended—

1 (1) in subparagraph (A), by striking “subpara-
2 graph (B) and subject to”; and

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

5 “(B) TEMPORARY QUOTA ALLOCATION.—

6 “(i) ALLOCATION RELATED TO SEED
7 PEANUTS.—Temporary allocation of quota
8 pounds for the marketing year only in
9 which the crop is planted shall be made to
10 producers for each of the 1996 through
11 2002 marketing years as provided in this
12 subparagraph. The temporary quota alloca-
13 tion shall be equal to the pounds of seed
14 peanuts planted on the farm, as may be
15 adjusted under regulations prescribed by
16 the Secretary. The temporary allocation of
17 quota pounds under this paragraph shall
18 be in addition to the farm poundage quota
19 otherwise established under this subsection
20 and shall be credited for the applicable
21 marketing year only, in total to the pro-
22 ducer of the peanuts on the farm in a
23 manner prescribed by the Secretary.

24 “(ii) CONDITION ON ALLOCATION.—

25 The allocation of quota pounds to produc-

1 ers under this subparagraph shall be per-
2 formed in such a manner so that such allo-
3 cation will not result in a net decrease in
4 the farm poundage quota for a farm in ex-
5 cess of 3 percent, after temporary seed
6 quota is added, from the basic farm quota
7 in 1996. Such decrease shall occur one
8 time only and shall be applicable to the
9 1996 marketing year only.

10 “(iii) TERM OF PROVISION.—Applica-
11 tion of this subparagraph may continue so
12 long as doing so does not result in in-
13 creased cost to the Commodity Credit Cor-
14 poration by displacement of quota peanuts
15 by additional peanuts in the domestic mar-
16 ket, increased losses in the Association
17 loan pools, or other such increases in cost.

18 “(iv) EFFECT OF OTHER REQUIRE-
19 MENTS.—Nothing in this section shall alter
20 or change in any way the requirements re-
21 garding the use of quota and additional
22 peanuts established by section 359a(b) of
23 the Agricultural Act of 1949 (7 U.S.C.
24 1359a(b)), as added by section 804 of the

1 Food, Agriculture, Conservation, and
2 Trade Act of 1990.”.

3 (d) QUOTA CONSIDERED PRODUCED.—Subsection
4 (b)(4) of such section is amended to read as follows:

5 “(4) QUOTA CONSIDERED PRODUCED.—

6 “(A) NATURAL DISASTER.—For purposes
7 of this subsection, the farm poundage quota
8 shall be considered produced on a farm if the
9 farm poundage quota was not produced on the
10 farm because of drought, flood, or any other
11 natural disaster, or any other condition beyond
12 the control of the producer, as determined by
13 the Secretary.

14 “(B) LEASE OR RELEASE OF QUOTA.—
15 Such farm poundage quota shall also be consid-
16 ered produced on a farm if the farm poundage
17 quota was either leased to another owner or op-
18 erator of a farm within the same county for
19 transfer to such farm for only 1 of the 3 mar-
20 keting years immediately preceding the market-
21 ing year for which the determination is being
22 made or the farm poundage quota was released
23 voluntarily under paragraph (7) for only 1 of
24 the 3 marketing years immediately preceding
25 the marketing year for which the determination

1 is being made. The farm poundage quota leased
2 or released under this subparagraph shall be
3 considered produced for only 1 of the 3 market-
4 ing years immediately preceding the marketing
5 year for which the determination is being made.
6 The farm shall not receive considered produced
7 credit for more than 1 marketing year out of
8 the 3 immediately preceding marketing years
9 under the options in this subparagraph.”.

10 (e) ALLOCATION OF QUOTAS REDUCED OR RE-
11 LEASED TO FARMS WITHOUT QUOTAS.—Subsection
12 (b)(6) of such section is amended to read as follows:

13 “(6) ALLOCATION OF QUOTAS REDUCED OR RE-
14 LEASED.—

15 “(A) IN GENERAL.—The total quantity of
16 the farm poundage quotas reduced or volun-
17 tarily released from farms in a State for any
18 marketing year under paragraphs 3 and (5)
19 shall be allocated under subparagraph (B), as
20 the Secretary may by regulation prescribe, to
21 other farms in the State on which peanuts were
22 produced in at least 2 of the 3 crop years im-
23 mediately preceding the year for which the allo-
24 cation is being made.

1 “(B) SET-ASIDE FOR FARMS WITH NO
2 QUOTA.—The total amount of farm poundage
3 quota to be allocated in the State under sub-
4 paragraph (A) shall be allocated to farms in the
5 State for which no farm poundage quota was
6 established for the immediately preceding year’s
7 crop. The allocation to any such farm shall not
8 exceed the average farm production of peanuts
9 for the 3 immediately preceding years during
10 which peanuts were produced on the farm. Any
11 farm quota pounds remaining after allocation to
12 farms under this subparagraph shall be allo-
13 cated to farms in the State on which poundage
14 quotas were established for the immediately
15 preceding crop year.”.

16 (f) TRANSFER OF ADDITIONAL PEANUTS.—Sub-
17 section (b) of such section is amended by striking para-
18 graphs (8) and (9) and inserting the following new para-
19 graph:

20 “(8) TRANSFER OF ADDITIONAL PEANUTS.—
21 Additional peanuts on a farm from which the quota
22 poundage was not harvested and marketed may be
23 transferred to the quota loan pool for pricing pur-
24 poses on such basis as the Secretary shall by regula-
25 tion provide, except that the poundage of such pea-

1 nuts so transferred shall not exceed the difference in
2 the total peanuts meeting quality requirements for
3 domestic edible use as determined by the Secretary
4 marketed from the farm and the total farm pound-
5 age quota, excluding quota pounds transferred to the
6 farm in the fall. Peanuts transferred under this
7 paragraph shall be supported at a total of not less
8 than 70 percent of the quota support rate for the
9 marketing years in which such transfers occur and
10 such transfers for a farm shall not exceed 25 per-
11 cent of the total farm quota pounds, excluding
12 pounds transferred in the fall.”.

13 **SEC. 2303. SALE, LEASE, OR TRANSFER OF FARM POUND-**
14 **AGE QUOTA.**

15 (a) TRANSFERS AUTHORIZED UNDER CERTAIN CIR-
16 CUMSTANCES.—Subsection (a) of section 358b of the Ag-
17 ricultural Adjustment Act of 1938 (7 U.S.C. 1358b) is
18 amended—

19 (1) in paragraph (1)—

20 (A) by striking “(including any applicable
21 under marketings)” both places it appears;

22 (B) in subparagraph (A), by striking
23 “undermarketings and”; and

24 (C) by adding at the end the following new
25 sentences: “In the case of a fall transfer only,

1 poundage quota from a farm may be leased to
2 another owner or operator of a farm within the
3 same county or to another owner or operator of
4 a farm in any other county within the State.
5 Fall transfers of quota pounds shall not affect
6 the farm quota history for the transferring or
7 receiving farm and shall not result in reducing
8 the farm poundage quota on the transferring
9 farm.”;

10 (2) by striking paragraph (2) and inserting the
11 following new paragraph:

12 “(2) TRANSFERS TO OTHER SELF-OWNED
13 FARMS.—The owner or operator of a farm may
14 transfer all or any part of the farm poundage quota
15 for the farm to any other farm owned or controlled
16 by the owner or operator that is in the same county
17 or any other county within the same State and that
18 had a farm poundage quota for the preceding crop
19 year, if both the transferring and the receiving
20 farms were under the control of the owner or opera-
21 tor for at least 3 crop years prior to the crop year
22 in which the farm poundage quota is transferred.
23 Any farm poundage quota transferred under this
24 paragraph shall not result in any reduction in the
25 farm poundage quota for the transferring farm if

1 sufficient acreage is planted on the receiving farm to
2 produce the quota pounds transferred.”;

3 (3) in paragraph (3), by striking “(including
4 any applicable undermarketings)”;

5 (4) by adding at the end the following new
6 paragraph:

7 “(4) TRANSFERS BY SALE IN STATES HAVING
8 QUOTAS OF 10,000 TONS OR MORE.—Subject to such
9 terms and conditions as the Secretary may prescribe,
10 the owner, or operator with permission of the owner,
11 of any farm for which a farm quota has been estab-
12 lished and which is located in a State having a quota
13 of 10,000 tons or more may sell poundage quota to
14 any other eligible owner or operator of a farm within
15 the same State. The Secretary shall ensure that no
16 more than 15 percent of the total poundage quota
17 within a county as of January 1, 1996, is sold and
18 transferred in 1996 under this paragraph and that
19 no more than 5 percent of the quota pounds remain-
20 ing in a county as of January 1 in each of the next
21 4 years are sold and transferred in any such year.
22 Notwithstanding any other provision of this para-
23 graph, no more than 30 percent of the total pound-
24 age quota within a county may be sold and trans-
25 ferred. Quota pounds sold and transferred under

1 this paragraph may not be leased or sold from the
2 farm to which transferred to another farm owner or
3 operator within the same State for a period of 5
4 years following the original transfer to the farm.”.

5 (b) CONDITIONS.—Subsection (b) of such section is
6 amended—

7 (1) in paragraph (1), by inserting before the pe-
8 riod at the end the following: “, except that no such
9 agreement shall be necessary in the event of fall
10 lease, if the operator had the lienholder’s agreement
11 for a previous spring cash lease”; and

12 (2) by striking paragraph (3) and inserting the
13 following new paragraph:

14 “(3) RECORD.—No transfer of the farm pound-
15 age quota shall be effective until a record thereof is
16 filed with the county committees of the counties
17 from which transferred and to which transferred and
18 the committees determine that the transfer complies
19 with this section.”.

20 **SEC. 2304. PENALTY FOR REENTRY OF EXPORTED PEANUT**
21 **PRODUCTS.**

22 Section 358e(d)(6)(A) of the Agricultural Adjust-
23 ment Act of 1938 (7 U.S.C. 1359a(d)(6)(A)) is amended
24 by inserting “or peanut products manufactured from addi-
25 tional peanuts” after “any additional peanuts”.

1 **SEC. 2305. PRICE SUPPORT PROGRAM FOR PEANUTS.**

2 (a) SUPPORT RATES.—Subsection (a)(2) Section
3 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–
4 3) is amended—

5 (1) by striking “any increase” and inserting
6 “any increase or decrease”; and

7 (2) by striking “, except that” and all that fol-
8 lows through “preceding crop” and inserting the fol-
9 lowing: “In no event shall the national average quota
10 support rate be increased by more than 5 percent of
11 the national average quota support rate for the pre-
12 ceding crop. In no event shall the national average
13 quota support rate be decreased by more than 5 per-
14 cent of the national average quota support rate for
15 the preceding crop.”.

16 (b) SPECIAL RULE REGARDING NEW MEXICO
17 POOLS.—Subsection (c)(2)(A) of such section is amended
18 by inserting after the first sentence the following new sen-
19 tence: “Peanuts physically produced outside the State of
20 New Mexico shall not be eligible for entry into or partici-
21 pation in the New Mexico pools even though the farm on
22 which the peanuts are produced is considered to be a New
23 Mexican farm for administrative purposes.”.

24 (c) LOSSES IN AREA QUOTA POOLS.—Subsection
25 (d)(2) of such section is amended—

1 (1) by redesignating subparagraph (B) as sub-
2 paragraph (D);

3 (2) by inserting after subparagraph (A) the fol-
4 lowing new paragraphs:

5 “(B) REDUCTION OF GAINS OF OTHER
6 PRODUCERS IN SAME POOL.—If use of the au-
7 thority provided in subparagraph (A) is not suf-
8 ficient to cover losses in an area quota pool, the
9 additional losses shall be offset by reducing the
10 gain of any producer in such pool by the
11 amount of pool gains attributed to the same
12 producer from the sale of additional peanuts for
13 domestic and export edible use.

14 “(C) USE OF MARKETING ASSESSMENTS.—
15 If use of the authority provided in subpara-
16 graphs (A) and (B) is not sufficient to cover
17 losses in area quota pools, the Secretary shall
18 use funds collected under subsection (g) to off-
19 set such losses. At the end of each year, the
20 Secretary shall deposit in the Treasury those
21 funds collected under subsection (g) that the
22 Secretary determines are not required to cover
23 losses in area quota pools for that year.”; and

24 (3) in subparagraph (D), as redesignated by
25 paragraph (1), by adding at the end the following

1 new sentence: “This subparagraph shall apply only
2 to the extent that use of the authority provided in
3 subparagraphs (A), (B), and (C) is not sufficient to
4 cover losses in an area quota pool.”.

5 (d) COMPLIANCE WITH QUALITY STANDARDS.—Sub-
6 section (f)(2) of such section is amended to read as fol-
7 lows:

8 “(2) EXPORTS AND OTHER PEANUTS.—The
9 Secretary shall require that all peanuts in the do-
10 mestic market, including peanuts imported into the
11 United States, meet all United States quality stand-
12 ards under Marketing Agreement No. 146 and that
13 importers of such peanuts fully comply with inspec-
14 tion, handling, storage, and processing requirements
15 implemented under Marketing Agreement No. 146.
16 The Secretary shall ensure that peanuts produced
17 for the export market meet quality, inspection, han-
18 dling, storage, and processing requirements under
19 Marketing Agreement No. 146.”.

20 (e) ASSESSMENT RATES.—Subsection (g) of such
21 section is amended—

22 (1) in paragraph (1), by striking “1.15 per-
23 cent” the first place it appears and all that follows
24 through the period at the end of such paragraph and
25 inserting “and 1.2 percent for the 1996 through

1 2002 crops, of the applicable support rate under this
2 subsection.”;

3 (2) in paragraph (2)(A)(i)—

4 (A) by inserting “and” at the end of
5 subclause (II); and

6 (B) by striking subclauses (III) and (IV)
7 and inserting the following new subclause:

8 “(III) in the case of each of the
9 1996 through 2002 crops, .6 percent
10 of the applicable national average sup-
11 port rate;”; and

12 (3) in paragraph (2)(A)(ii)—

13 (A) by striking “and” at the end of
14 subclause (I);

15 (B) in subclause (II), by striking “through
16 1997 crops” and inserting “and 1995 crops”;
17 and

18 (C) by adding at the end the following new
19 subclause:

20 “(III) in the case of each of the
21 1996 through 2002 crops, .6 percent
22 of the applicable national average sup-
23 port rate; and”.

24 (f) ASSESSMENT ON IMPORTS.—Subsection (g) of
25 such section is further amended—

1 (1) by redesignating paragraphs (3), (4), (5),
2 and (6) as paragraphs (4), (5), (6), and (7), respec-
3 tively; and

4 (2) by inserting after paragraph (2) the follow-
5 ing new paragraph:

6 “(3) IMPORTS.—Each importer of peanuts pro-
7 duced outside of the United States and imported
8 into the United States after the date of the enact-
9 ment of this paragraph shall remit to the Commod-
10 ity Credit Corporation a nonrefundable marketing
11 assessment in an amount equal to the product ob-
12 tained by multiplying the number of pounds of pea-
13 nuts imported by the importer by 1.2 percent of the
14 national average support rate for additional pea-
15 nuts.”.

16 **SEC. 2306. REFERENDUM REGARDING POUNDAGE QUOTAS.**

17 Section 358–1(d) of the Agricultural Adjustment Act
18 of 1938 (7 U.S.C. 13581(d)) is amended by striking para-
19 graph (1) and inserting the following new paragraph:

20 “(1) IN GENERAL.—Each calendar year, the
21 Secretary shall conduct a referendum of producers
22 engaged in the production of quota peanuts in the
23 calendar year in which the referendum is held to de-
24 termine whether the producers are in favor of or op-
25 posed to poundage quotas with respect to the crops

1 of peanuts produced in the seven calendar years im-
2 mediately following the year in which the referen-
3 dum is held, except that, if as many as two-thirds
4 of the producers voting in any referendum vote in
5 favor of poundage quotas, no referendum shall be
6 held with respect to quotas for the next six years of
7 the period. In the case of the referendum required
8 in 1995, the Secretary shall conduct the referendum
9 as soon as practicable after the date of the enact-
10 ment of the Agricultural Reconciliation Act of 1995.
11 In the case of any referendum required in calendar
12 years 1996 through 2002, the Secretary shall con-
13 duct the referendum not later than December 15 of
14 the calendar year in which the referendum is re-
15 quired.”.

16 **SEC. 2307. REGULATIONS.**

17 The Secretary of Agriculture shall issue such regula-
18 tions as are necessary to carry out this title and the
19 amendments made by this title. In issuing the regulations,
20 the Secretary—

21 (1) is encouraged to comply with subchapter II
22 of chapter 5 of title 5, United States Code;

23 (2) shall provide public notice through the Fed-
24 eral Register of any such proposed regulations; and

1 “(2) FARM ACREAGE ALLOTMENTS.—The term
2 ‘farm acreage allotment’ for a tobacco farm, other
3 than a new tobacco farm, means the acreage allot-
4 ment determined by dividing the farm marketing
5 quota by the farm yield.

6 “(3) FARM YIELD.—The term ‘farm yield’
7 means the yield per acre for a farm determined ac-
8 cording to regulations issued by the Secretary and
9 which would be expected to result in a quality of to-
10 bacco acceptable to the tobacco trade.

11 “(4) FARM MARKETING QUOTA.—

12 “(A) IN GENERAL.—The term ‘farm mar-
13 keting quota’ for a farm for a marketing year
14 means a number that is equal to the number of
15 pounds of tobacco determined by multiplying—

16 “(i) the farm marketing quota for the
17 farm for the previous marketing year
18 (prior to any adjustment for
19 undermarketing or overmarketing); by

20 “(ii) the national factor.

21 “(B) ADJUSTMENT.—The farm marketing
22 quota determined under subparagraph (A) for a
23 marketing year shall be increased for
24 undermarketing or decreased for overmarketing
25 by the number of pounds by which marketings

1 of tobacco from the farm during the immediate
2 preceding marketing year (if marketing quotas
3 were in effect for that year under the program
4 established by this section) is less than or ex-
5 ceeds the farm marketing quota for such year.
6 Notwithstanding the preceding sentence, the
7 farm marketing quota for a marketing year
8 shall not be increased under this subparagraph
9 for undermarketing by an amount in excess of
10 the farm marketing quota determined for the
11 farm for the immediately preceding year prior
12 to any increase for undermarketing or decrease
13 for overmarketing. If due to excess marketing
14 in the preceding marketing year, the farm mar-
15 keting quota for the marketing year is reduced
16 to zero pounds without reflecting the entire re-
17 duction required, the additional reduction shall
18 be made for the subsequent marketing year or
19 years.

20 “(5) NATIONAL FACTOR.—The term ‘national
21 factor’ for a marketing year means a number ob-
22 tained by dividing—

23 “(A) the national marketing quota (less
24 the reserve provided for under subsection (e));
25 by

1 “(B) the sum of the farm marketing
2 quotas (prior to any adjustments for
3 undermarketing or overmarketing) for the im-
4 mediate preceding marketing year for all farms
5 for which marketing quotas for the kind of to-
6 bacco involved will be determined for such suc-
7 ceeding marketing year.”.

8 (b) CONFORMING AMENDMENTS.—Such section is
9 further amended—

10 (1) in the first sentence of subsection (b), by
11 striking “and the national acreage allotment and na-
12 tional average yield goal for the 1965 crop of Flue-
13 cured tobacco,”;

14 (2) in the first sentence of subsection (c), by
15 striking “and at the same time announce the na-
16 tional acreage allotment and national average yield
17 goal”;

18 (3) in subsection (d)—

19 (A) in the sixth sentence, by striking “, na-
20 tional acreage allotment, and national average
21 yield goal”;

22 (B) in the eighth sentence, by striking “,
23 national acreage allotment and national average
24 yield goal”; and

1 (C) in the ninth sentence, by striking “,
2 national acreage allotment, and national aver-
3 age goal are” and inserting “is”;

4 (4) in subsection (e)—

5 (A) in the first sentence, by striking “No
6 farm acreage allotment or farm yield shall be
7 established” and inserting “A farm marketing
8 quota and farm yield shall not be established”;

9 (B) in the second sentence, by striking
10 “acreage allotment” both places it appears and
11 inserting “marketing quota”;

12 (C) in the second sentence, by striking
13 “acreage allotments” both places it appears and
14 inserting “marketing quotas”; and

15 (D) in the last sentence, by striking “acre-
16 age allotment” and inserting “marketing
17 quota”; and

18 (5) in subsection (g)—

19 (A) in paragraph (1), by striking “para-
20 graph (a)(8)” and inserting “subsection
21 (a)(4)”; and

22 (B) in paragraph (3), by striking “sub-
23 section (a)(8)” and inserting “subsection
24 (a)(4)”.

1 (c) FARM MARKETING QUOTA REDUCTIONS.—Sub-
2 section (f) of such section is amended to read as follows:

3 “(f) CAUSES FOR FARM MARKETING QUOTA REDUC-
4 TION.—(1) When an acreage-poundage program is in ef-
5 fect for any kind of tobacco under this section, the farm
6 marketing quota next established for a farm shall be re-
7 duced by the amount of such kind of tobacco produced
8 on the farm—

9 “(A) which was marketed as having been pro-
10 duced on a different farm;

11 “(B) for which proof of disposition is not fur-
12 nished as required by the Secretary;

13 “(C) on acreage equal to the difference between
14 the acreage reported by the farm operator or a duly
15 authorized representative and the determined acre-
16 age for the farm; and

17 “(D) as to which any producer on the farm
18 filed, or aids, or acquiesces, in the filing of any false
19 report with respect to the production or marketing
20 of tobacco.

21 “(2) If the Secretary, through the local committee,
22 find that no person connected with a farm caused, aided,
23 or acquiesced in any irregularity described in paragraph
24 (1), the next established farm marketing quota shall not
25 be reduced under this subsection.

1 “(3) The reduction required under this subsection
2 shall be in addition to any other adjustments made pursu-
3 ant to this section.

4 “(4) In establishing farm marketing quotas for other
5 farms owned by the owner displaced by acquisition of the
6 owner’s land by any agency, as provided in section 378
7 of this Act, increases or decreases in such farm marketing
8 quotas as provided in this section shall be made on ac-
9 count of marketings below or in excess of the farm mar-
10 keting quotas for the farm acquired by the agency.

11 “(5) Acreage allotments and farm marketing quotas
12 determined under this section may (except in the case of
13 kinds of tobacco not subject to section 316) be leased and
14 sold under the terms and conditions in section 316 of this
15 Act, except that any credit for undermarketing or charge
16 for overmarketing shall be attributed to the farm to which
17 transferred.”.

18 (d) EFFECT OF AMENDMENTS ON CURRENT TO-
19 BACCO CROP.—Section 317 of the Agricultural Adjust-
20 ment Act of 1938 (7 U.S.C. 1314c), as in effect on the
21 day before the date of the enactment of this Act, shall
22 continue to apply with respect to the 1995 crop of Flue-
23 cured tobacco.

1 **SEC. 2403. REMOVAL OF FARM RECONSTITUTION EXCEP-**
2 **TION FOR BURLEY TOBACCO.**

3 Section 379(a)(6) of the Agricultural Adjustment Act
4 of 1938 (7 U.S.C. 1379(a)(6)) is amended by striking “,
5 but this clause (6) shall not be applicable in the case of
6 burley tobacco”.

7 **SEC. 2404. REDUCTION IN PERCENTAGE THRESHOLD FOR**
8 **TRANSFER OF FLUE-CURED TOBACCO QUOTA**
9 **IN CASES OF DISASTER.**

10 The second subsection (h) in section 316 of the Agri-
11 cultural Adjustment Act of 1938 (7 U.S.C. 1314b) is
12 amended by striking “90 percent” in paragraph (1)(A)
13 and inserting “80 percent”.

14 **SEC. 2405. EXPANSION OF TYPES OF TOBACCO SUBJECT TO**
15 **NO NET COST ASSESSMENT.**

16 (a) **NO NET COST TOBACCO FUND.**—Section
17 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C.
18 1445–1(d)(1)(A)) is amended—

19 (1) in clause (ii), by inserting after “Burley
20 quota tobacco” the following: “and cigar-type quota
21 tobacco”; and

22 (2) in clause (iii)—

23 (A) in the matter preceding the subclauses,
24 by striking “Flue-cured or Burley tobacco” and
25 inserting “each kind of tobacco for which price

1 support is made available under this Act, and
2 each kind of like tobacco,”; and

3 (B) by striking subclause (II) and insert-
4 ing the following new subclause:

5 “(II) the sum of the amount of the
6 per pound producer contribution and pur-
7 chaser assessment (if any) for such kind of
8 tobacco payable under clauses (i) and (ii);
9 and”.

10 (b) NO NET COST TOBACCO ACCOUNT.—Section
11 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C.
12 1445–2(d)(1)) is amended—

13 (1) in subparagraph (B), by inserting after
14 “Burley quota tobacco” the following: “and cigar-
15 type quota tobacco”; and

16 (2) in subparagraph (C), by striking “Flue-
17 cured and Burley tobacco” and inserting “each kind
18 of tobacco for which price support is made available
19 under this Act, and each kind of like tobacco,”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect 60 days after the date of the
22 enactment of this Act.

1 **SEC. 2406. REPEAL OF REPORTING REQUIREMENTS RELAT-**
2 **ING TO EXPORT OF TOBACCO.**

3 Section 214 of the Tobacco Adjustment Act of 1983
4 (7 U.S.C. 509) is repealed.

5 **SEC. 2407. REPEAL OF LIMITATION ON REDUCING NA-**
6 **TIONAL MARKETING QUOTA FOR FLUE-**
7 **CURED AND BURLEY TOBACCO.**

8 (a) FLUE-CURED TOBACCO.—Section 317(a)(1) of
9 the Agricultural Adjustment Act of 1938 (7 U.S.C.
10 1314c(a)(1)) is amended by striking subparagraph (C).

11 (b) BURLEY TOBACCO.—Section 319(c)(3) of the Ag-
12 ricultural Adjustment Act of 1938 (7 U.S.C. 1314e(c)(3))
13 is amended by striking subparagraph (C).

14 **SEC. 2408. APPLICATION OF CIVIL PENALTIES UNDER TO-**
15 **BACCO INSPECTION ACT.**

16 Section 12 of the Tobacco Inspection Act (7 U.S.C.
17 511k) is amended—

18 (1) by inserting “(a) FINE FOR VIOLA-
19 TIONS.—” after “That any person”; and

20 (2) by adding at the end the following new sub-
21 sections:

22 “(b) JURISDICTION.—The district courts of the
23 United States are vested with jurisdiction specifically to
24 enforce, and to prevent and restrain any person from vio-
25 lating, any rule or regulation issued under this Act.

1 “(c) REFERRAL TO ATTORNEY GENERAL.—A civil
2 action authorized to be commenced under this section shall
3 be referred to the Attorney General for appropriate action,
4 except that the Secretary shall not be required to refer
5 to the Attorney General a violation of this Act, if the Sec-
6 retary believes that the administration and enforcement
7 of this Act would be adequately served by providing a suit-
8 able written notice or warning to the person who commit-
9 ted such violation or administrative action.

10 “(d) CIVIL PENALTIES AND ORDERS.—

11 “(1) CIVIL PENALTIES.—Any person who will-
12 fully violates any provision of this Act or any of the
13 regulations issued by the Secretary under this Act
14 may be assessed a civil penalty by the Secretary of
15 not less than \$500 or more than \$5,000 for each
16 such violation. Each violation shall be a separate of-
17 fense.

18 “(2) CEASE AND DESIST ORDERS.—In addition
19 to, or in lieu of, a civil penalty under paragraph (1),
20 the Secretary may issue an order requiring a person
21 to cease and desist from continuing any such viola-
22 tion.

23 “(3) NOTICE AND HEARING.—No penalty shall
24 be assessed or cease-and-desist order issued by the
25 Secretary under this subsection unless the person

1 against whom the penalty is assessed or the order is
2 issued is given notice and opportunity for a hearing
3 before the Secretary with respect to such violation.

4 “(4) FINALITY.—The order of the Secretary as-
5 sessed a penalty or imposing a cease-and-desist
6 order under this subsection shall be final and conclu-
7 sive unless the affected person files an appeal of the
8 Secretary’s order with the appropriate district court
9 of the United States, in accordance with subsection
10 (e).

11 “(e) REVIEW BY DISTRICT COURT.—

12 “(1) COMMENCEMENT OF ACTION.—Any person
13 who has been determined to be in violation of this
14 Act, or against whom a civil penalty has been as-
15 sessed or a cease-and-desist order issued under sub-
16 section (d), may obtain review of the penalty or
17 order—

18 “(A) by filing, within the 30-day period be-
19 ginning on the date the penalty is assessed or
20 order issued, a notice of appeal in—

21 “(i) the district court of the United
22 States for the district in which the person
23 resides or conducts business; or

24 “(ii) the United States District Court
25 for the District of Columbia; and

1 “(B) by sending, within the same period, a
2 copy of such notice by certified mail to the Sec-
3 retary.

4 “(2) RECORD.—The Secretary shall file
5 promptly in the appropriate court referred to in
6 paragraph (1), a certified copy of the record on
7 which the Secretary has determined that the person
8 had committed a violation.

9 “(3) STANDARD OF REVIEW.—A finding of the
10 Secretary under this section shall be set aside only
11 if such finding is found to be unsupported by sub-
12 stantial evidence.

13 “(f) FAILURE TO OBEY ORDERS.—Any person who
14 fails to obey a cease-and-desist order under this section
15 after such order has become final and unappealable, or
16 after the appropriate United States district court has en-
17 tered a final judgment in favor of the Secretary, shall be
18 subject to a civil penalty assessed by the Secretary, after
19 opportunity for hearing and for a judicial review under
20 the procedures specified in subsection (e), of not more
21 than \$500 for each offense. Each day during which such
22 failure continues shall be considered as a separate viola-
23 tion of such order.

24 “(g) FAILURE TO PAY PENALTIES.—If any person
25 fails to pay an assessment of a civil penalty under this

1 section after it has become a final and unappealable order,
2 or after the appropriate United States district court has
3 entered final judgment in favor of the Secretary, the Sec-
4 retary shall refer the matter to the Attorney General for
5 recovery of the amount assessed in the district court of
6 the United States for the district in which the person re-
7 sides or conducts business. In such action, the validity and
8 appropriateness of the final order imposing the civil pen-
9 alty shall not be subject to review.

10 “(h) ADDITIONAL REMEDIES.—The remedies pro-
11 vided in this section shall be in addition to, and not exclu-
12 sive of, other remedies that may be available.”.

13 **SEC. 2409. TRANSFERS OF QUOTA OR ALLOTMENT ACROSS**
14 **COUNTY LINES IN A STATE.**

15 (a) TRANSFERS ALLOWED BY REFERENDUM.—

16 (1) FLUE-CURED TOBACCO.—Section 316(g) of
17 the Agricultural Adjustment Act of 1938 (7 U.S.C.
18 1314b(g)) is amended by adding at the end the fol-
19 lowing:

20 “(3) Notwithstanding paragraph (1), the Secretary
21 may permit the sale of a Flue-cured tobacco allotment or
22 quota from one farm in a State to any other farm in the
23 State if a majority of active Flue-cured tobacco producers
24 within the State approve of such sales by a state-wide ref-
25 erendum to be conducted by the Secretary.”.

1 (2) OTHER TOBACCO.—Section 318(b) of such
2 Act (7 U.S.C. 1314d(b)) is amended in the proviso
3 by inserting after “same State” the following: “and,
4 in the case of other kinds of tobacco, any such
5 transfer may be made to a farm in another county
6 in the same State if transfers of such type are ap-
7 proved by a majority of the active producers of that
8 kind of tobacco in the State who vote in a referen-
9 dum held on the subject”.

10 (3) BURLEY TOBACCO.—Section 319(l) of such
11 Act (7 U.S.C. 1314e(l)) is amended by striking the
12 last sentence.

13 (b) SAME GROWER IN CONTIGUOUS COUNTIES.—
14 Section 379(b) of such Act (7 U.S.C. 1379(b)) is amended
15 by striking “Burley tobacco poundage quota” and insert-
16 ing “tobacco quota or allotment”.

17 **SEC. 2410. CALCULATION OF NATIONAL MARKETING**
18 **QUOTA.**

19 (a) FLUE-CURED TOBACCO.—Section
20 317(a)(1)(B)(ii) of the Agricultural Adjustment Act of
21 1938 (7 U.S.C. 1314c(a)(1)(B)(ii)) is amended by insert-
22 ing before the semicolon the following: “, but excluding
23 any exports of unmanufactured tobacco counted under
24 clause (i)”.

1 (b) BURLEY TOBACCO.—Section 319(c)(3)(A)(ii) of
2 such Act (7 U.S.C. 1314e(l)) is amended by inserting be-
3 fore the semicolon the following: “, but excluding any ex-
4 ports of unmanufactured tobacco counted under clause
5 (i)”.

6 (c) APPLICATION OF AMENDMENTS.—The amend-
7 ments made by this section shall apply with respect to the
8 1996 and subsequent crops of Flue-cured and Burley to-
9 bacco.

10 **SEC. 2411. CLARIFICATION OF AUTHORITY TO ACCESS**
11 **CIVIL MONEY PENALTIES.**

12 Section 314 of the Agricultural Adjustment Act of
13 1938 (7 U.S.C. 1314) is amended—

14 (1) by redesignating subsection (c) as sub-
15 section (d); and

16 (2) by inserting after subsection (b) the follow-
17 ing new subsection:

18 “(c) The failure by a person to comply with regula-
19 tions issued by the Secretary governing the marketing,
20 disposition, or handling of tobacco under this part shall
21 subject the person to a penalty at the rate provided in
22 subsection (a).”.

1 **SEC. 2412. LEASE AND TRANSFER OF FARM MARKETING**
2 **QUOTAS FOR BURLEY TOBACCO.**

3 Section 319(g) of the Agricultural Adjustment Act of
4 1938 (7 U.S.C. 1314e(g)) is amended—

5 (1) in paragraph (1), by striking “July 1” each
6 place it appears and inserting “September 1”; and

7 (2) in paragraph (3)—

8 (A) by striking “within the three imme-
9 diately preceding crop years” in the first sen-
10 tence and inserting “during the current crop
11 year or either of the two immediately preceding
12 crop years”; and

13 (B) by striking “July 1” in the second sen-
14 tence and inserting “September 1”.

15 **SEC. 2413. LIMITATION ON TRANSFER OF ACREAGE ALLOT-**
16 **MENTS OF OTHER TOBACCO.**

17 Section 318(g) of the Agricultural Adjustment Act of
18 1938 (7 U.S.C. 1314d(g)) is amended by striking “ten
19 acres” and inserting “20 acres”.

20 **SEC. 2414. GOOD FAITH RELIANCE ON ACTIONS OR ADVICE**
21 **OF DEPARTMENT REPRESENTATIVES.**

22 The Agricultural Adjustment Act of 1938 is amended
23 by inserting after section 314A (7 U.S.C. 1314–1) the fol-
24 lowing new section:

1 **“SEC. 315. GOOD FAITH RELIANCE ON ACTIONS OR ADVICE**
2 **OF DEPARTMENT REPRESENTATIVES.**

3 “Notwithstanding any other provision of law, the per-
4 formance rendered in good faith by a person in good faith
5 in reliance upon action or advice of an authorized rep-
6 resentative of the Secretary may be accepted as meeting
7 the requirements of this part.”.

8 **SEC. 2415. UNIFORM FORFEITURE DATES FOR FLUE-CURED**
9 **AND BURLEY TOBACCO.**

10 (a) SALE OR FORFEITURE OF FLUE-CURED TO-
11 BACCO ALLOTMENT OR QUOTA.—The first subsection (h)
12 of section 316 of the Agricultural Adjustment Act of 1938
13 (7 U.S.C. 1314b) is amended—

14 (1) in paragraph (1), by striking “before the
15 expiration of the eighteen month period beginning on
16 July 1 of the year in which such crop is planted”
17 and inserting “before February 15 of the year after
18 the end of the marketing year for the planted crop”;
19 and

20 (2) in paragraph (2), by striking “July 1” and
21 inserting “February 15”.

22 (b) MANDATORY SALE OF FLUE-CURED TOBACCO
23 ALLOTMENT OR QUOTA.—Section 316A of such Act (7
24 U.S.C. 1314b–1) is amended—

1 (1) in subsection (a), by striking “December 1
2 of the year” and inserting “February 15 of the
3 year”; and

4 (2) in subsection (b), by striking “July 1” and
5 inserting “February 15”.

6 (c) MANDATORY SALE OF BURLEY TOBACCO ALLOT-
7 MENT OR QUOTA.—Section 316B of such Act (7 U.S.C.
8 1314b-2) is amended—

9 (1) in subsection (a), by striking “December 1
10 of the year” and inserting “February 15 of the
11 year”; and

12 (2) in subsection (c)(1), by striking “before the
13 expiration of the eighteen month period beginning on
14 July 1 of the year in which such crop is planted”
15 and inserting “before February 15 of the year after
16 the end of the marketing year for the planted crop”.

17 **SEC. 2416. SALE OF BURLEY AND FLUE-CURED TOBACCO**
18 **MARKETING QUOTAS FOR A FARM BY RE-**
19 **CENT PURCHASERS.**

20 The Agricultural Adjustment Act of 1938 is amended
21 by inserting after section 316B (7 U.S.C. 1314b-2) the
22 following new section:

1 **“SEC. 316C. AUTHORITY FOR RECENT PURCHASER OF A**
2 **FARM TO SELL BURLEY TOBACCO OR FLUE-**
3 **CURED TOBACCO MARKETING QUOTAS FOR**
4 **THE FARM.**

5 “A new owner of a farm that has purchase history
6 of Burley tobacco or Flue-cured tobacco may sell the pur-
7 chased tobacco quota notwithstanding any limitations on
8 such a sale contained in this part if the sale is completed
9 not later than one year after the purchase date of the
10 farm.”.

11 **Subtitle E—Planting Flexibility**

12 **SEC. 2501. DEFINITIONS.**

13 Section 502 of the Agricultural Act of 1949 (7 U.S.C.
14 1462) is amended by adding at the end the following:

15 “(4) **ACREAGE CONSERVATION RESERVE, RE-**
16 **DUCED ACREAGE.**—The terms ‘acreage conservation
17 reserve’ and ‘reduced acreage’ mean the number of
18 acres on a farm to be devoted to conservation uses
19 on the farm, which must be protected from weeds
20 and erosion. Such number shall be determined by
21 multiplying the specific crop acreage base for a crop
22 on the farm by the percentage acreage reduction re-
23 quired by the Secretary.

24 “(5) **PERMITTED ACREAGE.**—The term ‘per-
25 mitted acreage’ means the crop acreage base for a
26 program crop for the farm less the acreage conserva-

1 tion reserve. If an acreage reduction program is not
2 in effect for a program crop, for purposes of admin-
3 istering this title, the permitted acreage of such a
4 crop on a farm shall be equal to the crop acreage
5 base for the crop for the farm.

6 “(6) PAYMENT ACREAGE.—The term ‘payment
7 acreage’ means the lesser of—

8 “(A) the number of acres planted and con-
9 sidered planted to an eligible crop, as deter-
10 mined in sections 503(c) and 504(b)(1), for
11 harvest within the permitted acreage; or

12 “(B) 77 percent of the crop acreage base
13 for the crop for the farm less the acreage con-
14 servation reserve.

15 “(7) RESOURCE-CONSERVING CROP.—The term
16 ‘resource-conserving crop’ means legumes, legume-
17 grass mixtures, legume-small grain mixtures, leg-
18 ume-grass-small grain mixtures, and experimental
19 and industrial crops, crops planted for special con-
20 servation practices, biomass production, intensive ro-
21 tational grazing, and non-legume crops, as deter-
22 mined by the Secretary, to satisfy program objec-
23 tives.

24 “(8) RESOURCE-CONSERVING CROP ROTA-
25 TION.—The term ‘resource-conserving crop rotation’

1 means a crop rotation that includes at least one re-
2 source-conserving crop and that reduces erosion,
3 maintains or improves soil fertility and tilth, inter-
4 rupts pest cycles, or conserves water.

5 “(9) FARMING OPERATIONS AND PRACTICES.—
6 The term ‘farming operations and practices’ means
7 practices which include the integration of crops and
8 crop-plant variety selection, rotation practices, till-
9 age systems, soil conserving and soil building prac-
10 tices, nutrient management strategies, biological
11 control and integrated pest management strategies,
12 livestock production and management systems, ani-
13 mal waste management systems, water and energy
14 conservation measures, and health and safety consid-
15 erations.

16 “(10) INTEGRATED FARM MANAGEMENT
17 PLAN.—The term ‘integrated farm management
18 plan’ means a comprehensive, multiyear, site-specific
19 plan that meets the requirements of section 1451 of
20 the Food, Agriculture, Conservation, and Trade Act
21 of 1990 (7 U.S.C. 5822).

22 “(11) GRASS.—The term ‘grass’ means any pe-
23 rennial grasses commonly used for haying or graz-
24 ing.

1 “(12) LEGUME.—The term ‘legume’ means any
2 forage legumes (such as alfalfa or clover) or any leg-
3 ume grown for use as a forage or green manure, but
4 not including any bean crop from which the seeds
5 are harvested.

6 “(13) SMALL GRAIN.—The term ‘small grain’
7 does not include malting barley or wheat, except for
8 wheat interplanted with other small grain crops for
9 nonhuman consumption.”.

10 **SEC. 2502. CROP AND TOTAL ACREAGE BASES.**

11 Section 503 of the Agricultural Act of 1949 (7 U.S.C.
12 1463) is amended—

13 (1) in the section heading, by inserting “**AND**
14 **TOTAL**” after “**CROP**”;

15 (2) at the end of subsection (a), by adding the
16 following new paragraph:

17 “(4) TOTAL ACREAGE BASE.—The total acreage
18 base for a farm shall equal the sum of the crop acre-
19 age bases established for program crops on the farm
20 that are enrolled in the acreage reduction programs
21 established by the Secretary.”;

22 (3) in the heading for subsection (b) by adding
23 “OF CROP ACREAGE BASES” after “CALCULATION”;

24 (4) in subsection (b)(2)—

25 (A) by striking “(A) IN GENERAL”;

1 (B) by striking “except as provided in sub-
2 paragraph (B),”; and

3 (C) by striking subparagraph (B); and

4 (5) in subsection (c)(1), by striking “reduced
5 acreage” and inserting “acreage conservation re-
6 serve”.

7 **SEC. 2503. PLANTING FLEXIBILITY.**

8 (a) SPECIFIED COMMODITIES.—Subsection (b) of
9 section 504 of the Agricultural Act of 1949 (7 U.S.C.
10 1464) is amended—

11 (1) in paragraph (1)—

12 (A) by striking “and” at the end of sub-
13 paragraph (D);

14 (B) by redesignating subparagraph (E) as
15 subparagraph (F); and

16 (C) by inserting the following new subpara-
17 graph after subparagraph (D):

18 “(E) any cover crop (including mainte-
19 nance of native cover) and summer fallow
20 which, as determined by the Secretary, will pro-
21 tect the land from weeds and erosion; and”;

22 (2) by striking paragraph (2) and inserting the
23 following new paragraph:

24 “(2) LIMITATIONS ON CROPS.—

1 “(A) IN GENERAL.—For purposes of this
2 section, the Secretary may restrict the planting
3 on a crop acreage base of any crop specified in
4 paragraph (1).

5 “(B) EFFECT OF ACREAGE REDUCTION
6 PROGRAM.—If an acreage reduction program is
7 in effect for any specific program crop, the Sec-
8 retary may limit the plantings of the specific
9 program crop for which there is an acreage re-
10 duction program in effect to no more than the
11 sum of—

12 “(i) the permitted acreage for the spe-
13 cific program crop for which there is an
14 acreage reduction program in effect; plus

15 “(ii) 23 percent of other crop acreage
16 bases which are included in the total acre-
17 age base for a farm.

18 “(C) MINIMUM PLANTING.—The Secretary
19 may require that, as a condition for eligibility
20 for loans, deficiency payments and any other
21 program benefits authorized by this Act, a min-
22 imum percentage not to exceed 50 percent of a
23 specific permitted acreage, be planted to the
24 specific program crop.”; and

1 (3) in paragraph (3) by striking “make a deter-
2 mination in each crop year of” and inserting “deter-
3 mine”.

4 (b) LIMITATION ON PLANTINGS.—Subsection (c) of
5 such section is amended by striking paragraphs (1) and
6 (2) and inserting the following:

7 “The quantity of the total acreage base that may be
8 planted to program crops enrolled in an acreage reduction
9 program shall not exceed 100 percent of the total acreage
10 base, less the acreage conservation reserve for the farm.”.

11 (c) PLANTINGS IN EXCESS OF PERMITTED ACRE-
12 AGE.—Subsection (d) of such section is amended to read
13 as follows:

14 “(d) PLANTINGS IN EXCESS OF PERMITTED ACRE-
15 AGE.—Notwithstanding any other provision of this Act,
16 except as provided in section 504(b)(2)(B), producers of
17 a program crop who are participating in the acreage re-
18 duction program for that crop shall be allowed to plant
19 that program crop in a quantity that exceeds the per-
20 mitted acreage for that crop without losing their eligibility
21 for loans or payments with respect to that crop if—

22 “(1) the acreage planted to that program crop
23 on the farm in excess of the permitted acreage for
24 that crop does not exceed the permitted acreage of
25 other program crops on the farm; and

1 “(2) the producer agrees to a reduction in per-
2 mitted acreage for the other program crops produced
3 on the farm by a quantity equal to the
4 overplanting.”.

5 (d) LOAN ELIGIBILITY.—Subsection (e) of such sec-
6 tion is amended to read as follows:

7 “(e) LOAN ELIGIBILITY.—Producers of a specific
8 program crop (referred to in this subsection as the ‘origi-
9 nal program crop’) who plant for harvest on the crop acre-
10 age base established for such original program crop an-
11 other program crop in accordance with this section and
12 who are participants in the program established for such
13 other program crop shall be eligible to receive loans or loan
14 deficiency payments for such other program crop on the
15 same terms and conditions as are provided to participants
16 in a acreage reduction program established for such other
17 program crop if the producers—

18 “(1) plant such other program crop in an
19 amount that does not exceed 100 percent of the per-
20 mitted acreage established for the original program
21 crop; and

22 “(2) agree to a reduction in the permitted acre-
23 age for the original program crop for the particular
24 crop year.”.

1 **SEC. 2504. FARM PROGRAM PAYMENT YIELDS.**

2 Section 505 of the Agricultural Act of 1949 (7 U.S.C.
3 1465) is amended to read as follows:

4 **“SEC. 505. FARM PROGRAM PAYMENT YIELDS.**

5 “(a) ESTABLISHMENT.—The Secretary shall provide
6 for the establishment of a farm program payment yield
7 for each farm for each program crop for each crop year
8 in accordance with subsection (b) or (c).

9 “(b) FARM PROGRAM PAYMENT YIELDS BASED ON
10 1995 CROP YEAR.—

11 “(1) IN GENERAL.—If the Secretary determines
12 that farm program payment yields shall be estab-
13 lished in accordance with this subsection, except as
14 provided in paragraph (2), the farm program pay-
15 ment yield for each of the 1996 through 2002 crop
16 years shall be the farm program payment yield for
17 the 1995 crop year for the farm.

18 “(2) ADDITIONAL YIELD PAYMENTS.—In the
19 case of each of the 1991 through 2002 crop years
20 for a commodity, if the farm program payment yield
21 for a farm is reduced more than 10 percent below
22 the farm program payment yield for the 1985 crop
23 year, the Secretary shall make available to producers
24 established price payments for the commodity in
25 such amount as the Secretary determines is nec-
26 essary to provide the same total return to producers

1 as if the farm program payment yield had not been
2 reduced more than 10 percent below the farm pro-
3 gram payment yield for the 1985 crop year. The
4 payments shall be made available not later than the
5 time final deficiency payments are made.

6 “(3) NO YIELD AVAILABLE.—If no farm pro-
7 gram payment yield was established for the farm for
8 1995 crop, the farm program payment yield shall be
9 established on the basis of the average farm pro-
10 gram payment yield for the crop years for similar
11 farms in the area.

12 “(4) NATIONAL, STATE, OR COUNTY YIELDS.—
13 If the Secretary determines the action is necessary,
14 the Secretary may establish national, State, or coun-
15 ty program payment yields on the basis of—

16 “(A) historical yields, as adjusted by the
17 Secretary to correct for abnormal factors affect-
18 ing the yields in the historical period; or

19 “(B) the Secretary’s estimate of actual
20 yields for the crop year involved if historical
21 yield data is not available.

22 “(5) BALANCING YIELDS.—If national, State,
23 or county program payment yields are established,
24 the farm program payment yields shall balance to

1 the national, State, or county program payment
2 yields.

3 “(c) DETERMINATION OF YIELDS.—

4 “(1) ACTUAL YIELDS.—With respect to the
5 1996 and subsequent crop years, the Secretary
6 may—

7 “(A) establish the farm program payment
8 yield as provided in subsection (a); or

9 “(B) establish a farm program payment
10 yield for any program crop for any farm on the
11 basis of the average of the yield per harvested
12 acre for the crop for the farm for each of the
13 5 crop years immediately preceding the crop
14 year, excluding the crop year with the highest
15 yield per harvested acre, the crop year with the
16 lowest yield per harvested acre, and any crop
17 year in which such crop was not planted on the
18 farm.

19 “(2) PRIOR YIELDS.—For purposes of the pre-
20 ceding sentence, the farm program payment yield for
21 the 1996 crop year and the actual yield per har-
22 vested acre with respect to the 1997 and subsequent
23 crop years shall be used in determining farm pro-
24 gram payment yields.

1 “(3) REDUCTION LIMITATION.—Notwithstand-
2 ing any other provision of this subsection, for pur-
3 poses of establishing a farm program payment yield
4 for any program crop for any farm for the 1991 and
5 subsequent crop years, the farm program payment
6 yield for the 1986 crop year may not be reduced
7 more than 10 percent below the farm program pay-
8 ment yield for the farm for the 1985 crop year.

9 “(4) ADJUSTMENT OF YIELDS.—The county
10 committee, in accordance with regulations prescribed
11 by the Secretary, may adjust any farm program pay-
12 ment yield for any program crop for any farm if the
13 farm program payment yield for the crop on the
14 farm does not accurately reflect the productive po-
15 tential of the farm.

16 “(d) ASSIGNMENT OF YIELDS.—In the case of any
17 farm for which the actual yield per harvested acre for any
18 program crop referred to in subsection (c) for any crop
19 year is not available, the county committee may assign the
20 farm a yield for the crop for the crop year on the basis
21 of actual yields for the crop for the crop year on similar
22 farms in the area.

23 “(e) ACTUAL YIELD DATA.—

24 “(1) PROVISION.—The Secretary shall, under
25 such terms and conditions as the Secretary may pre-

1 scribe, allow producers to provide to county commit-
2 tees data with respect to the actual yield for each
3 farm for each program crop.

4 “(2) MAINTENANCE.—The Secretary shall
5 maintain the data for at least 5 crop years after re-
6 ceipt in a manner that will permit the data to be
7 used, if necessary, in the administration of the com-
8 modity programs.”.

9 **SEC. 2505. APPLICATION OF PROVISIONS.**

10 Section 509 of the Agricultural Act of 1949 (7 U.S.C.
11 1469) is amended to read as follows:

12 **“SEC. 509. APPLICATION OF TITLE.**

13 “Except as provided in section 406, this title shall
14 apply only with respect to the 1996 through 2002 crops.”.

15 **Subtitle F—Miscellaneous**
16 **Provisions**

17 **SEC. 2601. LIMITATIONS ON AMOUNT OF DEFICIENCY PAY-**
18 **MENTS AND LAND DIVERSION PAYMENTS.**

19 Section 1001(1)(A) of the Food Security Act of 1985
20 (7 U.S.C. 1308(1)(A)) is amended by striking “\$50,000”
21 and inserting “\$47,000”.

22 **SEC. 2602. SENSE OF CONGRESS REGARDING CERTAIN CA-**
23 **NADIAN TRADE PRACTICES.**

24 (a) FINDINGS.—The Congress finds the following:

1 (1) On October 15, 1993, in response to a re-
2 quest from the National Potato Council, the Foreign
3 Agricultural Service of the Department of Agri-
4 culture listed several Canadian nontariff barriers
5 that violate the national treatment principle of the
6 General Agreement on Tariffs and Trade, including
7 the prohibition on bulk shipments, container size
8 limitations on processed products, and prohibitions
9 on consignment sales.

10 (2) Current Government-to-Government and di-
11 rect grower-to-grower discussions with Canada have
12 failed to result in changes in Canadian trade prac-
13 tices.

14 (b) SENSE OF CONGRESS.—It is the sense of the
15 Congress that the Secretary of Agriculture and the United
16 States Trade Representative should intensify efforts to re-
17 solve the Canadian potato trade concerns and begin to
18 consider formal action under the dispute resolution proce-
19 dures of the North American Free Trade Agreement or
20 the General Agreement on Tariffs and Trade.

21 **TITLE III—COMMERCE**

22 **SEC. 3101. SPECTRUM AUCTIONS.**

23 (a) EXTENSION AND EXPANSION OF AUCTION AU-
24 THORITY.—

1 (1) AMENDMENTS.—Section 309(j) of the Com-
2 munications Act of 1934 (47 U.S.C. 309(j)) is
3 amended—

4 (A) by striking paragraphs (1) and (2) and
5 inserting in lieu thereof the following:

6 “(1) GENERAL AUTHORITY.—If, consistent with
7 the obligations described in paragraph (6)(E), mutu-
8 ally exclusive applications are accepted for any ini-
9 tial license or construction permit which will involve
10 an exclusive use of the electromagnetic spectrum,
11 then the Commission shall grant such license or per-
12 mit to a qualified applicant through a system of
13 competitive bidding that meets the requirements of
14 this subsection.

15 “(2) EXEMPTIONS.—The competitive bidding
16 authority granted by this subsection shall not apply
17 to licenses or construction permits issued by the
18 Commission—

19 “(A) that, as the result of the Commission
20 carrying out the obligations described in para-
21 graph (6)(E), are not mutually exclusive;

22 “(B) for public safety radio services, in-
23 cluding non-Government uses that protect the
24 safety of life, health, and property and that are

1 not made commercially available to the public;
2 or

3 “(C) for initial licenses or construction
4 permits for new terrestrial digital television
5 services assigned by the Commission to existing
6 terrestrial broadcast licensees to replace their
7 current television licenses.”; and

8 (B) by striking “1998” in paragraph (11)
9 and inserting “2002”.

10 (2) CONFORMING AMENDMENT.—Subsection (i)
11 of section 309 of such Act is repealed.

12 (3) EFFECTIVE DATE.—The amendment made
13 by paragraph (1)(A) shall not apply with respect to
14 any license or permit for which the Federal Commu-
15 nications Commission has accepted mutually exclu-
16 sive applications on or before the date of enactment
17 of this Act.

18 (b) COMMISSION OBLIGATION TO MAKE ADDITIONAL
19 SPECTRUM AVAILABLE BY AUCTION.—

20 (1) IN GENERAL.—The Federal Communica-
21 tions Commission shall complete all actions nec-
22 essary to permit the assignment, by September 30,
23 2002, by competitive bidding pursuant to section
24 309(j) of the Communications Act of 1934 (47

1 U.S.C. 309(j)) of licenses for the use of bands of
2 frequencies that—

3 (A) individually span not less than 25
4 megahertz, unless a combination of smaller
5 bands can, notwithstanding the provisions of
6 paragraph (7) of such section, reasonably be ex-
7 pected to produce greater receipts;

8 (B) in the aggregate span not less than
9 100 megahertz;

10 (C) are located below 3 gigahertz; and

11 (D) have not, as of the date of enactment
12 of this Act—

13 (i) been designated by Commission
14 regulation for assignment pursuant to such
15 section; or

16 (ii) been identified by the Secretary of
17 Commerce pursuant to section 113 of the
18 National Telecommunications and Infor-
19 mation Administration Organization Act.

20 The Commission shall conduct the competitive
21 bidding for not less than one-half of such aggre-
22 gate spectrum by September 30, 2001.

23 (2) CRITERIA FOR REASSIGNMENT.—In making
24 available bands of frequencies for competitive bid-

1 ding pursuant to paragraph (1), the Commission
2 shall—

3 (A) seek to promote the most efficient use
4 of the spectrum;

5 (B) take into account the cost to incum-
6 bent licensees of relocating existing uses to
7 other bands of frequencies or other means of
8 communication;

9 (C) take into account the needs of public
10 safety radio services; and

11 (D) comply with the requirements of inter-
12 national agreements concerning spectrum allo-
13 cations.

14 (3) NOTIFICATION TO NTIA.—The Commission
15 shall notify the Secretary of Commerce if—

16 (A) the Commission is not able to provide
17 for the effective relocation of incumbent licens-
18 ees to bands of frequencies that are available to
19 the Commission for assignment; and

20 (B) the Commission has identified bands
21 of frequencies that are—

22 (i) suitable for the relocation of such
23 licensees; and

24 (ii) allocated for Federal Government
25 use, but that could be reallocated pursuant

1 to part B of the National Telecommuni-
2 cations and Information Administration
3 Organization Act (as amended by this
4 Act).

5 (c) IDENTIFICATION AND REALLOCATION OF FRE-
6 QUENCIES.—The National Telecommunications and Infor-
7 mation Administration Organization Act (47 U.S.C. 901
8 et seq.) is amended—

9 (1) in section 113, by adding at the end the fol-
10 lowing new subsection:

11 “(f) ADDITIONAL REALLOCATION REPORT.—If the
12 Secretary receives a notice from the Commission pursuant
13 to section 3001(b)(3) of the Seven-Year Balanced Budget
14 Reconciliation Act of 1995, the Secretary shall prepare
15 and submit to the President and the Congress a report
16 recommending for reallocation for use other than by Fed-
17 eral Government stations under section 305 of the 1934
18 Act (47 U.S.C. 305), bands of frequencies that are suit-
19 able for the uses identified in the Commission’s notice.”;

20 (2) in section 114(a)(1), by striking “(a) or
21 (d)(1)” and inserting “(a), (d)(1), or (f)”.

22 (d) COMPLETION OF C-BLOCK PCS AUCTION.—The
23 Federal Communications Commission shall commence the
24 Broadband Personal Communications Services C-Block
25 auction described in the Commission’s Sixth Report and

1 Order in DP Docket 93–253 (FCC 93–510, released July
2 18, 1995) not later than December 4, 1995. The Commis-
3 sion’s competitive bidding rules governing such auction,
4 as set forth in such Sixth Report and Order, are hereby
5 ratified and adopted as a matter of Federal law.

6 (e) MODIFICATION OF AUCTION POLICY TO PRE-
7 SERVE AUCTION VALUE OF SPECTRUM.—The voluntary
8 negotiation period for relocating fixed microwave licensees
9 to frequency bands other than those allocated for licensed
10 emerging technology services (including licensed personal
11 communications services), established by the Commis-
12 sion’s Third Report and Order in ET Docket No. 92–9,
13 shall expire one year after the date of acceptance by the
14 Commission of applications for such licensed emerging
15 technology services. The mandatory negotiation period for
16 relocating fixed microwave licensees to frequency bands
17 other than those allocated for licensed emerging tech-
18 nology services (including licensed personal communica-
19 tions services), established in such Third Report and
20 Order, shall expire two years after the date of acceptance
21 by the Commission of applications for such licensed
22 emerging technology services.

23 (f) IDENTIFICATION AND REALLOCATION OF
24 AUCTIONABLE FREQUENCIES.—The National Tele-

1 communications and Information Administration Organi-
2 zation Act (47 U.S.C. 901 et seq.) is amended—

3 (1) in section 113(b)—

4 (A) by striking the heading of paragraph
5 (1) and inserting “INITIAL REALLOCATION RE-
6 PORT”;

7 (B) by inserting “in the first report re-
8 quired by subsection (a)” after “recommend for
9 reallocation” in paragraph (1);

10 (C) by inserting “or (3)” after “paragraph
11 (1)” each place it appears in paragraph (2);
12 and

13 (D) by inserting after paragraph (2) the
14 following new paragraph:

15 “(3) SECOND REALLOCATION REPORT.—In ac-
16 cordance with the provisions of this section, the Sec-
17 retary shall recommend for reallocation in the sec-
18 ond report required by subsection (a), for use other
19 than by Federal Government stations under section
20 305 of the 1934 Act (47 U.S.C. 305), a single fre-
21 quency band that spans not less than an additional
22 20 megahertz, that is located below 3 gigahertz, and
23 that meets the criteria specified in paragraphs (1)
24 through (5) of subsection (a).”; and

25 (2) in section 115—

1 (A) in subsection (b), by striking “the re-
2 port required by section 113(a)” and inserting
3 “the initial reallocation report required by sec-
4 tion 113(a)”; and

5 (B) by adding at the end the following new
6 subsection:

7 “(c) ALLOCATION AND ASSIGNMENT OF FRE-
8 QUENCIES IDENTIFIED IN THE SECOND REALLOCATION
9 REPORT.—With respect to the frequencies made available
10 for reallocation pursuant to section 113(b)(3), the Com-
11 mission shall, not later than 1 year after receipt of the
12 second reallocation report required by such section, pre-
13 pare, submit to the President and the Congress, and im-
14 plement, a plan for the allocation and assignment under
15 the 1934 Act of such frequencies. Such plan shall propose
16 the immediate allocation and assignment of all such fre-
17 quencies in accordance with section 309(j).”.

18 **SEC. 3102. FEDERAL COMMUNICATIONS COMMISSION FEE**

19 **COLLECTIONS**

20 (a) APPLICATION FEES.—

21 (1) ADJUSTMENT OF APPLICATION FEE SCHED-
22 ULE.—Section 8(b) of the Communications Act of
23 1934 (47 U.S.C. 158(b)) is amended to read as fol-
24 lows:

1 “(b)(1) For fiscal year 1996 and each fiscal year
2 thereafter, the Commission shall, by regulation, modify
3 the application fees by proportionate increases or de-
4 creases so as to result in estimated total collections for
5 the fiscal year equal to—

6 “(A) \$40,000,000; plus

7 “(B) an additional amount, specified in an ap-
8 propriation Act for the Commission for that fiscal
9 year to be collected and credited to such appropria-
10 tion, not to exceed the amount by which the nec-
11 essary expenses for the costs described in paragraph
12 (5) exceeds \$40,000,000.

13 “(2) In making adjustments pursuant to this para-
14 graph the Commission may round such fees to the nearest
15 \$5.00 in the case of fees under \$100, or to the nearest
16 \$20 in the case of fees of \$100 or more. The Commission
17 shall transmit to the Congress notification of any adjust-
18 ment made pursuant to this paragraph immediately upon
19 the adoption of such adjustment.

20 “(3) The Commission is authorized to continue to col-
21 lect fees at the prior year’s rate until the effective date
22 of fee adjustments or amendments made pursuant to para-
23 graphs (1) and (4).

24 “(4) The Commission shall, by regulation, add, de-
25 lete, or reclassify services, categories, applications, or

1 other filings subject to application fees to reflect additions,
2 deletions, or changes in the nature of its services or au-
3 thorization of service processes as a consequence of Com-
4 mission rulemaking proceedings or changes in law.

5 “(5) Any modified fees established under paragraph
6 (4) shall be derived by determining the full-time equivalent
7 number of employees performing application activities, ad-
8 justed to take into account other expenses that are reason-
9 ably related to the cost of processing the application or
10 filing, including all executive and legal costs incurred by
11 the Commission in the discharge of these functions, and
12 other factors that the Commission determines are nec-
13 essary in the public interest. The Commission shall—

14 “(A) transmit to the Congress notification of
15 any proposed modification made pursuant to this
16 paragraph immediately upon adoption of such pro-
17 posal; and

18 “(B) transmit to the Congress notification of
19 any modification made pursuant to this paragraph
20 immediately upon adoption of such modification.

21 “(6) Increases or decreases in application fees made
22 pursuant to this subsection shall not be subject to judicial
23 review.”.

1 (2) TREATMENT OF ADDITIONAL COLLEC-
2 TIONS.—Section 8(e) of such Act is amended to read
3 as follows:

4 “(e) Of the moneys received from fees authorized
5 under this section—

6 “(1) \$40,000,000 shall be deposited in the gen-
7 eral fund of the Treasury to reimburse the United
8 States for amounts appropriated for use by the
9 Commission in carrying out its functions under this
10 Act; and

11 “(2) the remainder shall be deposited as an off-
12 setting collection in, and credited to, the account
13 providing appropriations to carry out the functions
14 of the Commission.”.

15 (3) SCHEDULE OF APPLICATION FEES FOR
16 PCS.—The schedule of application fees in section
17 8(g) of such Act is amended by adding, at the end
18 of the portion under the heading “COMMON CARRIER
19 SERVICES”, the following new item:

“23. Personal communications services	
“a. Initial or new application	230
“b. Amendment to pending application	35
“c. Application for assignment or transfer of control	230
“d. Application for renewal of license	35
“e. Request for special temporary authority	200
“f. Notification of completion of construction	35
“g. Request to combine service areas	50”.

20 (4) VANITY CALL SIGNS.—

21 (A) LIFETIME LICENSE FEES.—

1 (i) AMENDMENT.—The schedule of
 2 application fees in section 8(g) of such Act
 3 is further amended by adding, at the end
 4 of the portion under the heading “PRIVATE
 5 RADIO SERVICES”, the following new item:

“11. Amateur vanity call signs 150.00”.

6 (ii) TREATMENT OF RECEIPTS.—Mon-
 7 eys received from fees established under
 8 the amendment made by this subsection
 9 shall be deposited as an offsetting collec-
 10 tion in, and credited to, the account pro-
 11 viding appropriations to carry out the
 12 functions of the Commission.

13 (B) TERMINATION OF ANNUAL REGU-
 14 LATORY FEES.—The schedule of regulatory fees
 15 in section 9(g) of such Act (47 U.S.C. 159(g))
 16 is amended by striking the following item from
 17 the fees applicable to the Private Radio Bureau:

“Amateur vanity call-signs 7”.

18 (b) REGULATORY FEES.—

19 (1) EXECUTIVE AND LEGAL COSTS.—Section
 20 9(a)(1) of the Communications Act of 1934 (47
 21 U.S.C. 159(a)(1)) is amended by inserting before
 22 the period at the end the following: “, and all execu-
 23 tive and legal costs incurred by the Commission in
 24 the discharge of these functions”.

1 (2) ESTABLISHMENT AND ADJUSTMENT.—Sec-
2 tion 9(b) of such Act is amended—

3 (A) in paragraph (4)(B), by striking “90
4 days” and inserting “45 days”; and

5 (B) by adding at the end the following new
6 paragraph:

7 “(5) EFFECTIVE DATE OF ADJUSTMENTS.—The
8 Commission is authorized to continue to collect fees
9 at the prior year’s rate until the effective date of fee
10 adjustments or amendments made pursuant to para-
11 graph (2) or (3).”.

12 (3) REGULATORY FEES FOR SATELLITE TV OP-
13 ERATIONS.—The schedule of regulatory fees in sec-
14 tion 9(g) of such Act is amended, in the fees appli-
15 cable to the Mass Media Bureau, by inserting after
16 each of the items pertaining to construction permits
17 in the fees applicable to VHF commercial and UHF
18 commercial TV the following new item:

“Terrestrial television satellite operations 500”.

19 (4) GOVERNMENTAL ENTITIES USE FOR COM-
20 MON CARRIER PURPOSES.—Section 9(h) of such Act
21 is amended by adding at the end the following new
22 sentence: “The exceptions provided by this sub-
23 section for governmental entities shall not be appli-
24 cable to any services that are provided on a commer-
25 cial basis in competition with another carrier.”.

1 (5) INFORMATION REQUIRED IN CONNECTION
2 WITH ADJUSTMENT OF REGULATORY FEES.—Title I
3 of such Act is amended—

4 (A) in section 9, by striking subsection (i);
5 and

6 (B) by inserting after section 9 the follow-
7 ing new section:

8 **“SEC. 10. ACCOUNTING SYSTEM AND ADJUSTMENT INFOR-**
9 **MATION.**

10 “(a) ACCOUNTING SYSTEM REQUIRED.—The Com-
11 mission shall develop accounting systems for the purposes
12 of making the adjustments authorized by sections 8 and
13 9. The Commission shall annually prepare and submit to
14 the Congress an analysis of such systems and shall annu-
15 ally afford interested persons the opportunity to submit
16 comments concerning the allocation of the costs of per-
17 forming the functions described in section 8(a)(5) and
18 9(a)(1) in making such adjustments in the schedules re-
19 quired by sections 8 and 9.

20 “(b) INFORMATION REQUIRED IN CONNECTION
21 WITH ADJUSTMENT OF APPLICATION AND REGULATORY
22 FEES.—

23 “(1) SCHEDULE OF REQUESTED AMOUNTS.—
24 No later than May 1 of each calendar year, the
25 Commission shall prepare and transmit to the Com-

1 mittees of Congress responsible for the Commis-
2 sion's authorization and appropriations a detailed
3 schedule of the amounts requested by the Presi-
4 dent's budget to be appropriated for the ensuing fis-
5 cal year for the activities described in sections
6 8(a)(5) and 9(a)(1), allocated by bureaus, divisions,
7 and offices of the Commission.

8 “(2) EXPLANATORY STATEMENT.—If the Com-
9 mission anticipates increases in the application fees
10 or regulatory fees applicable to any applicant, li-
11 censee, or unit subject to payment of fees, the Com-
12 mission shall submit to the Congress by May 1 of
13 such calendar year a statement explaining the rela-
14 tionship between any such increases and either (A)
15 increases in the amounts requested to be appro-
16 priated for Commission activities in connection with
17 such applicants, licensees, or units subject to pay-
18 ment of fees, or (B) additional activities to be per-
19 formed with respect to such applicants, licensees, or
20 units.

21 “(3) DEFINITION.—For purposes of this sub-
22 section, the term ‘amount requested by the Presi-
23 dent's budget’ shall include any adjustments to such
24 requests that are made by May 1 of such calendar
25 year. If any such adjustment is made after May 1,

1 the Commission shall provide such Committees with
2 updated schedules and statements containing the in-
3 formation required by this subsection within 10 days
4 after the date of any such adjustment.”.

5 **SEC. 3103. AUCTION OF RECAPTURED ANALOG LICENSES.**

6 (a) LIMITATIONS ON TERMS OF ANALOG TELEVISION
7 LICENSES (“REVERSION DATE”).—The Commission shall
8 not renew any analog television license for a period that
9 extends beyond the earlier of December 31, 2005, or one
10 year after the date the Commission finds, based on annual
11 surveys conducted pursuant to subsection (b), that at least
12 95 percent of households in the United States have the
13 capability to receive and display video signals, other than
14 video signals transmitted pursuant to an analog television
15 license. After such date, the Commission shall not issue
16 any television licenses other than advanced television li-
17 censes.

18 (b) ANNUAL SURVEY.—The Secretary of Commerce
19 shall, each calendar year from 1998 to 2005, conduct a
20 survey to estimate the percentage of households in the
21 United States that have the capability to receive and dis-
22 play video signals other than signals transmitted pursuant
23 to an analog television license.

24 (c) SPECTRUM REVERSION.—The Commission shall
25 ensure that, as analog television licenses expire pursuant

1 to subsection (a), spectrum previously used for the broad-
2 cast of analog television signals is reclaimed and reallo-
3 cated in such manner as to maximize the deployment of
4 new services. Licensees for new services shall be selected
5 by competitive bidding. The Commission shall complete
6 the competitive bidding procedure by May 1, 2002.

7 (d) MINIMUM SERVICE OBLIGATION.—

8 (1) PROVISION OF CAPABILITY TO RECEIVE AD-
9 VANCED SERVICES.—The Commission shall, by regu-
10 lation, establish procedures to ensure that, within
11 the year prior to the reversion date defined in sub-
12 section (a), the advanced television licensees shall
13 provide each household with the capability to receive
14 and display video signals for advanced television
15 services if such household requests such capability.

16 (2) PROVISION OF NONSUBSCRIPTION SERV-
17 ICES.—Each advanced television service licensee
18 shall provide, for at least a minimum of 5 years
19 from the date identified in subsection (a), at least
20 one nonsubscription video service that meets or ex-
21 ceeds minimum technical standards established by
22 the Commission. In setting such minimum technical
23 standards, the Commission shall, to the extent tech-
24 nically feasible, ensure that picture and audio qual-
25 ity are at least as good as that provided to recipients

1 within the Grade B contour of an analog television
2 license. The Commission shall revoke the license of
3 any advanced television licensee who fails to meet
4 this condition of the license.

5 (e) DEFINITIONS.—As used in this section:

6 (1) The term “Commission” means the Federal
7 Communications Commission.

8 (2) The term “advanced television services”
9 means television services provided using digital or
10 other advanced technology to enhance audio quality
11 and video resolution, as further defined in the Opin-
12 ion, Report, and Order of the Commission entitled
13 “Advanced Television Systems and Their Impact
14 Upon the Existing Television Service,” MM Docket
15 No. 87–268.

16 (3) The term “analog television licenses” means
17 licenses issued pursuant to 47 C.F.R. 73.682 et seq.

18 **SEC. 3104. PATENT AND TRADEMARK FEES.**

19 Section 10101 of the Omnibus Budget Reconciliation
20 Act of 1990 (35 U.S.C. 41 note) is amended—

21 (1) in subsection (a) by striking “1998” and in-
22 sserting “2002”;

23 (2) in subsection (b)(2) by striking “1998” and
24 inserting “2002”; and

25 (3) in subsection (c)—

1 (A) by striking “through 1998” and insert-
2 ing “through 2002”; and

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

4 “(9) \$119,000,000 in fiscal year 1999.

5 “(10) \$119,000,000 in fiscal year 2000.

6 “(11) \$119,000,000 in fiscal year 2001.

7 “(12) \$119,000,000 in fiscal year 2002.”.

8 **SEC. 3105. REPEAL OF AUTHORIZATION OF TRANSITIONAL**
9 **APPROPRIATIONS FOR THE UNITED STATES**
10 **POSTAL SERVICE.**

11 (a) IN GENERAL.—(1) Section 2004 of title 39,
12 United States Code, is repealed.

13 (2)(A) The table of sections for chapter 20 of such
14 title is amended by repealing the item relating to section
15 2004.

16 (B) Section 2003(e)(2) of such title is amended by
17 striking “sections 2401 and 2004” each place it appears
18 and inserting “section 2401”.

19 (b) CLARIFICATION THAT LIABILITIES FORMERLY
20 PAID PURSUANT TO SECTION 2004 REMAIN LIABILITIES
21 PAYABLE BY THE POSTAL SERVICE.—Section 2003 of
22 title 39, United States Code, is amended by adding at the
23 end the following:

24 “(h) Liabilities of the former Post Office Department
25 to the Employees’ Compensation Fund (appropriations for

1 which were authorized by former section 2004, as in effect
2 before the effective date of this subsection) shall be liabil-
3 ities of the Postal Service payable out of the Fund.”.

4 **TITLE IV—TRANSPORTATION**

5 **SEC. 4101. EXTENSION OF RAILROAD SAFETY FEES.**

6 Subsection (e) of section 20115 of title 49, United
7 States Code, is repealed.

8 **SEC. 4102. PERMANENT EXTENSION OF VESSEL TONNAGE** 9 **DUTIES.**

10 (a) EXTENSION OF DUTIES.—Section 36 of the Act
11 of August 5, 1909 (36 Stat. 111; 46 App. U.S.C. 121),
12 is amended—

13 (1) by striking “for fiscal years 1991, 1992,
14 1993, 1994, 1995, 1996, 1997, 1998, and 2 cents
15 per ton not to exceed in the aggregate 10 cents per
16 tone in any one year, for each fiscal year there-
17 after”; and

18 (2) by striking “for fiscal years 1991, 1992,
19 1993, 1994, 1995, 1996, 1997, 1998, and 6 cents
20 per ton, not to exceed 30 cents per ton for each fis-
21 cal year thereafter”.

22 (b) CONFORMING AMENDMENT.—The Act entitled
23 “An Act concerning tonnage duties on vessels entering
24 otherwise than by sea”, approved March 8, 1910 (36 Stat.
25 234; 46 App. U.S.C. 132), is amended by striking “for

1 fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997,
2 and 1998, and 2 cents per ton, not to exceed in the aggre-
3 gate 10 cents per ton in any 1 year, for each fiscal year
4 thereafter.”.

5 **SEC. 4103. SALE OF GOVERNORS ISLAND, NEW YORK.**

6 (a) IN GENERAL.—Notwithstanding any other provi-
7 sion of law, the Administrator of General Services shall
8 dispose of by sale at fair market value all rights, title, and
9 interests of the United States in and to the land of, and
10 improvements to, Governors Island, New York.

11 (b) RIGHT OF FIRST REFUSAL.—Before a sale is
12 made under subsection (a) to any other parties, the State
13 of New York and the city of New York shall be given the
14 right of first refusal to purchase all or part of Governors
15 Island. Such right may be exercised by either the State
16 of New York or the city of New York or by both parties
17 acting jointly.

18 (c) PROCEEDS.—Proceeds from the disposal of Gov-
19 ernors Island under subsection (a) shall be deposited in
20 the general fund of the Treasury and credited as mis-
21 cellaneous receipts.

22 **SEC. 4104. SALE OF AIR RIGHTS.**

23 (a) IN GENERAL.—Notwithstanding any other provi-
24 sion of law, the Administrator of General Services shall
25 sell, at fair market value and in a manner to be deter-

1 mined by the Administrator, the air rights adjacent to
2 Washington Union Station described in subsection (b), in-
3 cluding air rights conveyed to the Administrator under
4 subsection (d). The Administrator shall complete the sale
5 by such date as is necessary to ensure that the proceeds
6 from the sale will be deposited in accordance with sub-
7 section (c).

8 (b) DESCRIPTION.—The air rights referred to in sub-
9 section (a) total approximately 16.5 acres and are depicted
10 on the plat map of the District of Columbia as follows:

11 (1) Part of lot 172, square 720.

12 (2) Part of lots 172 and 823, square 720.

13 (3) Part of lot 811, square 717.

14 (c) PROCEEDS.—Before September 30, 1996, pro-
15 ceeds from the sale of air rights under subsection (a) shall
16 be deposited in the general fund of the Treasury and cred-
17 ited as miscellaneous receipts.

18 (d) CONVEYANCE OF AMTRAK AIR RIGHTS.—

19 (1) GENERAL RULE.—As a condition of future
20 Federal financial assistance, Amtrak shall convey to
21 the Administrator of General Services on or before
22 December 31, 1995, at no charge, all of the air
23 rights of Amtrak described in subsection (b).

24 (2) FAILURE TO COMPLY.—If Amtrak does not
25 meet the condition established by paragraph (1),

1 Amtrak shall be prohibited from obligating Federal
2 funds after March 1, 1996.

3 **TITLE V—HOUSING PROVISIONS**

4 **SEC. 5101. REDUCTION OF SECTION 8 ANNUAL ADJUST-** 5 **MENT FACTORS FOR UNITS WITHOUT TEN-** 6 **ANT TURNOVER.**

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

10 **SEC. 5102. MAXIMUM MORTGAGE AMOUNT FLOOR FOR SIN-** 11 **GLE FAMILY MORTGAGE INSURANCE.**

12 Subparagraph (A) of the first sentence of section
13 203(b)(2) of the National Housing Act (12 U.S.C.
14 1709(b)(2)(A)) is amended by striking “the greater of”
15 and all that follows through “applicable size” and insert-
16 ing the following: “50 percent of the dollar amount limita-
17 tion determined under section 305(a)(2) of the Federal
18 Home Loan Mortgage Corporation Act (as adjusted annu-
19 ally under such section) for a residence of the applicable
20 size”.

21 **SEC. 5103. FORECLOSURE AVOIDANCE AND BORROWER AS-** 22 **SISTANCE.**

23 (a) FORECLOSURE AVOIDANCE.—The last sentence
24 of section 204(a) of the National Housing Act (12 U.S.C.
25 1710(a)) is amended by inserting before the period the

1 following: “: *And provided further*, That the Secretary may
2 pay insurance benefits to the mortgagee to recompense the
3 mortgagee for its actions to provide an alternative to fore-
4 closure of a mortgage that is in default, which actions may
5 include such actions as special forbearance, loan modifica-
6 tion, and deeds in lieu of foreclosure, all upon such terms
7 and conditions as the mortgagee shall determine in the
8 mortgagee’s sole discretion within guidelines provided by
9 the Secretary, but which may not include assignment of
10 a mortgage to the Secretary: *And provided further*, That
11 for purposes of the preceding proviso, no action authorized
12 by the Secretary and no action taken, nor any failure to
13 act, by the Secretary or the mortgagee shall be subject
14 to judicial review”.

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

18 “AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT

19 “SEC. 230. (a) PAYMENT OF PARTIAL CLAIM.—The
20 Secretary may establish a program for payment of a par-
21 tial insurance claim to a mortgagee that agrees to apply
22 the claim amount to payment of a mortgage on a 1- to
23 4-family residence that is in default. Any such payment
24 under such program to the mortgagee shall be made in
25 the Secretary’s sole discretion and on terms and conditions
26 acceptable to the Secretary, except that—

1 “(1) the amount of the payment shall be in an
2 amount determined by the Secretary, which shall not
3 exceed an amount equivalent to 12 monthly mort-
4 gage payments and any costs related to the default
5 that are approved by the Secretary; and

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

9 The Secretary may pay the mortgagee, from the appro-
10 priate insurance fund, in connection with any activities
11 that the mortgagee is required to undertake concerning
12 repayment by the mortgagor of the amount owed to the
13 Secretary.

14 “(b) ASSIGNMENT.—

15 “(1) PROGRAM AUTHORITY.—The Secretary
16 may establish a program for assignment to the Sec-
17 retary, upon request of the mortgagee, of a mort-
18 gage on a 1- to 4-family residence insured under this
19 Act.

20 “(2) PROGRAM REQUIREMENTS.—The Sec-
21 retary may accept assignment of a mortgage under
22 a program under this subsection only if—

23 “(A) the mortgage was in default;

24 “(B) the mortgagee has modified the mort-
25 gage to cure the default and provide for mort-

1 gage payments within the reasonable ability of
2 the mortgagor to pay at interest rates not ex-
3 ceeding current market interest rates; and

4 “(C) the Secretary arranges for servicing
5 of the assigned mortgage by a mortgagee
6 (which may include the assigning mortgagee)
7 through procedures that the Secretary has de-
8 termined to be in the best interests of the ap-
9 propriate insurance fund.

10 “(3) PAYMENT OF INSURANCE BENEFITS.—

11 Upon accepting assignment of a mortgage under the
12 program under this subsection, the Secretary may
13 pay insurance benefits to the mortgagee from the
14 appropriate insurance fund in an amount that the
15 Secretary determines to be appropriate, but which
16 may not exceed the amount necessary to compensate
17 the mortgagee for the assignment and any losses re-
18 sulting from the mortgage modification.

19 “(c) PROHIBITION OF JUDICIAL REVIEW.—No deci-
20 sion by the Secretary to exercise or forego exercising any
21 authority under this section shall be subject to judicial re-
22 view.”.

23 (c) SAVINGS PROVISION.—Any mortgage for which
24 the mortgagor has applied to the Secretary of Housing
25 and Urban Development, before the date of the enactment

1 of this Act, for assignment pursuant to section 230(b) of
2 the National Housing Act shall continue to be governed
3 by the provisions of such section, as in effect immediately
4 before such date of enactment.

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

12 **TITLE VI—INDEXATION AND MIS-**
13 **CELLANEOUS ENTITLEMENT-**
14 **RELATED PROVISIONS**

15 **SEC. 6101. CONSUMER PRICE INDEX.**

16 (a) ADJUSTMENTS APPLICABLE TO INTERNAL REVE-
17 NUE CODE PROVISIONS.—

18 (1) IN GENERAL.—Paragraph (3) of section
19 1(f) of the Internal Revenue Code of 1986 (defining
20 cost-of-living adjustment) is amended by striking the
21 period at the end and inserting a comma and by in-
22 serting at the end the following flush material:

23 “reduced by the number of percentage points
24 determined under paragraph (8) for the cal-

1 endar year for which such adjustment is being
2 determined.”

3 (2) LIMITATION ON INCREASES.—Subsection (f)
4 of section 1 of such Code is amended by adding at
5 the end the following new paragraph:

6 “(8) LIMITATION ON INCREASES IN CPI.—

7 “(A) IN GENERAL.—The number of per-
8 centage points determined under this paragraph
9 for any calendar year is—

10 “(i) in the case of calendar years
11 1996, 1997, and 1998, 0.5 percentage
12 point, and

13 “(ii) in the case of calendar years
14 1999, 2000, 2001, and 2002, 0.3 percent-
15 age point.

16 “(B) COMPUTATION OF BASE TO REFLECT
17 LIMITATION.—The Secretary shall adjust the
18 number taken into account under paragraph
19 (3)(B) so that any increase which is not taken
20 into account by reason of subparagraph (A)
21 shall not be taken into account at any time so
22 as to allow such increase for any period.”

23 (b) ADJUSTMENTS APPLICABLE TO CERTAIN ENTI-
24 TLEMENT PROGRAMS.—

1 (1) IN GENERAL.—For purposes of determining
2 the amount of any cost-of-living adjustment which
3 takes effect for benefits payable after December 31,
4 1995, with respect to any benefit described in para-
5 graph (5)—

6 (A) any increase in the relevant index (de-
7 termined without regard to this subsection)
8 shall be reduced by the number of percentage
9 points determined under paragraph (2), and

10 (B) the amount of the increase in such
11 benefit shall be equal to the product of—

12 (i) the increase in the relevant index
13 (as reduced under subparagraph (A)), and

14 (ii) the average such benefit for the
15 preceding calendar year under the program
16 described in paragraph (5) which provides
17 such benefit.

18 (2) LIMITATION ON INCREASES.—

19 (A) IN GENERAL.—The number of percent-
20 age points determined under this paragraph for
21 any calendar year is—

22 (i) in the case of calendar years 1996,
23 1997, and 1998, 0.5 percentage point, and

1 (ii) in the case of calendar years
2 1999, 2000, 2001, and 2002, 0.3 percent-
3 age point.

4 (B) COMPUTATION OF BASE TO REFLECT
5 LIMITATION.—Any increase which is not taken
6 into account by reason of subparagraph (A)
7 shall not be taken into account at any time so
8 as to allow such increase for any period.

9 (3) PARAGRAPH (1) TO APPLY ONLY TO COM-
10 PUTATION OF BENEFIT AMOUNTS.—Paragraph (1)
11 shall apply only for purposes of determining the
12 amount of benefits and not for purposes of deter-
13 mining—

14 (A) whether a threshold increase in the rel-
15 evant index has been met, or

16 (B) increases in amounts under other pro-
17 visions of law not described in paragraph (5)
18 which operate by reference to increases in such
19 benefits.

20 (4) DEFINITIONS.—For purposes of this sub-
21 section—

22 (A) COST-OF-LIVING ADJUSTMENT.—The
23 term “cost-of-living adjustment” means any ad-
24 justment in the amount of benefits described in

1 paragraph (5) which is determined by reference
2 to changes in an index.

3 (B) INDEX.—

4 (i) INDEX.—The term “index” means
5 the Consumer Price Index and any other
6 index of price or wages.

7 (ii) RELEVANT INDEX.—The term
8 “relevant index” means the index on the
9 basis of which the amount of the cost-of-
10 living adjustment is determined.

11 (5) BENEFITS TO WHICH SUBSECTION AP-
12 PLIES.—For purposes of this subsection, the benefits
13 described in this paragraph are—

14 (A) old age, survivors, and disability insur-
15 ance benefits subject to adjustment under sec-
16 tion 215(i) of the Social Security Act (but the
17 limitation under paragraph (1) shall not apply
18 to supplemental security income benefits under
19 title XVI of such Act);

20 (B) retired and retainer pay subject to ad-
21 justment under section 1401a of title 10, Unit-
22 ed States Code;

23 (C) civil service retirement benefits under
24 section 8340 of title 5, United States Code, for-
25 eign service retirement benefits under section

1 826 of the Foreign Service Act of 1980, Central
2 Intelligence Agency retirement benefits under
3 part J of the Central Intelligence Agency Re-
4 tirement Act of 1964 for certain employees, and
5 any other benefits under any similar provision
6 under any retirement system for employees of
7 the government of the United States;

8 (D) Federal workers' compensation under
9 section 8146a of title 5, United States Code;

10 (E) benefits under section 3(a), 4(a), or
11 4(f) of the Railroad Retirement Act of 1974;
12 and

13 (F) benefits and expenditure limits under
14 title XVIII or XIX of the Social Security Act.

15 (6) BENEFIT.—For purposes of this section,
16 the term “benefit” includes a payment.

17 **SEC. 6102. REDUCTION IN TITLE XX BLOCK GRANTS TO**
18 **STATES FOR SOCIAL SERVICES.**

19 Section 2003(c) of the Social Security Act (42 U.S.C.
20 1397b(c)) is amended—

21 (1) by striking “and” at the end of paragraph
22 (4);

23 (2) in paragraph (5), by striking “fiscal year
24 after fiscal year 1989.” and inserting “of fiscal
25 years 1990 through 1995; and”; and

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

2 “(6) \$2,520,000,000 for fiscal year 1996 and
3 each succeeding fiscal year.”.

4 **SEC. 6103. MATCHING RATE REQUIREMENT FOR TITLE XX**
5 **BLOCK GRANTS TO STATES FOR SOCIAL**
6 **SERVICES.**

7 Section 2002(a)(1) of the Social Security Act (42
8 U.S.C. 1397a(a)(1)) is amended by striking “Each State”
9 and all that follows through the period and inserting the
10 following: “(A) Each State shall be entitled to payment
11 under this title for each fiscal year in an amount equal
12 to the lesser of—

13 “(i) 80 percent of the total amount expended by
14 the State during the fiscal year for services referred
15 to in subparagraph (B); or

16 “(ii) the allotment of the State for the fiscal
17 year.

18 “(B) A State to which a payment is made under this
19 title shall use the payment for services directed at the
20 goals set forth in section 2001, subject to the requirements
21 of this title.”.

22 **SEC. 6104. DENIAL OF UNEMPLOYMENT INSURANCE TO**
23 **CERTAIN HIGH-INCOME INDIVIDUALS.**

24 (a) GENERAL RULE.—Subsection (a) of section 3304
25 of the Internal Revenue Code of 1986, as amended by sec-

1 tion 10101, is further amended by striking “and” at the
2 end of paragraph (18), by redesignating paragraph (19)
3 as paragraph (20), and by inserting after paragraph (18)
4 the following new paragraph:

5 “(19) compensation shall not be payable to any
6 individual for any benefit year if the taxable income
7 of such individual for such individual’s most recent
8 taxable year ending before the beginning of such
9 benefit year exceeded \$120,000; and”.

10 (b) EFFECTIVE DATE.—

11 (1) IN GENERAL.—Except as provided in para-
12 graph (2), the amendment made by this section shall
13 apply to benefit years beginning after December 31,
14 1995.

15 (2) SPECIAL RULE.—In the case of any State
16 the legislature of which has not been in session for
17 at least 30 calendar days (whether or not successive)
18 between the date of the enactment of this Act and
19 December 31, 1995, the amendments made by this
20 section shall apply to benefit years beginning after
21 the day 30 calendar days after the first day on
22 which such legislature is in session on or after De-
23 cember 31, 1995.

1 **TITLE VII—MEDICAID REFORM**
2 **Subtitle A—Per Capita Spending**
3 **Limit**

4 **SEC. 7001. LIMITATION ON EXPENDITURES RECOGNIZED**
5 **FOR PURPOSES OF FEDERAL FINANCIAL PAR-**
6 **TICIPATION.**

7 (a) IN GENERAL.—Title XIX of the Social Security
8 Act is amended—

9 (1) in section 1903(a), by striking “From” and
10 inserting “Subject to section 1931, from”;

11 (2) by redesignating section 1931 as section
12 1932; and

13 (3) by inserting after section 1930 the following
14 new section:

15 “LIMITATION ON FEDERAL FINANCIAL PARTICIPATION
16 BASED ON PER BENEFICIARY SPENDING

17 “SEC. 1931. (a) IN GENERAL.—Subject to subsection
18 (e), the total amount of State expenditures for medical
19 assistance for which Federal financial participation may
20 be made under section 1903(a) for quarters in a fiscal
21 year (beginning with fiscal year 1997) may not exceed the
22 sum of the following:

23 “(1) NONDISABLED MEDICAID CHILDREN.—
24 The product of—

1 “(A) the number of full-year equivalent
2 nondisabled medicaid children (described in
3 subsection (b)(1)) in the State in the fiscal
4 year, and

5 “(B) the per capita medical assistance
6 limit established under subsection (c)(1) for
7 such category of individuals for the fiscal year.

8 “(2) NONDISABLED MEDICAID ADULTS.—The
9 product of—

10 “(A) the number of full-year equivalent
11 nondisabled medicaid adults (described in sub-
12 section (b)(2)) in the State in the fiscal year,
13 and

14 “(B) the per capita medical assistance
15 limit established under subsection (c)(1) for
16 such category individuals for the fiscal year.

17 “(3) NONDISABLED ELDERLY MEDICAID BENE-
18 FICIARIES.—The product of—

19 “(A) the number of full-year equivalent
20 nondisabled elderly medicaid beneficiaries (de-
21 scribed in subsection (b)(3)) in the State in the
22 fiscal year, and

23 “(B) the per capita medical assistance
24 limit established under subsection (c)(1) for
25 such category of individuals for the fiscal year.

1 “(4) DISABLED MEDICAID BENEFICIARIES.—

2 The product of—

3 “(A) the number of full-year equivalent
4 disabled medicaid beneficiaries (described in
5 subsection (b)(4)) in the State in the fiscal
6 year, and

7 “(B) the per capita medical assistance
8 limit established under subsection (c)(1) for
9 such category individuals for the fiscal year.

10 “(5) ADMINISTRATIVE EXPENDITURES.—The
11 product of—

12 “(A) the number of full-year equivalent
13 medicaid beneficiaries who are in any category
14 of beneficiaries in the State in the fiscal year,
15 and

16 “(B) the per capita limit established under
17 subsection (c)(1) for administrative expendi-
18 tures for the fiscal year.

19 This section shall not apply to expenditures for which no
20 Federal financial participation is available under this title.

21 “(b) DEFINITIONS RELATING TO CATEGORIES OF IN-
22 DIVIDUALS.—In this section:

23 “(1) NONDISABLED MEDICAID CHILDREN.—

24 The term ‘nondisabled medicaid child’ means an in-
25 dividual entitled to medical assistance under the

1 State plan under this title who is not disabled (as
2 such term is used under paragraph (4)) and is under
3 21 years of age.

4 “(2) NONDISABLED MEDICAID ADULTS.—The
5 term ‘nondisabled medicaid adult’ means an individ-
6 ual entitled to medical assistance under the State
7 plan under this title who is not disabled (as such
8 term is used under paragraph (4)) and is at least 21
9 years of age but under 65 years of age.

10 “(3) NONDISABLED ELDERLY MEDICAID BENE-
11 FICIARY.—The term ‘nondisabled medicaid adult’
12 means an individual entitled to medical assistance
13 under the State plan under this title who is not dis-
14 abled (as such term is used under paragraph (4))
15 and is at least 65 years of age.

16 “(4) DISABLED MEDICAID BENEFICIARIES.—
17 The term ‘disabled medicaid beneficiary’ means an
18 individual entitled to medical assistance under the
19 State plan under this title who is entitled to such as-
20 sistance solely on the basis of blindness or disability.
21 For purposes of this section, nondisabled medicaid chil-
22 dren, nondisabled medicaid adults, nondisabled elderly
23 medicaid beneficiaries, and disabled medicaid beneficiaries
24 each constitutes a separate category of medicaid bene-
25 ficiaries.

1 “(c) ESTABLISHMENT OF PER CAPITA LIMITS.—

2 “(1) IN GENERAL.—The Secretary shall estab-
3 lish for each State a per capita medical assistance
4 limit for each category of medicaid beneficiaries de-
5 scribed in subsection (b) and for administrative ex-
6 penditures for a fiscal year equal to the product of
7 the following:

8 “(A) PREVIOUS EXPENDITURES.—The av-
9 erage of the amount of the per capita match-
10 able medical assistance expenditures (deter-
11 mined under paragraph (2)(A)) for such cat-
12 egory (or the per capita matchable
13 administrative expenditures determined under
14 paragraph (2)(B)) for such State for each of
15 the 3 previous fiscal years.

16 “(B) INFLATION FACTOR.—The rolling 2-
17 year CPI increase factor (determined under
18 paragraph (3)(A)) for the fiscal year involved.

19 “(C) TRANSITIONAL ALLOWANCE.—The
20 transitional allowance factor (if any) applicable
21 under paragraph (3)(B) to such limit for the
22 previous fiscal year and for the fiscal year in-
23 volved.

1 “(2) PER CAPITA MATCHABLE MEDICAL ASSIST-
2 ANCE EXPENDITURES.—For purposes of this sec-
3 tion—

4 “(A) MEDICAL ASSISTANCE EXPENDI-
5 TURES.—The ‘per capita matchable medical as-
6 sistance expenditures’, for a category of medic-
7 aid beneficiaries for a State for a fiscal year, is
8 equal to—

9 “(i) the amount of expenditures for
10 which Federal financial participation is (or
11 may be) provided (consistent with this sec-
12 tion) to the State under paragraphs (1)
13 and (5) of section 1903(a) (other than ex-
14 penditures excluded under subsection (e))
15 with respect to medical assistance fur-
16 nished with respect to individuals in such
17 category during the fiscal year, divided by

18 “(ii) the number of full-year equiva-
19 lent individuals in such category in the
20 State in such fiscal year.

21 “(B) PER CAPITA MATCHABLE ADMINIS-
22 TRATIVE EXPENDITURES.—The ‘per capita
23 matchable administrative expenditures’, for a
24 State for a fiscal year, is equal to—

1 “(i) the amount of expenditures for
2 which Federal financial participation is (or
3 may be) provided (consistent with this sec-
4 tion) to the State under section 1903(a)
5 (under paragraphs (1) and (5) of such sec-
6 tion) during the fiscal year, divided by

7 “(ii) the number of full-year equiva-
8 lent individuals in any category of medic-
9 aid beneficiary in the State in such fiscal
10 year.

11 “(3) INCREASE FACTORS.—In this subsection—

12 “(A) ROLLING 2-YEAR CPI INCREASE FAC-
13 TOR.—The ‘rolling 2-year CPI increase factor’
14 for a fiscal year is 1 plus the percentage by
15 which—

16 “(i) the Secretary’s estimate of the
17 average value of the consumer price index
18 for all urban consumers (all items, U.S.
19 city average) for months in the particular
20 fiscal year, exceeds

21 “(ii) the average value of such index
22 for months in the 3 previous fiscal years.

23 “(B) TRANSITIONAL ALLOWANCE FAC-
24 TORS.—

1 “(i) FISCAL YEAR 1996.—The ‘transi-
2 tional allowance factor’ for fiscal year
3 1996—

4 “(I) for the category of non-
5 disabled medicaid children, is 1.051;

6 “(II) for the category of non-
7 disabled medicaid adults, is 1.067;

8 “(III) for the category of non-
9 disabled elderly medicaid beneficiaries
10 is 1.031;

11 “(IV) for the category of disabled
12 medicaid beneficiaries is 1.015; and

13 “(V) for administrative expendi-
14 tures is 1.046.

15 “(ii) SUBSEQUENT FISCAL YEARS FOR
16 NONDISABLED CHILDREN AND ADULTS
17 AND FOR DISABLED CATEGORIES.—The
18 ‘transitional allowance factor’ for the cat-
19 egories of nondisabled medicaid children,
20 nondisabled medicaid adults, and disabled
21 medicaid beneficiaries—

22 “(I) for fiscal year 1997 is 1.01,
23 and

24 “(II) for each subsequent fiscal
25 year is 1.0.

1 “(iii) SUBSEQUENT FISCAL YEARS
2 FOR THE ELDERLY AND ADMINISTRATIVE
3 EXPENDITURES.—The ‘transitional allow-
4 ance factor’ for the category of nondisabled
5 elderly medicaid beneficiaries and for ad-
6 ministrative expenditures for fiscal years
7 after fiscal year 1996 is 1.0.

8 “(4) NOTICE.—The Secretary shall notify each
9 State before the beginning of each fiscal year of the
10 per capita limits established under this subsection
11 for the State for the fiscal year.

12 “(d) SPECIAL RULES AND EXCEPTIONS.—For pur-
13 poses of this section, expenditures attributable to any of
14 the following shall not be subject to the limits established
15 under this section and shall not be taken into account in
16 establishing per capita medical assistance limits under
17 subsection (c)(1):

18 “(1) DSH.—Payment adjustments under sec-
19 tion 1923.

20 “(2) MEDICARE COST-SHARING.—Payments for
21 medical assistance for medicare cost-sharing (as de-
22 fined in section 1905(p)(3)).

23 “(3) SERVICES THROUGH IHS AND TRIBAL PRO-
24 VIDERS.—Payments for medical assistance for serv-

1 ices described in the last sentence of section
2 1905(b).

3 Nothing in this section shall be construed as applying any
4 limitation to expenditures for the purchase and delivery
5 of qualified pediatric vaccines under section 1928.

6 “(e) DEFINITIONS.—In this section, the term ‘medic-
7 aid beneficiary’ means an individual entitled to medical as-
8 sistance under the State plan under this title.

9 “(f) ESTIMATIONS AND NOTICE.—

10 “(1) IN GENERAL.—The Secretary shall—

11 “(A) establish a process for estimating the
12 limits established under subsection (a) for each
13 State at the beginning of each fiscal year and
14 adjusting such estimate during such year; and

15 “(B) notifying each State of the esti-
16 mations and adjustments referred to in sub-
17 paragraph (A).

18 “(2) DETERMINATION OF NUMBER OF FULL-
19 YEAR EQUIVALENT INDIVIDUALS.—For purposes of
20 this section, the number of full-year equivalent indi-
21 viduals in each category described in subsection (b)
22 for a State for a year shall be determined based on
23 actual reports submitted by the State to the Sec-
24 retary. In the case of individuals who were not enti-
25 tled to benefits under a State plan for the entire fis-

1 cal year (or are within a group of individuals for
2 only part of a fiscal year), the number shall take
3 into account only the portion of the year in which
4 they were so entitled or within such group. The Sec-
5 retary may audit such reports.

6 “(g) ANTI-GAMING ADJUSTMENT TO REFLECT
7 CHANGES IN ELIGIBILITY.—

8 “(1) REPORT ON PER CAPITA EXPENDI-
9 TURES.—If a State makes a change (on or after Oc-
10 tober 15, 1995) relating to eligibility for medical as-
11 sistance in its State plan that results in the addition
12 or deletion of individuals eligible for such assistance,
13 the State shall submit to the Secretary with such
14 change such information as the Secretary may re-
15 quire in order to carry out paragraph (2).

16 “(2) ADJUSTMENT FOR CERTAIN ADDITIONS.—
17 If a State makes a change described in paragraph
18 (1) that the Secretary believes will result in making
19 medical assistance available for additional individ-
20 uals (within a category described in subsection (b))
21 with respect to whom the Secretary estimates the
22 per capita average medical assistance expenditures
23 will be less the applicable per capita limit established
24 under subsection (c)(1) for such category, the Sec-
25 retary shall apply the per capita limits under such

1 subsection separately with respect to individuals who
2 are eligible for medical assistance without regard to
3 such addition and with respect to the individuals so
4 added.

5 “(3) ADJUSTMENT FOR CERTAIN DELETIONS.—
6 If a State makes a change described in paragraph
7 (1) that the Secretary believes will result in denial
8 of medical assistance for individuals (within a cat-
9 egory described in subsection (b)) with respect to
10 whom the Secretary estimates the per capita average
11 medical assistance expenditures is greater than the
12 applicable per capita limit established under sub-
13 section (c)(1) for such category, the Secretary shall
14 adjust the payment limits under subsection (a) to re-
15 flect any decrease in average per beneficiary expend-
16 itures that would result from such change.

17 “(h) TREATMENT OF STATES OPERATING UNDER
18 WAIVERS.—The Secretary shall provide for such adjust-
19 ments to the per capita limits under subsection (c) for a
20 fiscal year as may be appropriate to take into account the
21 case of States which either—

22 “(1) during any of the 3 previous fiscal years
23 was providing medical assistance to its residents
24 under a waiver granted under section 1115, section
25 1915, or other provision of law, and, in the fiscal

1 year involved is no longer providing such medical as-
2 sistance under such waiver; or

3 “(2) during any of the 3 previous fiscal years
4 was not providing medical assistance to its residents
5 under a waiver granted under section 1115, section
6 1915, or other provision of law, and, in the fiscal
7 year involved is providing such medical assistance
8 under such a waiver.”.

9 (b) ENFORCEMENT-RELATED PROVISIONS.—

10 (1) ASSURING ACTUAL PAYMENTS TO STATES
11 CONSISTENT WITH LIMITATION.—Section 1903(d) of
12 such Act (42 U.S.C. 1396b(d)) is amended—

13 (A) in paragraph (2)(A), by striking “The
14 Secretary” and inserting “Subject to paragraph
15 (7), the Secretary”, and

16 (B) by adding at the end the following new
17 paragraph:

18 “(7)(A) The Secretary shall take such steps as are
19 necessary to assure that payments under this subsection
20 for quarters in a fiscal year are consistent with the pay-
21 ment limits established under section 1931 for the fiscal
22 year. Such steps may include limiting such payments for
23 one or more quarters in a fiscal year based on—

24 “(i) an appropriate proportion of the payment
25 limits for the fiscal year involved, and

1 “(ii) numbers of individuals within each cat-
2 egory, as reported under subparagraph (B) for a re-
3 cent previous quarter.

4 “(B) Each State shall include, in its report filed
5 under paragraph (1)(A) for a calendar quarter—

6 “(i) the actual number of individuals within
7 each category described in section 1931(b) for the
8 second previous calendar quarter and (based on the
9 data available) for the previous calendar quarter,
10 and

11 “(ii) an estimate of such numbers for the cal-
12 endar quarter involved.”.

13 (2) RESTRICTION ON AUTHORITY OF STATES TO
14 APPLY LESS RESTRICTIVE INCOME AND RESOURCE
15 METHODOLOGIES.—Section 1902(r)(2) of such Act
16 (42 U.S.C. 1396a(r)(2)) is amended by adding at
17 the end the following new subparagraph:

18 “(C) Subparagraph (A) shall not apply to plan
19 amendments made on or after October 15, 1995.”.

20 (c) CONFORMING AMENDMENT.—Section 1903(i) of
21 such Act (42 U.S.C. 1396b(i)) is amended—

22 (1) by striking “or” at the end of paragraph
23 (14),

24 (2) by striking the period at the end of para-
25 graph (15) and inserting “; or”, and

1 (3) by inserting after paragraph (15) the fol-
2 lowing:

3 “(16) in accordance with section 1931, with re-
4 spect to amounts expended to the extent they exceed
5 applicable limits established under section 1931(a).”.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to payments for calendar quarters
8 beginning on or after October 1, 1996.

9 **Subtitle B—Medicaid Managed** 10 **Care**

11 **SEC. 7101. PERMITTING GREATER FLEXIBILITY FOR** 12 **STATES TO ENROLL BENEFICIARIES IN MAN-** 13 **AGED CARE ARRANGEMENTS.**

14 (a) IN GENERAL.—Title XIX of the Social Security
15 Act (42 U.S.C. 1396 et seq.), as amended by section
16 7001(a), is amended—

17 (1) by redesignating section 1932 as section
18 1933; and

19 (2) by inserting after section 1931 the following
20 new section:

21 “STATE OPTIONS FOR ENROLLMENT OF BENEFICIARIES
22 IN MANAGED CARE ARRANGEMENTS

23 “SEC. 1932. (a) MANDATORY ENROLLMENT.—

24 “(1) IN GENERAL.—Subject to the succeeding
25 provisions of this section and notwithstanding para-
26 graphs (1), (10)(B), and (23) of section 1902(a), a

1 State may require an individual eligible for medical
2 assistance under the State plan under this title to
3 enroll with an eligible managed care provider as a
4 condition of receiving such assistance and, with re-
5 spect to assistance furnished by or under arrange-
6 ments with such provider, to receive such assistance
7 through the provider, if the following provisions are
8 met:

9 “(A) The provider meets the requirements
10 of section 1933.

11 “(B) The provider enters into a contract
12 with the State to provide services for the bene-
13 fit of individuals eligible for benefits under this
14 title under which prepaid payments to such pro-
15 vider are made on an actuarially sound basis.

16 “(C) There is sufficient capacity among all
17 providers meeting such requirements to enroll
18 and serve the individuals required to enroll with
19 such providers.

20 “(D) The individual is not a special needs
21 individual (as defined in subsection (c)).

22 “(E) The State—

23 “(i) permits an individual to choose
24 an eligible managed care provider—

1 “(I) from among not less than 2
2 medicaid managed care plans; or

3 “(II) between a medicaid man-
4 aged care plan and a primary care
5 case management provider;

6 “(ii) provides the individual with the
7 opportunity to change enrollment among
8 eligible managed care providers not less
9 than once annually and notifies the indi-
10 vidual of such opportunity not later than
11 60 days prior to the first date on which
12 the individual may change enrollment;

13 “(iii) establishes a method for estab-
14 lishing enrollment priorities in the case of
15 an eligible managed care provider that
16 does not have sufficient capacity to enroll
17 all such individuals seeking enrollment
18 under which individuals already enrolled
19 with the provider are given priority in con-
20 tinuing enrollment with the provider;

21 “(iv) establishes a default enrollment
22 process which meets the requirements de-
23 scribed in paragraph (2) and under which
24 any such individual who does not enroll
25 with an eligible managed care provider

1 during the enrollment period specified by
2 the State shall be enrolled by the State
3 with such a provider in accordance with
4 such process; and

5 “(v) establishes the sanctions provided
6 for in section 1934.

7 “(2) DEFAULT ENROLLMENT PROCESS RE-
8 QUIREMENTS.—The default enrollment process es-
9 tablished by a State under paragraph (1)(E)(iv)
10 shall—

11 “(A) provide that the State may not enroll
12 individuals with an eligible managed care pro-
13 vider which is not in compliance with the re-
14 quirements of section 1933; and

15 “(B) provide for an equitable distribution
16 of individuals among all eligible managed care
17 providers available to enroll individuals through
18 such default enrollment process, consistent with
19 the enrollment capacities of such providers.

20 “(b) REENROLLMENT OF INDIVIDUALS WHO REGAIN
21 ELIGIBILITY.—

22 “(1) IN GENERAL.—If an individual eligible for
23 medical assistance under a State plan under this
24 title and enrolled with an eligible managed care pro-
25 vider with a contract under subsection (a)(1)(B)

1 ceases to be eligible for such assistance for a period
2 of not greater than 2 months, the State may provide
3 for the automatic reenrollment of the individual with
4 the provider as of the first day of the month in
5 which the individual is again eligible for such assist-
6 ance.

7 “(2) CONDITIONS.—Paragraph (1) shall only
8 apply if—

9 “(A) the month for which the individual is
10 to be reenrolled occurs during the enrollment
11 period covered by the individual’s original en-
12 rollment with the eligible managed care pro-
13 vider;

14 “(B) the eligible managed care provider
15 continues to have a contract with the State
16 agency under subsection (a)(1)(B) as of the
17 first day of such month; and

18 “(C) the eligible managed care provider
19 complies with the requirements of section 1933.

20 “(3) NOTICE OF REENROLLMENT.—The State
21 shall provide timely notice to an eligible managed
22 care provider of any reenrollment of an individual
23 under this subsection.

1 “(c) SPECIAL NEEDS INDIVIDUALS DESCRIBED.—In
2 this section, a ‘special needs individual’ means any of the
3 following:

4 “(1) SPECIAL NEEDS CHILD.—An individual
5 who is under 19 years of age who —

6 “(A) is eligible for supplemental security
7 income under title XVI;

8 “(B) is described under section
9 501(a)(1)(D);

10 “(C) is a child described in section
11 1902(e)(3); or

12 “(D) is in foster care or is otherwise in an
13 out-of-home placement.

14 “(2) HOMELESS INDIVIDUALS.—An individual
15 who is homeless (without regard to whether the indi-
16 vidual is a member of a family), including—

17 “(A) an individual whose primary residence
18 during the night is a supervised public or pri-
19 vate facility that provides temporary living ac-
20 commodations; or

21 “(B) an individual who is a resident in
22 transitional housing.

23 “(3) MIGRANT AGRICULTURAL WORKERS.—A
24 migratory agricultural worker or a seasonal agricul-
25 tural worker (as such terms are defined in section

1 329 of the Public Health Service Act), or the spouse
2 or dependent of such a worker.

3 “(4) INDIANS.—An Indian (as defined in sec-
4 tion 4(c) of the Indian Health Care Improvement
5 Act (25 U.S.C. 1603(c)).”.

6 (b) CONFORMING AMENDMENT.—Section
7 1902(a)(23) of such Act (42 U.S.C. 1396a(a)(23)) is
8 amended—

9 (1) in the matter preceding subparagraph (A),
10 by striking “subsection (g) and in section 1915” and
11 inserting “subsection (g), section 1915, and section
12 1931,”; and

13 (2) in subparagraph (B)—

14 (A) by striking “a health maintenance or-
15 ganization, or a” and inserting “or with an eli-
16 gible managed care provider, as defined in sec-
17 tion 1933(g)(1), or”.

18 **SEC. 7102. REMOVAL OF BARRIERS TO PROVISION OF MED-**

19 **ICAID SERVICES THROUGH MANAGED CARE.**

20 (a) REPEAL OF CURRENT BARRIERS.—Except as
21 provided in subsection (b), section 1903(m) of the Social
22 Security Act (42 U.S.C. 1396b(m)) is repealed on the date
23 of the enactment of this Act.

24 (b) EXISTING CONTRACTS.—In the case of any con-
25 tract under section 1903(m) of such Act which is in effect

1 on the day before the date of the enactment of this Act,
2 the provisions of such section shall apply to such contract
3 until the earlier of—

4 (1) the day after the date of the expiration of
5 the contract; or

6 (2) the date which is 1 year after the date of
7 the enactment of this Act.

8 (c) ELIGIBLE MANAGED CARE PROVIDERS DE-
9 SCRIBED.—Title XIX of such Act (42 U.S.C. 1396 et
10 seq.), as amended by sections 7001(a) and 7101(a), is
11 amended—

12 (1) by redesignating section 1933 as section
13 1934; and

14 (2) by inserting after section 1932 the following
15 new section:

16 “ELIGIBLE MANAGED CARE PROVIDERS

17 “SEC. 1933. (a) DEFINITIONS.—In this section, the
18 following definitions shall apply:

19 “(1) ELIGIBLE MANAGED CARE PROVIDER.—
20 The term ‘eligible managed care provider’ means—

21 “(A) a medicaid managed care plan; or

22 “(B) a primary care case management pro-
23 vider.

24 “(2) MEDICAID MANAGED CARE PLAN.—The
25 term ‘medicaid managed care plan’ means a health
26 maintenance organization, an eligible organization

1 with a contract under Section 1876, a provider spon-
2 sored network or any other plan which provides or
3 arranges for the provision of one or more items and
4 services to individuals eligible for medical assistance
5 under the State plan under this title in accordance
6 with a contract with the State under section
7 1932(a)(1)(B).

8 “(3) PRIMARY CARE CASE MANAGEMENT PRO-
9 VIDER.—

10 “(A) IN GENERAL.—The term ‘primary
11 care case management provider’ means a health
12 care provider that—

13 “(i) is a physician, group of physi-
14 cians, a Federally-qualified health center, a
15 rural health clinic, or an entity employing
16 or having other arrangements with physi-
17 cians that provides or arranges for the pro-
18 vision of one or more items and services to
19 individuals eligible for medical assistance
20 under the State plan under this title in ac-
21 cordance with a contract with the State
22 under section 1932(a)(1)(B);

23 “(ii) receives payment on a fee-for-
24 service basis (or, in the case of a Feder-
25 ally-qualified health center or a rural

1 health clinic, on a reasonable cost per en-
2 counter basis) for the provision of health
3 care items and services specified in such
4 contract to enrolled individuals;

5 “(iii) receives an additional fixed fee
6 per enrollee for a period specified in such
7 contract for providing case management
8 services (including approving and arrang-
9 ing for the provision of health care items
10 and services specified in such contract on
11 a referral basis) to enrolled individuals;
12 and

13 “(iv) is not an entity that is at risk.

14 “(B) AT RISK.—In subparagraph (A)(iv),
15 the term ‘at risk’ means an entity that—

16 “(i) has a contract with the State
17 under which such entity is paid a fixed
18 amount for providing or arranging for the
19 provision of health care items or services
20 specified in such contract to an individual
21 eligible for medical assistance under the
22 State plan and enrolled with such entity,
23 regardless of whether such items or serv-
24 ices are furnished to such individual; and

1 “(ii) is liable for all or part of the cost
2 of furnishing such items or services, re-
3 gardless of whether such cost exceeds such
4 fixed payment.

5 “(b) ENROLLMENT.—

6 “(1) NONDISCRIMINATION.—An eligible man-
7 aged care provider may not discriminate on the basis
8 of health status or anticipated need for services in
9 the enrollment, reenrollment, or disenrollment of in-
10 dividuals eligible to receive medical assistance under
11 a State plan under this title or by discouraging en-
12 rollment (except as permitted by this section) by eli-
13 gible individuals.

14 “(2) TERMINATION OF ENROLLMENT.—

15 “(A) IN GENERAL.—An eligible managed
16 care provider shall permit an individual eligible
17 for medical assistance under the State plan
18 under this title who is enrolled with the pro-
19 vider to terminate such enrollment for cause at
20 any time, and without cause during the 60-day
21 period beginning on the date the individual re-
22 ceives notice of enrollment, and shall notify
23 each such individual of the opportunity to ter-
24 minate enrollment under these conditions.

1 “(B) FRAUDULENT INDUCEMENT OR CO-
2 ERCION AS GROUNDS FOR CAUSE.—For pur-
3 poses of subparagraph (A), an individual termi-
4 nating enrollment with an eligible managed care
5 provider on the grounds that the enrollment
6 was based on fraudulent inducement or was ob-
7 tained through coercion shall be considered to
8 terminate such enrollment for cause.

9 “(C) NOTICE OF TERMINATION.—

10 “(i) NOTICE TO STATE.—

11 “(I) BY INDIVIDUALS.—Each in-
12 dividual terminating enrollment with
13 an eligible managed care provider
14 under subparagraph (A) shall do so
15 by providing notice of the termination
16 to an office of the State agency ad-
17 ministering the State plan under this
18 title, the State or local welfare agency,
19 or an office of an eligible managed
20 care provider.

21 “(II) BY PLANS.—Any eligible
22 managed care provider which receives
23 notice of an individual’s termination
24 of enrollment with such provider
25 through receipt of such notice at an

1 office of an eligible managed care pro-
2 vider shall provide timely notice of the
3 termination to the State agency ad-
4 ministering the State plan under this
5 title.

6 “(ii) NOTICE TO PLAN.—The State
7 agency administering the State plan under
8 this title or the State or local welfare agen-
9 cy which receives notice of an individual’s
10 termination of enrollment with an eligible
11 managed care provider under clause (i)
12 shall provide timely notice of the termi-
13 nation to such provider.

14 “(D) REENROLLMENT.—Each State shall
15 establish a process under which an individual
16 terminating enrollment under this paragraph
17 shall be promptly enrolled with another eligible
18 managed care provider and notified of such en-
19 rollment.

20 “(3) PROVISION OF ENROLLMENT MATERIALS
21 IN UNDERSTANDABLE FORM.—Each eligible man-
22 aged care provider shall provide all enrollment mate-
23 rials in a manner and form which may be easily un-
24 derstood by a typical adult enrollee of the provider

1 who is eligible for medical assistance under the State
2 plan under this title.

3 “(c) QUALITY ASSURANCE.—

4 “(1) ACCESS TO SERVICES.—Each eligible man-
5 aged care provider shall provide or arrange for the
6 provision of all medically necessary medical assist-
7 ance under this title which is specified in the con-
8 tract entered into between such provider and the
9 State under section 1932(a)(1)(B) for enrollees who
10 are eligible for medical assistance under the State
11 plan under this title.

12 “(2) TIMELY DELIVERY OF SERVICES.—Each
13 eligible managed care provider shall respond to re-
14 quests from enrollees for the delivery of medical as-
15 sistance in a manner which —

16 “(A) makes such assistance —

17 “(i) available and accessible to each
18 such individual, within the area served by
19 the provider, with reasonable promptness
20 and in a manner which assures continuity;
21 and

22 “(ii) when medically necessary, avail-
23 able and accessible 24 hours a day and 7
24 days a week; and

1 “(B) with respect to assistance provided to
2 such an individual other than through the pro-
3 vider, or without prior authorization, in the
4 case of a primary care case management pro-
5 vider, provides for reimbursement to the indi-
6 vidual (if applicable under the contract between
7 the State and the provider) if —

8 “(i) the services were medically nec-
9 essary and immediately required because of
10 an unforeseen illness, injury, or condition;
11 and

12 “(ii) it was not reasonable given the
13 circumstances to obtain the services
14 through the provider, or, in the case of a
15 primary care case management provider,
16 with prior authorization.

17 “(3) EXTERNAL INDEPENDENT REVIEW OF ELI-
18 GIBLE MANAGED CARE PROVIDER ACTIVITIES.—

19 “(A) REVIEW OF MEDICAID MANAGED
20 CARE PLAN CONTRACT.—

21 “(i) IN GENERAL.—Except as pro-
22 vided in subparagraph (B), each medicaid
23 managed care plan shall be subject to an
24 annual external independent review of the
25 quality and timeliness of, and access to,

1 the items and services specified in such
2 plan's contract with the State under sec-
3 tion 1932(a)(1)(B). Such review shall spe-
4 cifically evaluate the extent to which the
5 medicaid managed care plan provides such
6 services in a timely manner.

7 “(ii) CONTENTS OF REVIEW.—An ex-
8 ternal independent review conducted under
9 this paragraph shall include the following:

10 “(I) a review of the entity's medi-
11 cal care, through sampling of medical
12 records or other appropriate methods,
13 for indications of quality of care and
14 inappropriate utilization (including
15 overutilization) and treatment,

16 “(II) a review of enrollee inpa-
17 tient and ambulatory data, through
18 sampling of medical records or other
19 appropriate methods, to determine
20 trends in quality and appropriateness
21 of care,

22 “(III) notification of the entity
23 and the State when the review under
24 this paragraph indicates inappropriate

1 care, treatment, or utilization of serv-
2 ices (including overutilization), and

3 “(IV) other activities as pre-
4 scribed by the Secretary or the State.

5 “(iii) AVAILABILITY OF RESULTS.—
6 The results of each external independent
7 review conducted under this subparagraph
8 shall be available to participating health
9 care providers, enrollees, and potential en-
10 rollees of the medicaid managed care plan,
11 except that the results may not be made
12 available in a manner that discloses the
13 identity of any individual patient.

14 “(B) DEEMED COMPLIANCE.—

15 “(i) MEDICARE PLANS.—The require-
16 ments of subparagraph (A) shall not apply
17 with respect to a medicaid managed care
18 plan if the plan is an eligible organization
19 with a contract in effect under section
20 1876.

21 “(ii) PRIVATE ACCREDITATION.—

22 “(I) IN GENERAL.—The require-
23 ments of subparagraph (A) shall not
24 apply with respect to a medicaid man-
25 aged care plan if —

1 “(aa) the plan is accredited
2 by an organization meeting the
3 requirements described in clause
4 (iii); and

5 “(bb) the standards and
6 process under which the plan is
7 accredited meet such require-
8 ments as are established under
9 subclause (II), without regard to
10 whether or not the time require-
11 ment of such subclause is satis-
12 fied.

13 “(II) STANDARDS AND PROC-
14 ESS.—Not later than 180 days after
15 the date of the enactment of this Act,
16 the Secretary shall specify require-
17 ments for the standards and process
18 under which a medicaid managed care
19 plan is accredited by an organization
20 meeting the requirements of clause
21 (iii).

22 “(iii) ACCREDITING ORGANIZATION.—
23 An accrediting organization meets the re-
24 quirements of this clause if the organiza-
25 tion —

1 “(I) is a private, nonprofit orga-
2 nization;

3 “(II) exists for the primary pur-
4 pose of accrediting managed care
5 plans or health care providers; and

6 “(III) is independent of health
7 care providers or associations of
8 health care providers.

9 “(C) REVIEW OF PRIMARY CARE CASE
10 MANAGEMENT PROVIDER CONTRACT.—Each
11 primary care case management provider shall
12 be subject to an annual external independent
13 review of the quality and timeliness of, and ac-
14 cess to, the items and services specified in the
15 contract entered into between the State and the
16 primary care case management provider under
17 section 1932(a)(1)(B).

18 “(4) FEDERAL MONITORING RESPONSIBIL-
19 ITIES.—The Secretary shall review the external inde-
20 pendent reviews conducted pursuant to paragraph
21 (3) and shall monitor the effectiveness of the State’s
22 monitoring and followup activities required under
23 subparagraph (A) of paragraph (2). If the Secretary
24 determines that a State’s monitoring and followup
25 activities are not adequate to ensure that the re-

1 requirements of paragraph (2) are met, the Secretary
2 shall undertake appropriate followup activities to en-
3 sure that the State improves its monitoring and fol-
4 lowup activities.

5 “(5) PROVIDING INFORMATION ON SERVICES.—

6 “(A) REQUIREMENTS FOR MEDICAID MAN-
7 AGED CARE PLANS.—

8 “(i) INFORMATION TO THE STATE.—

9 Each medicaid managed care plan shall
10 provide to the State (at such frequency as
11 the Secretary may require), complete and
12 timely information concerning the follow-
13 ing:

14 “(I) The services that the plan
15 provides to (or arranges to be pro-
16 vided to) individuals eligible for medi-
17 cal assistance under the State plan
18 under this title.

19 “(II) The identity, locations,
20 qualifications, and availability of par-
21 ticipating health care providers.

22 “(III) The rights and responsibil-
23 ities of enrollees.

24 “(IV) The services provided by
25 the plan which are subject to prior au-

1 authorization by the plan as a condition
2 of coverage (in accordance with para-
3 graph (6)(A)).

4 “(V) The procedures available to
5 an enrollee and a health care provider
6 to appeal the failure of the plan to
7 cover a service.

8 “(VI) The performance of the
9 plan in serving individuals eligible for
10 medical assistance under the State
11 plan under this title.

12 “(ii) INFORMATION TO HEALTH CARE
13 PROVIDERS, ENROLLEES, AND POTENTIAL
14 ENROLLEES.—Each medicaid managed
15 care plan shall—

16 “(I) upon request, make the in-
17 formation described in clause (i) avail-
18 able to participating health care pro-
19 viders, enrollees, and potential enroll-
20 ees in the plan’s service area; and

21 “(II) provide to enrollees and po-
22 tential enrollees information regarding
23 all items and services that are avail-
24 able to enrollees under the contract
25 between the State and the plan that

1 are covered either directly or through
2 a method of referral and prior author-
3 ization.

4 “(B) REQUIREMENTS FOR PRIMARY CARE
5 CASE MANAGEMENT PROVIDERS.—Each pri-
6 mary care case management provider shall—

7 “(i) provide to the State (at such fre-
8 quency as the Secretary may require),
9 complete and timely information concern-
10 ing the services that the primary care case
11 management provider provides to (or ar-
12 ranges to be provided to) individuals eligi-
13 ble for medical assistance under the State
14 plan under this title;

15 “(ii) make available to enrollees and
16 potential enrollees information concerning
17 services available to the enrollee for which
18 prior authorization by the primary care
19 case management provider is required; and

20 “(iii) provide enrollees and potential
21 enrollees information regarding all items
22 and services that are available to enrollees
23 under the contract between the State and
24 the primary care case management pro-
25 vider that are covered either directly or

1 through a method of referral and prior au-
2 thorization.

3 “(iv) provide assurances that such en-
4 tities and their professional personnel are
5 licensed as required by State law and
6 qualified to provide case management serv-
7 ices, through methods such as ongoing
8 monitoring of compliance with applicable
9 requirements and providing information
10 and technical assistance.

11 “(C) REQUIREMENTS FOR BOTH MEDICAID
12 MANAGED CARE PLANS AND PRIMARY CARE
13 CASE MANAGEMENT PROVIDERS.—Each eligible
14 managed care provider shall provide the State
15 with aggregate encounter data for early and
16 periodic screening, diagnostic, and treatment
17 services under section 1905(r) furnished to in-
18 dividuals under 21 years of age. Any such data
19 provided may be audited by the State and the
20 Secretary.

21 “(6) TIMELINESS OF PAYMENT.—An eligible
22 managed care provider shall make payment to health
23 care providers for items and services which are sub-
24 ject to the contract under section 1931(a)(1)(B) and
25 which are furnished to individuals eligible for medi-

1 cal assistance under the State plan under this title
2 who are enrolled with the provider on a timely basis
3 and under the claims payment procedures described
4 in section 1902(a)(37)(A), unless the health care
5 provider and the eligible managed care provider
6 agree to an alternate payment schedule.

7 “(7) ADDITIONAL QUALITY ASSURANCE RE-
8 QUIREMENTS FOR MEDICAID MANAGED CARE
9 PLANS.—

10 “(A) CONDITIONS FOR PRIOR AUTHORIZA-
11 TION.—A medicaid managed care plan may re-
12 quire the approval of medical assistance for
13 nonemergency services before the assistance is
14 furnished to an enrollee only if the system pro-
15 viding for such approval—

16 “(i) provides that such decisions are
17 made in a timely manner, depending upon
18 the urgency of the situation; and

19 “(ii) permits coverage of medically
20 necessary medical assistance provided to
21 an enrollee without prior authorization in
22 the event of an emergency.

23 “(B) INTERNAL GRIEVANCE PROCE-
24 DURE.—Each medicaid managed care plan shall
25 establish an internal grievance procedure under

1 which a plan enrollee or a provider on behalf of
2 such an enrollee who is eligible for medical as-
3 sistance under the State plan under this title
4 may challenge the denial of coverage of or pay-
5 ment for such assistance.

6 “(C) USE OF UNIQUE PHYSICIAN IDENTIFI-
7 FIER FOR PARTICIPATING PHYSICIANS.—Each
8 medicaid managed care plan shall require each
9 physician providing services to enrollees eligible
10 for medical assistance under the State plan
11 under this title to have a unique identifier in
12 accordance with the system established under
13 section 1902(x).

14 “(D) PATIENT ENCOUNTER DATA.—

15 “(i) IN GENERAL.—Each medicaid
16 managed care plan shall maintain suffi-
17 cient patient encounter data to identify the
18 health care provider who delivers services
19 to patients and to otherwise enable the
20 State plan to meet the requirements of sec-
21 tion 1902(a)(27). The plan shall incor-
22 porate such information in the mainte-
23 nance of patient encounter data with re-
24 spect to such health care provider.

1 “(ii) COMPLIANCE.—A medicaid man-
2 aged care plan shall—

3 “(I) submit the data maintained
4 under clause (i) to the State; or

5 “(II) demonstrate to the State
6 that the data complies with managed
7 care quality assurance guidelines es-
8 tablished by the Secretary in accord-
9 ance with clause (iii).

10 “(iii) STANDARDS.—In establishing
11 managed care quality assurance guidelines
12 under clause (ii)(II), the Secretary shall
13 consider—

14 “(I) managed care industry
15 standards for—

16 “(aa) internal quality assur-
17 ance; and

18 “(bb) performance meas-
19 ures; and

20 “(II) any managed care quality
21 standards established by the National
22 Association of Insurance Commis-
23 sioners.

24 “(E) PAYMENTS TO HOSPITALS.—A medic-
25 aid managed care plan shall—

1 “(i) provide the State with assurances
2 that payments for hospital services are rea-
3 sonable and adequate to meet the costs
4 which must be incurred by efficiently and
5 economically operated facilities in order to
6 provide such services to individuals en-
7 rolled with the plan under this title in con-
8 formity with applicable State and Federal
9 laws, regulations, and quality and safety
10 standards;

11 “(ii) report to the State at least annu-
12 ally—

13 “(I) the rates paid to hospitals
14 by the plan for items and services fur-
15 nished to such individuals,

16 “(II) an explanation of the meth-
17 odology used to compute such rates,
18 and

19 “(III) a comparison of such rates
20 with the rates used by the State to
21 pay for hospital services furnished to
22 individuals who are eligible for bene-
23 fits under the program established by
24 the State under this title but are not

1 enrolled in a medicaid managed care
2 plan; and

3 “(iii) if the rates paid by the plan are
4 lower than the rates paid by the State (as
5 described in clause (ii)(III)), an expla-
6 nation of why the rates paid by the plan
7 nonetheless meet the standard described in
8 clause (i).

9 “(d) DUE PROCESS REQUIREMENTS FOR ELIGIBLE
10 MANAGED CARE PROVIDERS.—

11 “(1) DENIAL OF OR UNREASONABLE DELAY IN
12 DETERMINING COVERAGE AS GROUNDS FOR HEAR-
13 ING.—If an eligible managed care provider—

14 “(A) denies coverage of or payment for
15 medical assistance with respect to an enrollee
16 who is eligible for such assistance under the
17 State plan under this title; or

18 “(B) fails to make any eligibility or cov-
19 erage determination sought by an enrollee or, in
20 the case of a medicaid managed care plan, by
21 a participating health care provider or enrollee,
22 in a timely manner, depending upon the ur-
23 gency of the situation, the enrollee or the health
24 care provider furnishing such assistance to the
25 enrollee (as applicable) may obtain a hearing

1 before the State agency administering the State
2 plan under this title in accordance with section
3 1902(a)(3), but only, with respect to a medicaid
4 managed care plan, after completion of the in-
5 ternal grievance procedure established by the
6 plan under subsection (c)(6)(B).

7 “(2) COMPLETION OF INTERNAL GRIEVANCE
8 PROCEDURE.—Nothing in this subsection shall re-
9 quire completion of an internal grievance procedure
10 if such procedure does not exist or if the procedure
11 does not provide for timely review of health needs
12 considered by the enrollee’s health care provider to
13 be of an urgent nature.

14 “(e) MISCELLANEOUS.—

15 “(1) PROTECTING ENROLLEES AGAINST THE
16 INSOLVENCY OF ELIGIBLE MANAGED CARE PROVID-
17 ERS AND AGAINST THE FAILURE OF THE STATE TO
18 PAY SUCH PROVIDERS.—Each eligible managed care
19 provider shall provide that an individual eligible for
20 medical assistance under the State plan under this
21 title who is enrolled with the provider may not be
22 held liable—

23 “(A) for the debts of the eligible managed
24 care provider, in the event of the provider’s in-
25 solvency;

1 “(B) for services provided to the individ-
2 ual—

3 “(i) in the event of the provider fail-
4 ing to receive payment from the State for
5 such services; or

6 “(ii) in the event of a health care pro-
7 vider with a contractual or other arrange-
8 ment with the eligible managed care pro-
9 vider failing to receive payment from the
10 State or the eligible managed care provider
11 for such services; or

12 “(C) for the debts of any health care pro-
13 vider with a contractual or other arrangement
14 with the provider to provide services to the indi-
15 vidual, in the event of the insolvency of the
16 health care provider.

17 “(2) TREATMENT OF CHILDREN WITH SPECIAL
18 HEALTH CARE NEEDS.—

19 “(A) IN GENERAL.—In the case of an en-
20 rollee of an eligible managed care provider who
21 is a child with special health care needs—

22 “(i) if any medical assistance specified
23 in the contract with the State is identified
24 in a treatment plan prepared for the en-
25 rollee by a program described in subpara-

1 graph (C), the eligible managed care pro-
2 vider shall provide (or arrange to be pro-
3 vided) such assistance in accordance with
4 the treatment plan either—

5 “(I) by referring the enrollee to a
6 pediatric health care provider who is
7 trained and experienced in the provi-
8 sion of such assistance and who has a
9 contract with the eligible managed
10 care provider to provide such assist-
11 ance; or

12 “(II) if appropriate services are
13 not available through the eligible man-
14 aged care provider, permitting such
15 enrollee to seek appropriate specialty
16 services from pediatric health care
17 providers outside of or apart from the
18 eligible managed care provider; and

19 “(ii) the eligible managed care pro-
20 vider shall require each health care pro-
21 vider with whom the eligible managed care
22 provider has entered into an agreement to
23 provide medical assistance to enrollees to
24 furnish the medical assistance specified in
25 such enrollee’s treatment plan to the ex-

1 tent the health care provider is able to
2 carry out such treatment plan.

3 “(B) PRIOR AUTHORIZATION.—An enrollee
4 referred for treatment under subparagraph
5 (A)(i)(I), or permitted to seek treatment out-
6 side of or apart from the eligible managed care
7 provider under subparagraph (A)(i)(II) shall be
8 deemed to have obtained any prior authoriza-
9 tion required by the provider.

10 “(C) CHILD WITH SPECIAL HEALTH CARE
11 NEEDS.—For purposes of subparagraph (A), a
12 child with special health care needs is a child
13 who is receiving services under—

14 “(i) a program administered under
15 part B or part H of the Individuals with
16 Disabilities Education Act;

17 “(ii) a program for children with spe-
18 cial health care needs under title V;

19 “(iii) a program under part B or part
20 D of title IV; or

21 “(iv) any other program for children
22 with special health care needs identified by
23 the Secretary.

24 “(3) PHYSICIAN INCENTIVE PLANS.—Each
25 medicaid managed care plan shall require that any

1 physician incentive plan covering physicians who are
2 participating in the medicaid managed care plan
3 shall meet the requirements of section 1876(i)(8).

4 “(4) INCENTIVES FOR HIGH QUALITY ELIGIBLE
5 MANAGED CARE PROVIDERS.—The Secretary and the
6 State may establish a program to reward, through
7 public recognition, incentive payments, or enrollment
8 of additional individuals (or combinations of such re-
9 wards), eligible managed care providers that provide
10 the highest quality care to individuals eligible for
11 medical assistance under the State plan under this
12 title who are enrolled with such providers. For pur-
13 poses of section 1903(a)(7), proper expenses in-
14 curred by a State in carrying out such a program
15 shall be considered to be expenses necessary for the
16 proper and efficient administration of the State plan
17 under this title.”.

18 (d) CLARIFICATION OF APPLICATION OF FFP DE-
19 NIAL RULES TO PAYMENTS MADE PURSUANT TO MEDIC-
20 AID MANAGED CARE PLANS.—Section 1903(i) of such Act
21 (42 U.S.C. 1396b(i)) is amended by adding at the end
22 the following sentence: “Paragraphs (1)(A), (1)(B), (2),
23 (5), and (12) shall apply with respect to items or services
24 furnished and amounts expended by or through an eligible
25 managed care provider (as defined in section 1933(a)(1))

1 in the same manner as such paragraphs apply to items
2 or services furnished and amounts expended directly by
3 the State.”.

4 (e) CLARIFICATION OF CERTIFICATION REQUIRE-
5 MENTS FOR PHYSICIANS PROVIDING SERVICES TO CHIL-
6 DREN AND PREGNANT WOMEN.—Section 1903(i)(12) of
7 such Act (42 U.S.C. 1396b(i)(12)) is amended —

8 (1) in subparagraph (A)(i), to read as follows:

9 “(i) is certified in family practice or
10 pediatrics by the medical specialty board
11 recognized by the American Board of Med-
12 ical Specialties for family practice or pedi-
13 atrics or is certified in general practice or
14 pediatrics by the medical specialty board
15 recognized by the American Osteopathic
16 Association,”;

17 (2) in subparagraph (B)(i), to read as follows:

18 “(i) is certified in family practice or
19 obstetrics by the medical specialty board
20 recognized by the American Board of Med-
21 ical Specialties for family practice or ob-
22 stetrics or is certified in family practice or
23 obstetrics by the medical specialty board
24 recognized by the American Osteopathic
25 Association,”; and

- 1 (3) in both subparagraphs (A) and (B) —
2 (A) by striking “or” at the end of clause
3 (v);
4 (B) by redesignating clause (vi) as clause
5 (vii); and
6 (C) by inserting after clause (v) the follow-
7 ing new clause:
8 “(vi) delivers such services in the
9 emergency department of a hospital par-
10 ticipating in the State plan approved under
11 this title, or”.

12 **SEC. 7103. ADDITIONAL REQUIREMENTS FOR MEDICAID**
13 **MANAGED CARE PLANS.**

14 Section 1933 of the Social Security Act, as added by
15 section 7102(c)(2), is amended —

16 (1) by redesignating subsections (d) and (e) as
17 subsections (e) and (f), respectively; and

18 (2) by inserting after subsection (c) the follow-
19 ing new subsection:

20 “(d) **ADDITIONAL REQUIREMENTS FOR MEDICAID**
21 **MANAGED CARE PLANS.—**

22 “(1) **DEMONSTRATION OF ADEQUATE CAPACITY**
23 **AND SERVICES.—**

24 “(A) **IN GENERAL.—**Subject to subpara-
25 graph (C), each medicaid managed care plan

1 shall provide the State and the Secretary with
2 adequate assurances (as determined by the Sec-
3 retary) that the plan, with respect to a service
4 area —

5 “(i) has the capacity to serve the ex-
6 pected enrollment in such service area;

7 “(ii) offers an appropriate range of
8 services for the population expected to be
9 enrolled in such service area, including
10 transportation services and translation
11 services consisting of the principal lan-
12 guages spoken in the service area;

13 “(iii) maintains sufficient numbers of
14 providers of services included in the con-
15 tract with the State to ensure that services
16 are available to individuals receiving medi-
17 cal assistance and enrolled in the plan to
18 the same extent that such services are
19 available to individuals enrolled in the plan
20 who are not recipients of medical assist-
21 ance under the State plan under this title;

22 “(iv) maintains extended hours of op-
23 eration with respect to primary care serv-
24 ices that are beyond those maintained dur-
25 ing a normal business day;

1 “(v) provides preventive and primary
2 care services in locations that are readily
3 accessible to members of the community;
4 and

5 “(vi) provides information concerning
6 educational, social, health, and nutritional
7 services offered by other programs for
8 which enrollees may be eligible.

9 “(vii) complies with such other re-
10 quirements relating to access to care as the
11 Secretary or the State may impose.

12 “(B) PROOF OF ADEQUATE PRIMARY CARE
13 CAPACITY AND SERVICES.—Subject to subpara-
14 graph (C), a medicaid managed care plan that
15 contracts with a reasonable number of primary
16 care providers (as determined by the Secretary)
17 and whose primary care membership includes a
18 reasonable number (as so determined) of the
19 following providers will be deemed to have satis-
20 fied the requirements of subparagraph (A):

21 “(i) Rural health clinics, as defined in
22 section 1905(l)(1).

23 “(ii) Federally-qualified health cen-
24 ters, as defined in section 1905(l)(2)(B).

1 “(iii) Clinics which are eligible to re-
2 ceive payment for services provided under
3 title X of the Public Health Service Act.

4 “(C) SUFFICIENT PROVIDERS OF SPECIAL-
5 IZED SERVICES.—Notwithstanding subpara-
6 graphs (A) and (B), a medicaid managed care
7 plan may not be considered to have satisfied the
8 requirements of subparagraph (A) if the plan
9 does not have a sufficient number (as deter-
10 mined by the Secretary) of providers of special-
11 ized services, including perinatal and pediatric
12 specialty care, to ensure that such services are
13 available and accessible.

14 “(2) WRITTEN PROVIDER PARTICIPATION
15 AGREEMENTS FOR CERTAIN PROVIDERS.—Each
16 medicaid managed care plan that enters into a writ-
17 ten provider participation agreement with a provider
18 described in paragraph (1)(B) shall —

19 “(A) include terms and conditions that are
20 no more restrictive than the terms and condi-
21 tions that the medicaid managed care plan in-
22 cludes in its agreements with other participat-
23 ing providers with respect to —

24 “(i) the scope of covered services for
25 which payment is made to the provider;

1 “(ii) the assignment of enrollees by
2 the plan to the provider;

3 “(iii) the limitation on financial risk
4 or availability of financial incentives to the
5 provider;

6 “(iv) accessibility of care;

7 “(v) professional credentialing and
8 recredentialing;

9 “(vi) licensure;

10 “(vii) quality and utilization manage-
11 ment;

12 “(viii) confidentiality of patient
13 records;

14 “(ix) grievance procedures; and

15 “(x) indemnification arrangements be-
16 tween the plans and providers; and

17 “(B) provide for payment to the provider
18 on a basis that is comparable to the basis on
19 which other providers are paid.”.

20 **SEC. 7104. PREVENTING FRAUD IN MEDICAID MANAGED**
21 **CARE.**

22 (a) IN GENERAL.—Section 1933 of the Social Secu-
23 rity Act, as added by section 7102(c)(2) and amended by
24 section 7103, is amended—

1 (1) by redesignating subsection (f) as sub-
2 section (g); and

3 (2) by inserting after subsection (e) the follow-
4 ing new subsection:

5 “(f) ANTI-FRAUD PROVISIONS.—

6 “(1) PROVISIONS APPLICABLE TO ELIGIBLE
7 MANAGED CARE PROVIDERS.—

8 “(A) PROHIBITING AFFILIATIONS WITH IN-
9 DIVIDUALS DEBARRED BY FEDERAL AGEN-
10 CIES.—

11 “(i) IN GENERAL.—An eligible man-
12 aged care provider may not knowingly—

13 “(I) have a person described in
14 clause (iii) as a director, officer, part-
15 ner, or person with beneficial owner-
16 ship of more than 5 percent of the
17 plan’s equity; or

18 “(II) have an employment, con-
19 sulting, or other agreement with a
20 person described in clause (iii) for the
21 provision of items and services that
22 are significant and material to the or-
23 ganization’s obligations under its con-
24 tract with the State.

1 “(ii) EFFECT OF NONCOMPLIANCE.—

2 If a State finds that an eligible managed
3 care provider is not in compliance with
4 subclause (I) or (II) of clause (i), the
5 State—

6 “(I) shall notify the Secretary of
7 such noncompliance;

8 “(II) may continue an existing
9 agreement with the provider unless
10 the Secretary (in consultation with the
11 Inspector General of the Department
12 of Health and Human Services) di-
13 rects otherwise; and

14 “(III) may not renew or other-
15 wise extend the duration of an exist-
16 ing agreement with the provider un-
17 less the Secretary (in consultation
18 with the Inspector General of the De-
19 partment of Health and Human Serv-
20 ices) provides to the State and to the
21 Congress a written statement describ-
22 ing compelling reasons that exist for
23 renewing or extending the agreement.

1 “(iii) PERSONS DESCRIBED.—A per-
2 son is described in this clause if such per-
3 son—

4 “(I) is debarred or suspended by
5 the Federal Government, pursuant to
6 the Federal acquisition regulation,
7 from Government contracting and
8 subcontracting;

9 “(II) is an affiliate (within the
10 meaning of the Federal acquisition
11 regulation) of a person described in
12 clause (i); or

13 “(III) is excluded from participa-
14 tion in any program under title XVIII
15 or any State health care program, as
16 defined in section 1128(h).

17 “(B) RESTRICTIONS ON MARKETING.—

18 “(i) DISTRIBUTION OF MATERIALS.—

19 “(I) IN GENERAL.—An eligible
20 managed care provider may not dis-
21 tribute marketing materials within
22 any State—

23 “(aa) without the prior ap-
24 proval of the State; and

1 “(bb) that contain false or
2 materially misleading informa-
3 tion.

4 “(II) PROHIBITION.—The State
5 may not enter into or renew a con-
6 tract with an eligible managed care
7 provider for the provision of services
8 to individuals enrolled under the State
9 plan under this title if the State de-
10 termines that the provider inten-
11 tionally distributed false or materially
12 misleading information in violation of
13 subclause (I)(bb).

14 “(ii) SERVICE MARKET.—An eligible
15 managed care provider shall distribute
16 marketing materials to the entire service
17 area of such provider.

18 “(iii) PROHIBITION OF TIE-INS.—An
19 eligible managed care provider, or any
20 agency of such provider, may not seek to
21 influence an individual’s enrollment with
22 the provider in conjunction with the sale of
23 any other insurance.

24 “(iv) PROHIBITING MARKETING
25 FRAUD.—Each eligible managed care pro-

1 vider shall comply with such procedures
2 and conditions as the Secretary prescribes
3 in order to ensure that, before an individ-
4 ual is enrolled with the provider, the indi-
5 vidual is provided accurate and sufficient
6 information to make an informed decision
7 whether or not to enroll.

8 “(2) PROVISIONS APPLICABLE ONLY TO MEDIC-
9 AID MANAGED CARE PLANS.—

10 “(A) STATE CONFLICT-OF-INTEREST SAFE-
11 GUARDS IN MEDICAID RISK CONTRACTING.—A
12 medicaid managed care plan may not enter into
13 a contract with any State under section
14 1932(a)(1)(B) unless the State has in effect
15 conflict-of-interest safeguards with respect to
16 officers and employees of the State with respon-
17 sibilities relating to contracts with such plans or
18 to the default enrollment process described in
19 section 1932(a)(1)(D)(iv) that are at least as
20 effective as the Federal safeguards provided
21 under section 27 of the Office of Federal Pro-
22 curement Policy Act (41 U.S.C. 423), against
23 conflicts of interest that apply with respect to
24 Federal procurement officials with comparable
25 responsibilities with respect to such contracts.

1 “(B) REQUIRING DISCLOSURE OF FINAN-
2 CIAL INFORMATION.—In addition to any re-
3 quirements applicable under section
4 1902(a)(27) or 1902(a)(35), a medicaid man-
5 aged care plan shall—

6 “(i) report to the State (and to the
7 Secretary upon the Secretary’s request)
8 such financial information as the State or
9 the Secretary may require to demonstrate
10 that—

11 “(I) the plan has the ability to
12 bear the risk of potential financial
13 losses and otherwise has a fiscally
14 sound operation;

15 “(II) the plan uses the funds
16 paid to it by the State and the Sec-
17 retary for activities consistent with
18 the requirements of this title and the
19 contract between the State and plan;
20 and

21 “(III) the plan does not place an
22 individual physician, physician group,
23 or other health care provider at sub-
24 stantial risk (as determined by the
25 Secretary) for services not provided by

1 such physician, group, or health care
2 provider, by providing adequate pro-
3 tection (as determined by the Sec-
4 retary) to limit the liability of such
5 physician, group, or health care pro-
6 vider, through measures such as stop
7 loss insurance or appropriate risk cor-
8 ridors;

9 “(ii) agree that the Secretary and the
10 State (or any person or organization des-
11 ignated by either) shall have the right to
12 audit and inspect any books and records of
13 the plan (and of any subcontractor) relat-
14 ing to the information reported pursuant
15 to clause (i) and any information required
16 to be furnished under section paragraphs
17 (27) or (35) of section 1902(a);

18 “(iii) make available to the Secretary
19 and the State a description of each trans-
20 action described in subparagraphs (A)
21 through (C) of section 1318(a)(3) of the
22 Public Health Service Act between the
23 plan and a party in interest (as defined in
24 section 1318(b) of such Act); and

1 “(iv) agree to make available to its
2 enrollees upon reasonable request —

3 “(I) the information reported
4 pursuant to clause (i); and

5 “(II) the information required to
6 be disclosed under sections 1124 and
7 1126.

8 “(C) ADEQUATE PROVISION AGAINST RISK
9 OF INSOLVENCY.—

10 “(i) ESTABLISHMENT OF STAND-
11 ARDS.—The Secretary shall establish
12 standards, including appropriate equity
13 standards, under which each medicaid
14 managed care plan shall make adequate
15 provision against the risk of insolvency.

16 “(ii) CONSIDERATION OF OTHER
17 STANDARDS.—In establishing the stand-
18 ards described in clause (i), the Secretary
19 shall consider solvency standards applica-
20 ble to eligible organizations with a risk-
21 sharing contract under section 1876.

22 “(iii) MODEL CONTRACT ON SOL-
23 VENCY.—At the earliest practicable time
24 after the date of enactment of this section,
25 the Secretary shall issue guidelines and

1 regulations concerning solvency standards
2 for risk contracting entities and sub-
3 contractors of such risk contracting enti-
4 ties. Such guidelines and regulations shall
5 take into account characteristics that may
6 differ among risk contracting entities in-
7 cluding whether such an entity is at risk
8 for inpatient hospital services.

9 “(D) REQUIRING REPORT ON NET EARN-
10 INGS AND ADDITIONAL BENEFITS.—Each med-
11 icaid managed care plan shall submit a report
12 to the State and the Secretary not later than
13 12 months after the close of a contract year
14 containing —

15 “(i) the most recent audited financial
16 statement of the plan’s net earnings, in ac-
17 cordance with guidelines established by the
18 Secretary in consultation with the States,
19 and consistent with generally accepted ac-
20 counting principles; and

21 “(ii) a description of any benefits that
22 are in addition to the benefits required to
23 be provided under the contract that were
24 provided during the contract year to mem-
25 bers enrolled with the plan and entitled to

1 medical assistance under the State plan
2 under this title.”.

3 **SEC. 7105. ASSURING ADEQUACY OF PAYMENTS TO MEDIC-**
4 **AID MANAGED CARE PLANS AND PROVIDERS.**

5 Title XIX of the Social Security Act, as amended by
6 sections 7001, 7101(a), and 7102(c), is further amend-
7 ed—

8 (1) by redesignating section 1934 as section
9 1935; and

10 (2) by inserting after section 1933 the following
11 new section:

12 “ASSURING ADEQUACY OF PAYMENTS TO MEDICAID
13 MANAGED CARE PLANS AND PROVIDERS

14 “SEC. 1934. As a condition of approval of a State
15 plan under this title, a State shall—

16 “(1) find, determine, and make assurances sat-
17 isfactory to the Secretary that—

18 “(A) the rates it pays medicaid managed
19 care plans for individuals eligible under the
20 State plan are reasonable and adequate to as-
21 sure access to services meeting professionally
22 recognized quality standards, taking into ac-
23 count—

24 “(i) the items and services to which
25 the rate applies,

26 “(ii) the eligible population, and

1 “(iii) the rate the State pays providers
2 for such items and services; and

3 “(B) the methodology used to adjust the
4 rate adequately reflects the varying risks associ-
5 ated with individuals actually enrolling in each
6 medicaid managed care plan; and

7 “(2) report to the Secretary, at least annually,
8 on—

9 “(A) the rates the States pays to medicaid
10 managed care plans, and

11 “(B) the rates medicaid managed care
12 plans pay for hospital services (and such other
13 information as medicaid managed care plans
14 are required to submit to the State pursuant to
15 section 1933(c)(5)(E).”.

16 **SEC. 7106. SANCTIONS FOR NONCOMPLIANCE BY ELIGIBLE**
17 **MANAGED CARE PROVIDERS.**

18 (a) **SANCTIONS DESCRIBED.**—Title XIX of such Act
19 (42 U.S.C. 1396 et seq.), as previously amended, is fur-
20 ther amended —

21 (1) by redesignating section 1934 as section
22 1935; and

23 (2) by inserting after section 1934 the following
24 new section:

1 of denying or discouraging enrollment with the pro-
2 vider by eligible individuals whose medical condition
3 or history indicates a need for substantial future
4 medical services;

5 “(4) misrepresents or falsifies information that
6 is furnished

7 “(A) to the Secretary or the State under
8 section 1932 or 1933; or

9 “(B) to an enrollee, potential enrollee, or a
10 health care provider under such sections; or

11 “(5) fails to comply with the requirements of
12 section 1876(i)(8).

13 “(b) INTERMEDIATE SANCTIONS.—The sanctions de-
14 scribed in this subsection are as follows:

15 “(1) Civil money penalties as follows:

16 “(A) Except as provided in subparagraph
17 (B), (C), or (D), not more than \$25,000 for
18 each determination under subsection (a).

19 “(B) With respect to a determination
20 under paragraph (3) or (4)(A) of subsection
21 (a), not more than \$100,000 for each such de-
22 termination.

23 “(C) With respect to a determination
24 under subsection (a)(2), double the excess
25 amount charged in violation of such subsection

1 (and the excess amount charged shall be de-
2 ducted from the penalty and returned to the in-
3 dividual concerned).

4 “(D) Subject to subparagraph (B), with
5 respect to a determination under subsection
6 (a)(3), \$15,000 for each individual not enrolled
7 as a result of a practice described in such sub-
8 section.

9 “(2) The appointment of temporary manage-
10 ment to oversee the operation of the eligible man-
11 aged care provider and to assure the health of the
12 provider’s enrollees, if there is a need for temporary
13 management while—

14 “(A) there is an orderly termination or re-
15 organization of the eligible managed care pro-
16 vider; or

17 “(B) improvements are made to remedy
18 the violations found under subsection (a), ex-
19 cept that temporary management under this
20 paragraph may not be terminated until the
21 State has determined that the eligible managed
22 care provider has the capability to ensure that
23 the violations shall not recur.

24 “(3) Permitting individuals enrolled with the el-
25 igible managed care provider to terminate enroll-

1 ment without cause, and notifying such individuals
2 of such right to terminate enrollment.

3 “(c) TREATMENT OF CHRONIC SUBSTANDARD PRO-
4 VIDERS.—In the case of an eligible managed care provider
5 which has repeatedly failed to meet the requirements of
6 section 1932 or 1933, the State shall (regardless of what
7 other sanctions are provided) impose the sanctions de-
8 scribed in paragraphs (2) and (3) of subsection (b).

9 “(d) AUTHORITY TO TERMINATE CONTRACT.—In
10 the case of an eligible managed care provider which has
11 failed to meet the requirements of section 1932 or 1933,
12 the State shall have the authority to terminate its contract
13 with such provider under section 1932(a)(1)(B) and to en-
14 roll such provider’s enrollees with other eligible managed
15 care providers (or to permit such enrollees to receive medi-
16 cal assistance under the State plan under this title other
17 than through an eligible managed care provider).

18 “(e) AVAILABILITY OF SANCTIONS TO THE SEC-
19 RETARY.—

20 “(1) INTERMEDIATE SANCTIONS.—In addition
21 to the sanctions described in paragraph (2) and any
22 other sanctions available under law, the Secretary
23 may provide for any of the sanctions described in
24 subsection (b) if the Secretary determines that—

1 “(A) an eligible managed care provider
2 with a contract under section 1932(a)(1)(B)
3 fails to meet any of the requirements of section
4 1932 or 1933; and

5 “(B) the State has failed to act appro-
6 priately to address such failure.

7 “(2) DENIAL OF PAYMENTS TO THE STATE.—
8 The Secretary may deny payments to the State for
9 medical assistance furnished under the contract
10 under section 1932(a)(1)(B) for individuals enrolled
11 after the date the Secretary notifies an eligible man-
12 aged care provider of a determination under sub-
13 section (a) and until the Secretary is satisfied that
14 the basis for such determination has been corrected
15 and is not likely to recur.

16 “(f) DUE PROCESS FOR ELIGIBLE MANAGED CARE
17 PROVIDERS.—

18 “(1) AVAILABILITY OF HEARING PRIOR TO TER-
19 MINATION OF CONTRACT.—A State may not termi-
20 nate a contract with an eligible managed care pro-
21 vider under section 1932(a)(1)(B) unless the pro-
22 vider is provided with a hearing prior to the termi-
23 nation.

24 “(2) NOTICE TO ENROLLEES OF TERMINATION
25 HEARING.—A State shall notify all individuals en-

1 rolled with an eligible managed care provider which
2 is the subject of a hearing to terminate the provid-
3 er's contract with the State of the hearing and that
4 the enrollees may immediately disenroll with the pro-
5 vider for cause.

6 “(3) OTHER PROTECTIONS FOR ELIGIBLE MAN-
7 AGED CARE PROVIDERS AGAINST SANCTIONS IM-
8 POSED BY STATE.—Before imposing any sanction
9 against an eligible managed care provider other than
10 termination of the provider's contract, the State
11 shall provide the provider with notice and such other
12 due process protections as the State may provide,
13 except that a State may not provide an eligible man-
14 aged care provider with a pretermination hearing be-
15 fore imposing the sanction described in subsection
16 (b)(2).

17 “(4) IMPOSITION OF CIVIL MONETARY PEN-
18 ALTIES BY SECRETARY.—The provisions of section
19 1128A (other than subsections (a) and (b)) shall
20 apply with respect to a civil money penalty imposed
21 by the Secretary under subsection (b)(1) in the same
22 manner as such provisions apply to a penalty or pro-
23 ceeding under section 1128A.”.

24 (b) CONFORMING AMENDMENT RELATING TO TERMI-
25 NATION OF ENROLLMENT FOR CAUSE.—Section

1 1933(b)(2)(B) of the Social Security Act, as added by this
2 part, is amended by inserting after “coercion” the follow-
3 ing: “, or pursuant to the imposition against the eligible
4 managed care provider of the sanction described in section
5 1935(b)(3),”.

6 **SEC. 7107. REPORT ON PUBLIC HEALTH SERVICES.**

7 (a) IN GENERAL.—Not later than January 1, 1994,
8 the Secretary of Health and Human Services (in this sub-
9 title referred to as the “Secretary”) shall report to the
10 Committee on Finance of the Senate and the Committee
11 on Commerce of the House of Representatives on the ef-
12 fect of risk contracting entities (as defined in section
13 1932(a)(3) of the Social Security Act) and primary care
14 case management entities (as defined in section
15 1932(a)(1) of such Act) on the delivery of and payment
16 for the services listed in subsection (f)(2)(C)(ii) of section
17 1932 of such Act.

18 (b) CONTENTS OF REPORT.—The report referred to
19 in subsection (a) shall include—

20 (1) information on the extent to which enrollees
21 with risk contracting entities and primary care case
22 management programs seek services at local health
23 departments, public hospitals, and other facilities
24 that provide care without regard to a patient’s abil-
25 ity to pay;

1 (2) information on the extent to which the fa-
2 cilities described in paragraph (1) provide services to
3 enrollees with risk contracting entities and primary
4 care case management programs without receiving
5 payment;

6 (3) information on the effectiveness of systems
7 implemented by facilities described in paragraph (1)
8 for educating such enrollees on services that are
9 available through the risk contracting entities or pri-
10 mary care case management programs with which
11 such enrollees are enrolled;

12 (4) to the extent possible, identification of the
13 types of services most frequently sought by such en-
14 rollees at such facilities; and

15 (5) recommendations about how to ensure the
16 timely delivery of the services listed in subsection
17 (f)(2)(C)(ii) of section 1931 of the Social Security
18 Act to enrollees of risk contracting entities and pri-
19 mary care case management entities and how to en-
20 sure that local health departments, public hospitals,
21 and other facilities are adequately compensated for
22 the provision of such services to such enrollees.

23 **SEC. 7108. REPORT ON PAYMENTS TO HOSPITALS.**

24 (a) IN GENERAL.—Not later than October 1 of each
25 year, beginning with October 1, 1996, the Secretary and

1 the Comptroller General shall analyze and submit a report
2 to the Committee on Finance of the Senate and the Com-
3 mittee on Commerce of the House of Representatives on
4 rates paid for hospital services under coordinated care pro-
5 grams described in section 1932 of the Social Security
6 Act.

7 (b) CONTENTS OF REPORT.—The information in the
8 report described in subsection (a) shall—

9 (1) be organized by State, type of hospital, type
10 of service, and

11 (2) include a comparison of rates paid for hos-
12 pital services under coordinated care programs with
13 rates paid for hospital services furnished to individ-
14 uals who are entitled to benefits under a State plan
15 under title XIX of the Social Security Act and are
16 not enrolled in such coordinated care programs.

17 (c) REPORTS BY STATES.—Each State shall transmit
18 to the Secretary, at such time and in such manner as the
19 Secretary determines appropriate, the information on hos-
20 pital rates submitted to such State under section
21 1932(b)(3)(P) of such Act.

22 **SEC. 7109. CONFORMING AMENDMENTS.**

23 (a) EXCLUSION OF CERTAIN INDIVIDUALS AND EN-
24 TITIES FROM PARTICIPATION IN PROGRAM.—Section

1 1128(b)(6)(C) of the Social Security Act (42 U.S.C.
2 1320a-7(b)(6)(C)) is amended—

3 (1) in clause (i), by striking “a health mainte-
4 nance organization (as defined in section 1903(m))”
5 and inserting “an eligible managed care provider, as
6 defined in section 1933(a)(1),”; and

7 (2) in clause (ii), by inserting “section 1115 or”
8 after “approved under”.

9 (b) STATE PLAN REQUIREMENTS.—Section 1902 of
10 such Act (42 U.S.C. 1396a) is amended—

11 (1) in subsection (a)(30)(C), by striking “sec-
12 tion 1903(m)” and inserting “section
13 1932(a)(1)(B)”; and

14 (2) in subsection (a)(57), by striking “hospice
15 program, or health maintenance organization (as de-
16 fined in section 1903(m)(1)(A))” and inserting “or
17 hospice program”;

18 (3) in subsection (e)(2)(A), by striking “or with
19 an entity described in paragraph (2)(B)(iii), (2)(E),
20 (2)(G), or

21 (6) of section 1903(m) under a contract de-
22 scribed in section 1903(m)(2)(A);

23 (4) in subsection (p)(2)—

24 (A) by striking “a health maintenance or-
25 ganization (as defined in section 1903(m))” and

1 inserting “an eligible managed care provider, as
2 defined in section 1933(a)(1),”;

3 (B) by striking “an organization” and in-
4 serting “a provider”; and

5 (C) by striking “any organization” and in-
6 serting “any provider”; and

7 (5) in subsection (w)(1), by striking “sections
8 1903(m)(1)(A) and” and inserting “section”.

9 (c) PAYMENT TO STATES.—Section
10 1903(w)(7)(A)(viii) of such Act (42 U.S.C.
11 1396b(w)(7)(A)(viii)) is amended to read as follows:

12 “(viii) Services of an eligible managed
13 care provider with a contract under section
14 1932(a)(1)(B).”.

15 (d) USE OF ENROLLMENT FEES AND OTHER
16 CHARGES.—Section 1916 of such Act (42 U.S.C. 1396o)
17 is amended in subsections (a)(2)(D) and (b)(2)(D) by
18 striking “a health maintenance organization (as defined
19 in section 1903(m))” and inserting “an eligible managed
20 care provider, as defined in section 1933(a)(1),” each
21 place it appears.

22 (e) EXTENSION OF ELIGIBILITY FOR MEDICAL AS-
23 SISTANCE.—Section 1925(b)(4)(D)(iv) of such Act (42
24 U.S.C. 1396r-6(b)(4)(D)(iv)) is amended to read as fol-
25 lows:

1 “(iv) ENROLLMENT WITH ELIGIBLE
2 MANAGED CARE PROVIDER.—Enrollment of
3 the caretaker relative and dependent chil-
4 dren with an eligible managed care pro-
5 vider, as defined in section 1933(a)(1), less
6 than 50 percent of the membership (en-
7 rolled on a prepaid basis) of which consists
8 of individuals who are eligible to receive
9 benefits under this title (other than be-
10 cause of the option offered under this
11 clause). The option of enrollment under
12 this clause is in addition to, and not in lieu
13 of, any enrollment option that the State
14 might offer under subparagraph (A)(i)
15 with respect to receiving services through
16 an eligible managed care provider in ac-
17 cordance with sections 1932, 1933, and
18 1934.”.

19 (f) ASSURING ADEQUATE PAYMENT LEVELS FOR OB-
20 STETRICAL AND PEDIATRIC SERVICES.—Section 1926(a)
21 of such Act (42 U.S.C. 1396r-7(a)) is amended in para-
22 graphs (1) and (2) by striking “health maintenance orga-
23 nizations under section 1903(m)” and inserting “eligible
24 managed care providers under contracts entered into
25 under section 1932(a)(1)(B)” each place it appears.

1 (g) PAYMENT FOR COVERED OUTPATIENT DRUGS.—
2 Section 1927(j)(1) of such Act (42 U.S.C. 1396r-8(j)(1))
3 is amended by striking “***Health Maintenance Organi-
4 zations, including those organizations that contract under
5 section 1903(m),” and inserting “health maintenance or-
6 ganizations and medicaid managed care plans, as defined
7 in section 1933(a)(2),”.

8 (h) DEMONSTRATION PROJECTS TO STUDY EFFECT
9 OF ALLOWING STATES TO EXTEND MEDICAID COVERAGE
10 FOR CERTAIN FAMILIES.—Section 4745(a)(5)(A) of the
11 Omnibus Budget Reconciliation Act of 1990 (42 U.S.C.
12 1396a note) is amended by striking “(except section
13 1903(m)” and inserting “(except sections 1932, 1933, and
14 1934)”.

15 **SEC. 7110. EFFECTIVE DATE; STATUS OF WAIVERS.**

16 (a) EFFECTIVE DATE.—Except as provided in sub-
17 section (b), the amendments made by this subtitle shall
18 apply to medical assistance furnished—

19 (1) during quarters beginning on or after Octo-
20 ber 1, 1996; or

21 (2) in the case of assistance furnished under a
22 contract described in section 7102(b), during quar-
23 ters beginning after the earlier of—

24 (A) the date of the expiration of the contract;

25 or

1 (B) the expiration of the 1-year period
2 which begins on the date of the enactment of
3 this Act.

4 (b) APPLICATION TO WAIVERS.—

5 (1) EXISTING WAIVERS.—If any waiver granted
6 to a State under section 1115 or 1915 of the Social
7 Security Act (42 U.S.C. 1315, 1396n) or otherwise
8 which relates to the provision of medical assistance
9 under a State plan under title XIX of the such Act
10 (42 U.S.C. 1396 et seq.), is in effect or approved by
11 the Secretary of Health and Human Services as of
12 the applicable effective date described in subsection
13 (a), the amendments made by this subtitle shall not
14 apply with respect to the State before the expiration
15 (determined without regard to any extensions) of the
16 waiver to the extent such amendments are inconsis-
17 tent with the terms of the waiver.

18 (2) SECRETARIAL EVALUATION AND REPORT
19 FOR EXISTING WAIVERS AND EXTENSIONS.—

20 (A) PRIOR TO APPROVAL.—On and after
21 the applicable effective date described in sub-
22 section (a), the Secretary, prior to extending
23 any waiver granted under section 1115 or 1915
24 of the Social Security Act (42 U.S.C. 1315,
25 1396n) or otherwise which relates to the provi-

1 sion of medical assistance under a State plan
2 under title XIX of the such Act (42 U.S.C.
3 1396 et seq.), shall—

4 (i) conduct an evaluation of—

5 (I) the waivers existing under
6 such sections or other provision of law
7 as of the date of the enactment of this
8 Act; and

9 (II) any applications pending, as
10 of the date of the enactment of this
11 Act, for extensions of waivers under
12 such sections or other provision of
13 law; and

14 (ii) submit a report to the Congress
15 recommending whether the extension of a
16 waiver under such sections or provision of
17 law should be conditioned on the State
18 submitting the request for an extension
19 complying with the provisions of sections
20 1932, 1933, and 1934 of the Social Secu-
21 rity Act (as added by this subtitle).

22 (B) DEEMED APPROVAL.—If the Congress
23 has not enacted legislation based on a report
24 submitted under subparagraph (A)(ii) within
25 120 days after the date such report is submit-

1 ted to the Congress, the recommendations con-
2 tained in such report shall be deemed to be ap-
3 proved by the Congress.

4 **Subtitle C—Additional Reforms of**
5 **Medicaid Acute Care Program**

6 **SEC. 7201. PERMITTING INCREASED FLEXIBILITY IN MEDIC-**
7 **AID COST-SHARING.**

8 (a) IN GENERAL.—Subsections (a)(3) and (b)(3) of
9 section 1916 of the Social Security Act (42 U.S.C. 1396o)
10 are amended by striking everything that follows “other
11 care and services” and inserting the following: “will be es-
12 tablished pursuant to a public schedule of charges and will
13 be adjusted to reflect the income, resources, and family
14 size of the individual provided the item or service.”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 subsection (a) shall apply to items and services furnished
17 on or after the first day of the first calendar quarter be-
18 ginning after the date of the enactment of this Act.

19 **SEC. 7202. LIMITS ON REQUIRED COVERAGE OF ADDI-**
20 **TIONAL TREATMENT SERVICES UNDER**
21 **EPSDT.**

22 (a) REGULATIONS.—The Secretary of Health and
23 Human Services shall define, by regulation promulgated
24 after consultation with States and organizations rep-
25 resenting health care providers, those treatment services

1 (in addition to those otherwise covered under a State plan
2 under title XIX of the Social Security Act) that must be
3 covered under section 1905(r)(5) of such Act.

4 (b) CONSTRUCTION.—Nothing in subsection (a) shall
5 be construed as limiting the scope of such treatment serv-
6 ices a State may cover under such section.

7 **SEC. 7203. DELAY IN APPLICATION OF NEW REQUIRE-**
8 **MENTS.**

9 (a) DELAY IN IMPLEMENTATION.—

10 (1) IN GENERAL.—Notwithstanding any other
11 provision of law, no change in law—

12 (A) which has the effect of imposing a re-
13 quirement on a State under a State plan under
14 title XIX of the Social Security Act, and

15 (B) with respect to the Secretary of Health
16 and Human Services is required to issue regula-
17 tions to carry out such requirement,

18 shall take effect until the date the Secretary promul-
19 gates such regulation as a final regulation.

20 (2) STATE OPTION.—Except as otherwise pro-
21 vided by the Secretary, a State may elect to have a
22 change in a law described in paragraph (1) apply
23 with respect to the State during the period (or por-
24 tion thereof) in which the change would have taken
25 effect but for paragraph (1).

1 (b) PROHIBITION OF CHANGES IN FINAL REGULA-
2 TIONS DURING A FISCAL YEAR.—

3 (1) IN GENERAL.—Except as provided in para-
4 graph (2), any change in a regulation of the Sec-
5 retary of Health and Human Services relating to the
6 medicaid program under title XIX of the Social Se-
7 curity Act shall not become effective until the begin-
8 ning of the fiscal year following the fiscal year in
9 which the change was promulgated.

10 (2) STATE OPTION.—Except as otherwise pro-
11 vided by the Secretary, a State may elect to have a
12 change in a regulation described in paragraph (1)
13 apply with respect to the State during the period (or
14 portion thereof) in which the change would have
15 taken effect but for paragraph (1).

16 (c) SENSE OF CONGRESS REGARDING FEDERAL PAY-
17 MENT FOR NEW MEDICAID MANDATES.—It is the sense
18 of Congress that if a State is required by future legislation
19 to provide for additional services, eligible individuals, or
20 otherwise incur additional costs under its medicaid pro-
21 gram under title XIX of the Social Security Act, the Fed-
22 eral Government shall provide for full payment of any such
23 additional costs for at least the first two years in which
24 such requirement applies.

1 **SEC. 7204. DEADLINE ON ACTION ON WAIVERS.**

2 (a) IN GENERAL.—In considering applications for
3 medicaid waivers—

4 (1) the application shall be deemed granted un-
5 less the Secretary of Health and Human Services,
6 within ninety days after the date of the submission
7 of the application of the Secretary, either denies the
8 application in writing or informs the applicant in
9 writing with respect to any additional information
10 which is needed in order to make a final determina-
11 tion with respect to the application, and

12 (2) after the date the Secretary receives such
13 additional information, the application shall be
14 deemed granted unless the Secretary within ninety
15 days of such date, denies such application.

16 (b) MEDICAID WAIVERS.—In this section, the term
17 “medicaid waiver” means the request of a State for a
18 waiver of a provision of title XIX of the Social Security
19 Act (or of another provision of law that applies to State
20 plans under such title), and includes such a waiver under
21 the authority of section 1115 or section 1915 of the Social
22 Security Act or under section 222 of the Social Security
23 Amendments of 1972 and section 402(a) of the Social Se-
24 curity Amendments of 1967.

1 **Subtitle D—National Commission**
2 **on Medicaid Restructuring**

3 **SEC. 7301. ESTABLISHMENT OF COMMISSION.**

4 (a) IN GENERAL.—There is hereby established the
5 National Commission on Medicaid Restructuring (in this
6 subtitle referred to as the “Commission”).

7 (b) COMPOSITION.—The Commission shall be com-
8 posed as follows:

9 (1) 2 FEDERAL OFFICIALS.—The President
10 shall appoint 2 Federal officials, one of whom the
11 President shall designate as chairperson of the Com-
12 mission.

13 (2) 4 MEMBERS OF CONGRESS.—(A) The
14 Speaker of the House of Representatives shall ap-
15 point one Member of the House as a member.

16 (B) The minority leader of the House of Rep-
17 resentatives shall appoint one Member of the House
18 as a member.

19 (C) The majority leader of the Senate shall ap-
20 point one Member of the Senate as a member.

21 (D) The minority leader of the Senate shall ap-
22 point one Member of the Senate as a member.

23 (3) 6 STATE GOVERNMENT REPRESENTA-
24 TIVES.—(A) The majority leaders of the House of
25 Representatives and the Senate shall jointly appoint

1 3 individuals who are governors, State legislators, or
2 State medicaid officials.

3 (B) The minority leaders of the House of Rep-
4 representatives and the Senate shall jointly appoint 3
5 individuals who are governors, State legislators, or
6 State medicaid officials.

7 (4) 6 EXPERTS.—(A) The majority leaders of
8 the House of Representatives and the Senate shall
9 jointly appoint 4 individuals who are not officials of
10 the Federal or State governments and who have ex-
11 pertise in a health-related field, such as medicine,
12 public health, or delivery and financing of health
13 care services.

14 (B) The President shall appoint 2 individuals
15 who are not officials of the Federal or State govern-
16 ments and who have expertise in a health-related
17 field, such as medicine, public health, or delivery and
18 financing of health care services.

19 (c) INITIAL APPOINTMENT.—Members of the Com-
20 mission shall first be appointed by not later than February
21 1, 1996.

22 (d) COMPENSATION AND EXPENSES.—

23 (1) COMPENSATION.—Each member of the
24 Commission shall serve without compensation.

1 (2) TRAVEL EXPENSES.—Members of the Com-
2 mission shall be allowed travel expenses, including
3 per diem in lieu of subsistence, at rates authorized
4 for employees of agencies under subchapter I of
5 chapter 57 of title 5, United States Code, while
6 away from their homes or regular places of business
7 in the performance of services for the Commission.

8 **SEC. 7302. DUTIES OF COMMISSION.**

9 (a) STUDY OF MEDICAID PROGRAM.—

10 (1) IN GENERAL.—The Commission shall study
11 and make recommendations to the Congress, the
12 President, and the Secretary regarding the need for
13 changes (in addition to the changes effected under
14 this title) in the laws and regulations regarding the
15 medicaid program under title XIX of the Social Se-
16 curity Act.

17 (2) SPECIFIC CONCERNS.—The Commission
18 shall specifically address each of the following:

19 (A) Changes needed to ensure adequate ac-
20 cess to health care for low-income individuals.

21 (B) Promotion of quality care.

22 (C) Deterrence of fraud and abuse.

23 (D) Providing States with additional flexi-
24 bility in implementing their medicaid plans.

1 (E) Methods of containing Federal and
2 State costs.

3 (b) REPORTS.—

4 (1) FIRST REPORT.—The Commission shall
5 issue a first report to Congress by not later than
6 December 31, 1996.

7 (2) SUBSEQUENT REPORTS.—The Commission
8 shall issue subsequent reports to Congress by not
9 later than December 31, 1997, and December 31,
10 1998.

11 **SEC. 7303. ADMINISTRATION.**

12 (a) APPOINTMENT OF STAFF.—

13 (1) EXECUTIVE DIRECTOR.—The Commission
14 shall have an Executive Director who shall be ap-
15 pointed by the Chairperson with the approval of the
16 Commission. The Executive Director shall be paid at
17 a rate not to exceed the rate of basic pay payable
18 for level III of the Executive Schedule.

19 (2) STAFF.—With the approval of the Commis-
20 sion, the Executive Director may appoint and deter-
21 mine the compensation of such staff as may be nec-
22 essary to carry out the duties of the Commission.
23 Such appointments and compensation may be made
24 without regard to the provisions of title 5, United
25 States Code, that govern appointments in the com-

1 petitive services, and the provisions of chapter 51
2 and subchapter III of chapter 53 of such title that
3 relate to classifications and the General Schedule
4 pay rates.

5 (3) CONSULTANTS.—The Commission may pro-
6 cure such temporary and intermittent services of
7 consultants under section 3109(b) of title 5, United
8 States Code, as the Commission determines to be
9 necessary to carry out the duties of the Commission.

10 (b) PROVISION OF ADMINISTRATIVE SUPPORT SERV-
11 ICES BY HHS.—Upon the request of the Commission, the
12 Secretary of Health and Human Services shall provide to
13 the Commission on a reimbursable basis such administra-
14 tive support services as the Commission may request.

15 **SEC. 7304. AUTHORIZATION OF APPROPRIATIONS.**

16 There are authorized to be appropriated to carry out
17 this subtitle \$3,000,000 for fiscal year 1996, \$4,000,000
18 for each of fiscal years 1997 and 1998, and \$2,000,000
19 for fiscal year 1999.

20 **SEC. 7305. TERMINATION.**

21 The Commission shall terminate on December 31,
22 1998.

1 **Subtitle E—Restrictions on**
2 **Disproportionate Share Payments**

3 **SEC. 7401. REFORMING DISPROPORTIONATE SHARE PAY-**
4 **MENTS UNDER STATE MEDICAID PROGRAMS.**

5 (a) TARGETING PAYMENTS.—Section 1923 of the So-
6 cial Security Act (42 U.S.C.1396r-3) is amended—

7 (1) in subsection (a)(1)—

8 (A) by redesignating subparagraphs (A)
9 and (B) as clauses (i) and (ii),

10 (B) by striking “(1)” and inserting
11 “(1)(A)”,

12 (C) in clause (i) (as so redesignated) by
13 striking “(b)(1)” and inserting “(b)(1)(A)”,
14 and

15 (D) by adding at the end the following:

16 “(B) A State plan under this title shall not be consid-
17 ered to meet the requirement of section 1902(a)(13)(A)
18 (insofar as it requires payments to hospitals to take into
19 account the situation of hospitals that serve a dispropor-
20 tionate number of low-income patients with special needs),
21 as of July 1, 1996, unless the State has submitted to the
22 Secretary, by not later than such date, an amendment to
23 such plan that utilizes the definition of such hospitals
24 specified in subsection (b)(1)(B) in lieu of the definition
25 established by the State under subparagraph (a)(i).”;

1 (2) in subsection (a)(2)(A)—

2 (A) by inserting “(i)” after “(2)(A)”,

3 (B) by striking “paragraph (1)” and in-
4 serting “paragraph (1)(A)(i)”, and

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

6 “(ii) In order to be considered to have met such re-
7 quirement of section 1902(a)(13)(A) as of July 1, 1996,
8 the State must submit to the Secretary by not later than
9 April 1, 1996, the State plan amendment described in
10 paragraph (1)(B), consistent with subsection (c), effective
11 for inpatient hospital services furnished on or after July
12 1, 1996.”;

13 (3) in subsection (b)—

14 (A) in the heading, by striking “HOS-
15 PITALS DEEMED DISPROPORTIONATE SHARE”
16 and inserting “DISPROPORTIONATE SHARE
17 HOSPITALS”,

18 (B) in paragraph (1)—

19 (i) by redesignating subparagraphs
20 (A) and (B) as clauses (i) and (ii),

21 (ii) by striking “(1) For purposes of
22 subsection (a)(1)” and inserting “(1)(A)
23 For purposes of subsection (a)(1)(A)”, and

24 (iii) by adding at the end the follow-
25 ing:

1 “(B) For purposes of subsection (a)(1)(B), a hospital
2 that meets the requirements of subsection (d) is a dis-
3 proportionate share hospital only if—

4 “(i) in the case of a hospital that is not de-
5 scribed in subsection (d)(2)(A)(i), the hospital’s low-
6 income utilization rate (as defined in paragraph (3))
7 exceeds 25 percent; or

8 “(ii) in the case of a hospital that is described
9 in subsection (d)(2)(A)(i)—

10 “(I) the hospital meets the requirement of
11 clause (i), or

12 “(II) the hospital’s medicaid inpatient uti-
13 lization rate (as defined in paragraph (2)) ex-
14 ceeds 20 percent.”;

15 (C) in paragraph (2) by striking “(1)(A)”
16 and inserting “(1)”,

17 (D) in paragraph (3) by striking “(1)(B)”
18 and inserting “(1)”, and

19 (E) by striking paragraph (4);
20 (4) in subsection (c)—

21 (A) in paragraph (2), by striking “sub-
22 paragraph (A) or (B) of subsection (b)(1)” and
23 inserting “clause (i) or (ii) of subsection
24 (b)(1)(A)”,

25 (B) by striking paragraph (3), and

1 (C) in the matter following paragraph

2 (3)—

3 (i) by striking “(1)(B)” each place it
4 appears and inserting “(1)(A)(ii)”, and

5 (ii) by striking “(2)(A)” each place it
6 appears and inserting “(2)(A)(i)” ; and

7 (5) in subsection (e)—

8 (A) in paragraph (1)(C), by striking
9 “meets the requirement of subsection (d)(3)”
10 and inserting “makes payments under this sec-
11 tion only to hospitals described in subsection
12 (b)(1)(B)”, and

13 (B) in paragraph (2)—

14 (i) by inserting “and” at the end of
15 subparagraph (B), and

16 (ii) by striking subparagraph (C).

17 (b) DIRECT PAYMENT BY STATE.—Section 1923(a)
18 of such Act (42 U.S.C. 1396r-4(a)), as amended by sub-
19 section (a), is further amended—

20 (1) in paragraph (1), by adding at the end the
21 following

22 “(C) A State plan under this title shall not be consid-
23 ered to meet the requirement of section 1902(a)(13)(A)
24 (insofar as it requires payments to hospitals to take into
25 account the situation of hospitals that serve a disproport-

1 tionate number of low-income patients with special needs),
2 as of July 1, 1996, unless the State provides that any pay-
3 ments made under this section with respect to individuals
4 who are—

5 “(i) entitled to benefits under the State plan,
6 and

7 “(ii) enrolled with a health maintenance organi-
8 zation or other managed care plan,

9 are, at the option of the hospital, made directly to such
10 hospital by the State.”; and

11 (2) in paragraph (2)(A)(ii), by striking “amend-
12 ment described in paragraph (1)(B)” and inserting
13 “amendments described in subparagraphs (B) and
14 (C) of paragraph (1)”.

15 (c) ADJUSTMENT TO NATIONAL DSH LIMIT; STATE
16 ALLOCATIONS.—

17 (1) IN GENERAL.—Section 1923(f) (42 U.S.C.
18 1396r-4(f)) is amended—

19 (A) in paragraph (1)(B), by striking “for
20 a fiscal year” and all that follows and inserting
21 the following: “for—

22 “(i) each of fiscal years 1997 and
23 1998, is \$6.5 billion,

24 “(ii) each of fiscal years 1999 and
25 2000, is \$5.5 billion,

1 “(iii) each succeeding fiscal year is
2 \$5.0 billion.”;

3 (B) by striking subparagraphs (D) and (E)
4 of paragraph (1); and

5 (C) by amending paragraph (2) to read as
6 follows:

7 “(2) DETERMINATION OF STATE DSH ALLOT-
8 MENTS.—

9 “(A) IN GENERAL.—The State DSH allot-
10 ment for a fiscal year is equal to the State’s
11 share (as determined under subparagraph (B))
12 of the national DSH limit for the fiscal year es-
13 tablished under paragraph (1)(B).

14 “(B) STATE SHARE.—For purposes of sub-
15 paragraph (A), the ‘State share’ is equal to the
16 ratio of—

17 “(i) the total number low-income pa-
18 tient days (as defined in subparagraph
19 (C)) for all hospitals described in sub-
20 section (b)(1)(B) in the State for the fiscal
21 year, to

22 “(ii) the total number of such low-in-
23 come patient days for all such hospitals for
24 all States for the fiscal year.

1 The Secretary shall determine the State share
2 based on the Secretary's best estimate of pa-
3 tient days and hospitals.

4 “(C) LOW-INCOME PATIENT DAY.—

5 “(i) IN GENERAL.—For purposes of
6 this paragraph, the term ‘low-income pa-
7 tient day’ means, for a hospital, a patient
8 day (as defined in clause (ii)) attributable
9 to an individual who either is eligible for
10 medical assistance under the State plan or
11 has no health insurance (or other source of
12 third party coverage) for services furnished
13 by the hospital.

14 “(ii) PATIENT DAYS DEFINED.—For
15 purposes of this subparagraph, the term
16 ‘patient day’ includes each day in which—

17 “(I) an individual (including a
18 new-born) is an inpatient in the hos-
19 pital, whether or not the individual is
20 in a specialized ward and whether or
21 not the individual remains in the hos-
22 pital for lack of suitable placement
23 elsewhere, and

1 “(II) an individual makes one or
2 more outpatient visits to the hos-
3 pital.”.

4 (2) EFFECTIVE DATE.—The amendments made
5 by paragraph (1) shall apply to fiscal years begin-
6 ning with fiscal year 1997.

7 (d) EFFECTIVE DATE.—Except as provided in sub-
8 section (c)(2), the amendments made by this section shall
9 apply to payments to States under section 1903(a) of the
10 Social Security Act for payments to hospitals made under
11 State plans after—

12 (1) July 1, 1996, or

13 (2) in the case of a State with a State legisla-
14 ture that is not scheduled to have a regular legisla-
15 tive session in 1996, July 1, 1997.

16 **Subtitle F—Fraud Reduction**

17 **SEC. 7501. MONITORING PAYMENTS FOR DUAL ELIGIBLES.**

18 The Administrator of the Health Care Financing Ad-
19 ministration shall develop mechanisms to better monitor
20 and prevent inappropriate payments under the medicaid
21 program in the case of individuals who are dually eligible
22 for benefits under such program and under the medicare
23 program.

1 **SEC. 7502. IMPROVED IDENTIFICATION SYSTEMS.**

2 The Administrator of the Health Care Financing Ad-
3 ministration shall develop improved mechanisms, such as
4 picture identification documents and smart documents, to
5 provide methods of improved identification and tracking
6 of beneficiaries and providers that perpetrate fraud
7 against the medicaid program.

8 **TITLE VIII—MEDICARE**

9 **SEC. 8000. SHORT TITLE; REFERENCES IN TITLE.**

10 (a) SHORT TITLE OF TITLE.—This title may be cited
11 as the “Medicare Preservation Act of 1995”.

12 (b) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-
13 cept as otherwise specifically provided, whenever in this
14 title an amendment is expressed in terms of an amend-
15 ment to or repeal of a section or other provision, the ref-
16 erence shall be considered to be made to that section or
17 other provision of the Social Security Act.

18 (c) REFERENCES TO OBRA.—In this title, the terms
19 “OBRA–1986”, “OBRA–1987”, “OBRA–1989”,
20 “OBRA–1990”, and “OBRA–1993” refer to the Omnibus
21 Budget Reconciliation Act of 1986 (Public Law 99–509),
22 the Omnibus Budget Reconciliation Act of 1987 (Public
23 Law 100–203), the Omnibus Budget Reconciliation Act
24 of 1989 (Public Law 101–239), the Omnibus Budget Rec-
25 onciliation Act of 1990 (Public Law 101–508), and the

1 Omnibus Budget Reconciliation Act of 1993 (Public Law
2 103–66), respectively.

3 **Subtitle A—Medicare Choice**
4 **Program**

5 **PART 1—INCREASING CHOICE UNDER THE**
6 **MEDICARE PROGRAM**

7 **SEC. 8001. INCREASING CHOICE UNDER MEDICARE.**

8 (a) IN GENERAL.—Title XVIII is amended by insert-
9 ing after section 1804 the following new section:

10 “PROVIDING FOR CHOICE OF COVERAGE

11 “SEC. 1805. (a) CHOICE OF COVERAGE.—

12 “(1) IN GENERAL.—Subject to the provisions of
13 this section, every individual who is entitled to bene-
14 fits under part A and enrolled under part B shall
15 elect to receive benefits under this title through one
16 of the following:

17 “(A) THROUGH FEE-FOR-SERVICE SYS-
18 TEM.—Through the provisions of parts A and
19 B.

20 “(B) THROUGH A MEDICARE CHOICE
21 PRODUCT.—Through a Medicare Choice prod-
22 uct (as defined in paragraph (2)), which may
23 be—

24 “(i) a product offered by a provider-
25 sponsored organization,

1 “(ii) a product offered by an organiza-
2 tion that is a union, Taft-Hartley plan, or
3 association, or

4 “(iii) a product providing for benefits
5 on a fee-for-service or other basis.

6 Such a product may be a high deductible/
7 medisave product (and a contribution into a
8 Medicare Choice medical savings account
9 (MSA)) under the demonstration project pro-
10 vided under section 1859.

11 “(2) MEDICARE CHOICE PRODUCT DEFINED.—
12 For purposes of this section and part C, the term
13 ‘Medicare Choice product’ means health benefits cov-
14 erage offered under a policy, contract, or plan by a
15 Medicare Choice organization (as defined in section
16 1851(a)) pursuant to and in accordance with a con-
17 tract under section 1858.

18 “(3) TERMINOLOGY RELATING TO OPTIONS.—
19 For purposes of this section and part C—

20 “(A) NON-MEDICARE-CHOICE OPTION.—An
21 individual who has made the election described
22 in paragraph (1)(A) is considered to have elect-
23 ed the ‘Non-Medicare Choice option’.

24 “(B) MEDICARE CHOICE OPTION.—An in-
25 dividual who has made the election described in

1 paragraph (1)(B) to obtain coverage through a
2 Medicare Choice product is considered to have
3 elected the ‘Medicare Choice option’ for that
4 product.

5 “(b) SPECIAL RULES.—

6 “(1) RESIDENCE REQUIREMENT.—Except as
7 the Secretary may otherwise provide, an individual is
8 eligible to elect a Medicare Choice product offered by
9 a Medicare Choice organization only if the organiza-
10 tion in relation to the product serves the geographic
11 area in which the individual resides.

12 “(2) AFFILIATION REQUIREMENTS FOR CER-
13 TAIN PRODUCTS.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graph (B), an individual is eligible to elect a
16 Medicare Choice product offered by a limited
17 enrollment Medicare Choice organization (as de-
18 fined in section 1852(c)(4)(D)) only if—

19 “(i) the individual is eligible under
20 section 1852(c)(4) to make such election,
21 and

22 “(ii) in the case of a Medicare Choice
23 organization that is a union sponsor or
24 Taft-Hartley sponsor (as defined in section
25 1852(c)(4)), the individual elected under

1 this section a Medicare Choice product of-
2 ferred by the sponsor during the first en-
3 rollment period in which the individual was
4 eligible to make such election with respect
5 to such sponsor.

6 “(B) NO REELECTION AFTER
7 DISENROLLMENT FOR CERTAIN PRODUCTS.—
8 An individual is not eligible to elect a Medicare
9 Choice product offered by a Medicare Choice
10 organization that is a union sponsor or Taft-
11 Hartley sponsor if the individual previously had
12 elected a Medicare Choice product offered by
13 the organization and had subsequently discon-
14 tinued to elect such a product offered by the or-
15 ganization.

16 “(c) PROCESS FOR EXERCISING CHOICE.—

17 “(1) IN GENERAL.—The Secretary shall estab-
18 lish a process through which elections described in
19 subsection (a) are made and changed, including the
20 form and manner in which such elections are made
21 and changed. Such elections shall be made or
22 changed only during coverage election periods speci-
23 fied under subsection (e) and shall become effective
24 as provided in subsection (f).

1 “(2) EXPEDITED IMPLEMENTATION.—The Sec-
2 retary shall establish the process of electing coverage
3 under this section during the transition period (as
4 defined in subsection (e)(1)(B)) in such an expedited
5 manner as will permit such an election for Medicare
6 Choice products in an area as soon as such products
7 become available in that area.

8 “(3) COORDINATION THROUGH MEDICARE
9 CHOICE ORGANIZATIONS.—

10 “(A) ENROLLMENT.—Such process shall
11 permit an individual who wishes to elect a Med-
12 icare Choice product offered by a Medicare
13 Choice organization to make such election
14 through the filing of an appropriate election
15 form with the organization.

16 “(B) DISENROLLMENT.—Such process
17 shall permit an individual, who has elected a
18 Medicare Choice product offered by a Medicare
19 Choice organization and who wishes to termi-
20 nate such election, to terminate such election
21 through the filing of an appropriate election
22 form with the organization.

23 “(4) DEFAULT.—

24 “(A) INITIAL ELECTION.—

1 “(i) IN GENERAL.—Subject to clause
2 (ii), an individual who fails to make an
3 election during an initial election period
4 under subsection (e)(1) is deemed to have
5 chosen the Non-Medicare Choice option.

6 “(ii) SEAMLESS CONTINUATION OF
7 COVERAGE.—The Secretary shall establish
8 procedures under which individuals who
9 are enrolled with a Medicare Choice orga-
10 nization at the time of the initial election
11 period and who fail to elect to receive cov-
12 erage other than through the organization
13 are deemed to have elected an appropriate
14 Medicare Choice product offered by the or-
15 ganization.

16 “(B) CONTINUING PERIODS.—An individ-
17 ual who has made (or deemed to have made) an
18 election under this section is considered to have
19 continued to make such election until such time
20 as—

21 “(i) the individual changes the elec-
22 tion under this section, or

23 “(ii) a Medicare Choice product is dis-
24 continued, if the individual had elected

1 such product at the time of the discontinu-
2 ation.

3 “(5) AGREEMENTS WITH COMMISSIONER OF SO-
4 CIAL SECURITY TO PROMOTE EFFICIENT ADMINIS-
5 TRATION.—In order to promote the efficient admin-
6 istration of this section and the Medicare Choice
7 program under part C, the Secretary may enter into
8 an agreement with the Commissioner of Social Secu-
9 rity under which the Commissioner performs admin-
10 istrative responsibilities relating to enrollment and
11 disenrollment in Medicare Choice products under
12 this section.

13 “(d) PROVISION OF BENEFICIARY INFORMATION TO
14 PROMOTE INFORMED CHOICE.—

15 “(1) IN GENERAL.—The Secretary shall provide
16 for activities under this subsection to disseminate
17 broadly information to medicare beneficiaries (and
18 prospective medicare beneficiaries) on the coverage
19 options provided under this section in order to pro-
20 mote an active, informed selection among such op-
21 tions. Such information shall be made available on
22 such a timely basis (such as 6 months before the
23 date an individual would first attain eligibility for
24 medicare on the basis of age) as to permit individ-

1 uals to elect the Medicare Choice option during the
2 initial election period described in subsection (e)(1).

3 “(2) USE OF NONFEDERAL ENTITIES.—The
4 Secretary shall, to the maximum extent feasible,
5 enter into contracts with appropriate non-Federal
6 entities to carry out activities under this subsection.

7 “(3) SPECIFIC ACTIVITIES.—In carrying out
8 this subsection, the Secretary shall provide for at
9 least the following activities in all areas in which
10 Medicare Choice products are offered:

11 “(A) INFORMATION BOOKLET.—

12 “(i) IN GENERAL.—The Secretary
13 shall publish an information booklet and
14 disseminate the booklet to all individuals
15 eligible to elect the Medicare Choice option
16 under this section during coverage election
17 periods.

18 “(ii) INFORMATION INCLUDED.—The
19 booklet shall include information presented
20 in plain English and in a standardized for-
21 mat regarding—

22 “(I) the benefits (including cost-
23 sharing) and premiums for the var-
24 ious Medicare Choice products in the
25 areas involved;

1 “(II) the quality of such prod-
2 ucts, including consumer satisfaction
3 information; and

4 “(III) rights and responsibilities
5 of medicare beneficiaries under such
6 products.

7 “(iii) PERIODIC UPDATING.—The
8 booklet shall be updated on a regular basis
9 (not less often than once every 12 months)
10 to reflect changes in the availability of
11 Medicare Choice products and the benefits
12 and premiums for such products.

13 “(B) TOLL-FREE NUMBER.—The Secretary
14 shall maintain a toll-free number for inquiries
15 regarding Medicare Choice options and the op-
16 eration of part C.

17 “(C) GENERAL INFORMATION IN MEDI-
18 CARE HANDBOOK.—The Secretary shall include
19 information about the Medicare Choice option
20 provided under this section in the annual notice
21 of medicare benefits under section 1804.

22 “(e) COVERAGE ELECTION PERIODS.—

23 “(1) INITIAL CHOICE UPON ELIGIBILITY TO
24 MAKE ELECTION.—

1 “(A) IN GENERAL.—In the case of an indi-
2 vidual who first becomes entitled to benefits
3 under part A and enrolled under part B after
4 the beginning of the transition period (as de-
5 fined in subparagraph (B)), the individual shall
6 make the election under this section during a
7 period (of a duration and beginning at a time
8 specified by the Secretary) at the first time the
9 individual both is entitled to benefits under part
10 A and enrolled under part B. Such period shall
11 be specified in a manner so that, in the case of
12 an individual who elects a Medicare Choice
13 product during the period, coverage under the
14 product becomes effective as of the first date on
15 which the individual may receive such coverage.

16 “(B) TRANSITION PERIOD DEFINED.—In
17 this subsection, the term ‘transition period’
18 means, with respect to an individual in an area,
19 the period beginning on the first day of the first
20 month in which a Medicare Choice product is
21 first made available to individuals in the area
22 and ending with the month preceding the begin-
23 ning of the first annual, coordinated election
24 period under paragraph (3).

1 “(2) DURING TRANSITION PERIOD.—Subject to
2 paragraph (6)—

3 “(A) CONTINUOUS OPEN ENROLLMENT
4 INTO A MEDICARE CHOICE OPTION.—During
5 the transition period, an individual who is eligi-
6 ble to make an election under this section and
7 who has elected the non-Medicare Choice option
8 may change such election to a Medicare Choice
9 option at any time.

10 “(B) OPEN DISENROLLMENT BEFORE END
11 OF TRANSITION PERIOD.—During the transition
12 period, an individual who has elected a Medi-
13 care Choice option for a Medicare Choice prod-
14 uct may change such election to another Medi-
15 care Choice product or to the non-Medicare
16 Choice option.

17 “(3) ANNUAL, COORDINATED ELECTION PE-
18 RIOD.—

19 “(A) IN GENERAL.—Subject to paragraph
20 (5), each individual who is eligible to make an
21 election under this section may change such
22 election during annual, coordinated election pe-
23 riods.

24 “(B) ANNUAL, COORDINATED ELECTION
25 PERIOD.—For purposes of this section, the

1 term ‘annual, coordinated election period’
2 means, with respect to a calendar year (begin-
3 ning with 1998), the month of October before
4 such year.

5 “(C) MEDICARE CHOICE HEALTH FAIR
6 DURING OCTOBER, 1996.—In the month of Octo-
7 ber, 1996, the Secretary shall provide for a na-
8 tionally coordinated educational and publicity
9 campaign to inform individuals, who are eligible
10 to elect Medicare Choice products, about such
11 products and the election process provided
12 under this section (including the annual, coordi-
13 nated election periods that occur in subsequent
14 years).

15 “(4) SPECIAL 90-DAY DISENROLLMENT OP-
16 TION.—

17 “(A) IN GENERAL.—In the case of the first
18 time an individual elects a Medicare Choice op-
19 tion under this section, the individual may dis-
20 continue such election through the filing of an
21 appropriate notice during the 90-day period be-
22 ginning on the first day on which the individ-
23 ual’s coverage under the Medicare Choice prod-
24 uct under such option becomes effective.

1 “(B) EFFECT OF DISCONTINUATION OF
2 ELECTION.—An individual who discontinues an
3 election under this paragraph shall be deemed
4 at the time of such discontinuation to have
5 elected the Non-Medicare Choice option.

6 “(5) SPECIAL ELECTION PERIODS.—An individ-
7 ual may discontinue an election of a Medicare
8 Choice product offered by a Medicare Choice organi-
9 zation other than during an annual, coordinated
10 election period and make a new election under this
11 section if—

12 “(A) the organization’s or product’s certifi-
13 cation under part C has been terminated or the
14 organization has terminated or otherwise dis-
15 continued providing the product;

16 “(B) in the case of an individual who has
17 elected a Medicare Choice product offered by a
18 Medicare Choice organization, the individual is
19 no longer eligible to elect the product because
20 of a change in the individual’s place of resi-
21 dence or other change in circumstances (speci-
22 fied by the Secretary, but not including termi-
23 nation of membership in a qualified association
24 in the case of a product offered by a qualified
25 association or termination of the individual’s

1 enrollment on the basis described in clause (i)
2 or (ii) section 1852(c)(3)(B));

3 “(C) the individual demonstrates (in ac-
4 cordance with guidelines established by the Sec-
5 retary) that—

6 “(i) the organization offering the
7 product substantially violated a material
8 provision of the organization’s contract
9 under part C in relation to the individual
10 and the product; or

11 “(ii) the organization (or an agent or
12 other entity acting on the organization’s
13 behalf) materially misrepresented the prod-
14 uct’s provisions in marketing the product
15 to the individual; or

16 “(D) the individual meets such other con-
17 ditions as the Secretary may provide.

18 “(f) EFFECTIVENESS OF ELECTIONS.—

19 “(1) DURING INITIAL COVERAGE ELECTION PE-
20 RIOD.—An election of coverage made during the ini-
21 tial coverage election period under subsection
22 (e)(1)(A) shall take effect upon the date the individ-
23 ual becomes entitled to benefits under part A and
24 enrolled under part B, except as the Secretary may

1 provide (consistent with section 1838) in order to
2 prevent retroactive coverage.

3 “(2) DURING TRANSITION; 90-DAY
4 DISENROLLMENT OPTION.—An election of coverage
5 made under subsection (e)(2) and an election to dis-
6 continue a Medicare Choice option under subsection
7 (e)(4) at any time shall take effect with the first cal-
8 endar month following the date on which the election
9 is made.

10 “(3) ANNUAL, COORDINATED ELECTION PERIOD
11 AND MEDISAVE ELECTION.—An election of coverage
12 made during an annual, coordinated election period
13 (as defined in subsection (e)(3)(B)) in a year shall
14 take effect as of the first day of the following year.

15 “(4) OTHER PERIODS.—An election of coverage
16 made during any other period under subsection
17 (e)(5) shall take effect in such manner as the Sec-
18 retary provides in a manner consistent (to the extent
19 practicable) with protecting continuity of health ben-
20 efit coverage.

21 “(g) EFFECT OF ELECTION OF MEDICARE CHOICE
22 OPTION.—Subject to the provisions of section 1855(f),
23 payments under a contract with a Medicare Choice organi-
24 zation under section 1858(a) with respect to an individual
25 electing a Medicare Choice product offered by the organi-

1 zation shall be instead of the amounts which (in the ab-
2 sence of the contract) would otherwise be payable under
3 parts A and B for items and services furnished to the indi-
4 vidual.

5 “(h) DEMONSTRATION PROJECTS.—The Secretary
6 shall conduct demonstration projects to test alternative
7 approaches to coordinated open enrollments in different
8 markets, including different annual enrollment periods
9 and models of rolling open enrollment periods. The Sec-
10 retary may waive previous provisions of this section in
11 order to carry out such projects.”.

12 **SEC. 8002. MEDICARE CHOICE PROGRAM.**

13 (a) IN GENERAL.—Title XVIII is amended by redес-
14 ignating part C as part D and by inserting after part B
15 the following new part:

16 “PART C—PROVISIONS RELATING TO MEDICARE
17 CHOICE

18 “REQUIREMENTS FOR MEDICARE CHOICE ORGANIZATIONS

19 “SEC. 1851. (a) MEDICARE CHOICE ORGANIZATION
20 DEFINED.—In this part, subject to the succeeding provi-
21 sions of this section, the term ‘Medicare Choice organiza-
22 tion’ means a public or private entity that is certified
23 under section 1857 as meeting the requirements and
24 standards of this part for such an organization.

1 “(b) ORGANIZED AND LICENSED UNDER STATE
2 LAW.—

3 “(1) IN GENERAL.—A Medicare Choice organi-
4 zation shall be organized and licensed under State
5 law to offer health insurance or health benefits cov-
6 erage in each State in which it offers a Medicare
7 Choice product.

8 “(2) EXCEPTION FOR UNION AND TAFT-HART-
9 LEY SPONSORS.—Paragraph (1) shall not apply to
10 an Medicare Choice organization that is a union
11 sponsor or Taft-Hartley sponsor (as defined in sec-
12 tion 1852(c)(4)).

13 “(3) EXCEPTION FOR PROVIDER-SPONSORED
14 ORGANIZATIONS.—Subject to paragraph (5), para-
15 graph (1) shall not apply to a Medicare Choice orga-
16 nization that is a provider-sponsored organization
17 (as defined in section 1854(a)).

18 “(4) EXCEPTION FOR QUALIFIED ASSOCIA-
19 TIONS.—Paragraph (1) shall not apply to a Medi-
20 care Choice organization that is a qualified associa-
21 tion (as defined in section 1852(c)(4)(B)).

22 “(5) LIMITATION.—Effective on and after Jan-
23 uary 1, 2000, paragraph (1) shall only apply (and
24 paragraph (3) shall no longer apply) to a Medicare
25 Choice organization in a State if the standards for

1 licensure of the organization under the law of the
2 State are identical to the standards established
3 under section 1856(b).

4 “(c) PREPAID PAYMENT.—A Medicare Choice orga-
5 nization shall be compensated (except for deductibles, co-
6 insurance, and copayments) for the provision of health
7 care services to enrolled members by a payment which is
8 paid on a periodic basis without regard to the date the
9 health care services are provided and which is fixed with-
10 out regard to the frequency, extent, or kind of health care
11 service actually provided to a member.

12 “(d) ASSUMPTION OF FULL FINANCIAL RISK.—The
13 Medicare Choice organization shall assume full financial
14 risk on a prospective basis for the provision of the health
15 care services (other than hospice care) for which benefits
16 are required to be provided under section 1852(a)(1), ex-
17 cept that the organization—

18 “(1) may obtain insurance or make other ar-
19 rangements for the cost of providing to any enrolled
20 member such services the aggregate value of which
21 exceeds \$5,000 in any year,

22 “(2) may obtain insurance or make other ar-
23 rangements for the cost of such services provided to
24 its enrolled members other than through the organi-
25 zation because medical necessity required their pro-

1 vision before they could be secured through the orga-
2 nization,

3 “(3) may obtain insurance or make other ar-
4 rangements for not more than 90 percent of the
5 amount by which its costs for any of its fiscal years
6 exceed 115 percent of its income for such fiscal year,
7 and

8 “(4) may make arrangements with physicians
9 or other health professionals, health care institu-
10 tions, or any combination of such individuals or in-
11 stitutions to assume all or part of the financial risk
12 on a prospective basis for the provision of basic
13 health services by the physicians or other health pro-
14 fessionals or through the institutions.

15 In the case of a Medicare Choice organization that is a
16 union sponsor or Taft-Hartley sponsor (as defined in sec-
17 tion 1852(c)(4)) or a qualified association (as defined in
18 section 1852(c)(4)(B)), this subsection shall not apply
19 with respect to Medicare Choice products offered by such
20 organization and issued by an organization to which sub-
21 section (b)(1) applies or by a provider-sponsored organiza-
22 tion (as defined in section 1854(a)).

23 “(e) PROVISION AGAINST RISK OF INSOLVENCY.—

24 “(1) IN GENERAL.—Each Medicare Choice or-
25 ganization shall meet standards under section 1856

1 relating to the financial solvency and capital ade-
2 quacy of the organization. Such standards shall take
3 into account the nature and type of Medicare Choice
4 products offered by the organization.

5 “(2) TREATMENT OF TAFT-HARTLEY SPON-
6 SORS.—An entity that is a Taft-Hartley sponsor is
7 deemed to meet the requirement of paragraph (1).

8 “(3) TREATMENT OF CERTAIN QUALIFIED AS-
9 SOCIATIONS.—An entity that is a qualified associa-
10 tion is deemed to meet the requirement of paragraph
11 (1) with respect to Medicare Choice products offered
12 by such association and issued by an organization to
13 which subsection (b)(1) applies or by a provider-
14 sponsored organization.

15 “(f) ORGANIZATIONS TREATED AS MEDICAREPLUS
16 ORGANIZATIONS DURING TRANSITION.—Any of the fol-
17 lowing organizations shall be considered to qualify as a
18 MedicarePlus organization for contract years beginning
19 before January 1, 1997:

20 “(1) HEALTH MAINTENANCE ORGANIZA-
21 TIONS.—An organization that is organized under the
22 laws of any State and that is a qualified health
23 maintenance organization (as defined in section
24 1310(d) of the Public Health Service Act), an orga-
25 nization recognized under State law as a health

1 maintenance organization, or a similar organization
2 regulated under State law for solvency in the same
3 manner and to the same extent as such a health
4 maintenance organization.

5 “(2) LICENSED INSURERS.—An organization
6 that is organized under the laws of any State and—

7 “(A) is licensed by a State agency as an
8 insurer for the offering of health benefit cov-
9 erage, or

10 “(B) is licensed by a State agency as a
11 service benefit plan,

12 but only for individuals residing in an area in which
13 the organization is licensed to offer health insurance
14 coverage.

15 “(3) CURRENT RISK-CONTRACTORS.—An orga-
16 nization that is an eligible organization (as defined
17 in section 1876(b)) and that has a risk-sharing con-
18 tract in effect under section 1876 as of the date of
19 the enactment of this section.

20 “REQUIREMENTS RELATING TO BENEFITS, PROVISION OF
21 SERVICES, ENROLLMENT, AND PREMIUMS

22 “SEC. 1852. (a) BENEFITS COVERED.—

23 “(1) IN GENERAL.—Each Medicare Choice
24 product offered under this part shall provide benefits
25 for at least the items and services for which benefits
26 are available under parts A and B consistent with

1 the standards for coverage of such items and serv-
2 ices applicable under this title.

3 “(2) ORGANIZATION AS SECONDARY PAYER.—
4 Notwithstanding any other provision of law, a Medi-
5 care Choice organization may (in the case of the
6 provision of items and services to an individual
7 under this part under circumstances in which pay-
8 ment under this title is made secondary pursuant to
9 section 1862(b)(2)) charge or authorize the provider
10 of such services to charge, in accordance with the
11 charges allowed under such law or policy—

12 “(A) the insurance carrier, employer, or
13 other entity which under such law, plan, or pol-
14 icy is to pay for the provision of such services,
15 or

16 “(B) such individual to the extent that the
17 individual has been paid under such law, plan,
18 or policy for such services.

19 “(3) SATISFACTION OF REQUIREMENT.—A
20 Medicare Choice product offered by a Medicare
21 Choice organization satisfies paragraph (1) with re-
22 spect to benefits for items and services if the follow-
23 ing requirements are met:

24 “(A) FEE FOR SERVICE PROVIDERS.—In
25 the case of benefits furnished through a pro-

1 vider that does not have a contract with the or-
2 ganization, the product provides for at least the
3 dollar amount of payment for such items and
4 services as would otherwise be provided under
5 parts A and B.

6 “(B) PARTICIPATING PROVIDERS.—In the
7 case of benefits furnished through a provider
8 that has such a contract, the individual’s liabil-
9 ity for payment for such items and services
10 does not exceed (after taking into account any
11 deductible, which does not exceed any deduct-
12 ible under parts A and B) the lesser of the fol-
13 lowing:

14 “(i) NON-MEDICARE CHOICE LIABIL-
15 ITY.—The amount of the liability that the
16 individual would have had (based on the
17 provider being a participating provider) if
18 the individual had elected the non-Medi-
19 care Choice option.

20 “(ii) MEDICARE COINSURANCE AP-
21 PLIED TO PRODUCT PAYMENT RATES.—
22 The applicable coinsurance or copayment
23 rate (that would have applied under the
24 non-Medicare Choice option) of the pay-
25 ment rate provided under the contract.

1 “(b) ANTIDISCRIMINATION.—A Medicare Choice or-
2 ganization may not deny, limit, or condition the coverage
3 or provision of benefits under this part based on the health
4 status, claims experience, receipt of health care, medical
5 history, or lack of evidence of insurability, of an individual.

6 “(c) GUARANTEED ISSUE AND RENEWAL.—

7 “(1) IN GENERAL.—Except as provided in this
8 subsection, a Medicare Choice organization shall
9 provide that at any time during which elections are
10 accepted under section 1805 with respect to a Medi-
11 care Choice product offered by the organization, the
12 organization will accept without restrictions individ-
13 uals who are eligible to make such election.

14 “(2) PRIORITY.—If the Secretary determines
15 that a Medicare Choice organization, in relation to
16 a Medicare Choice product it offers, has a capacity
17 limit and the number of eligible individuals who elect
18 the product under section 1805 exceeds the capacity
19 limit, the organization may limit the election of indi-
20 viduals of the product under such section but only
21 if priority in election is provided—

22 “(A) first to such individuals as have elect-
23 ed the product at the time of the determination,
24 and

1 “(B) then to other such individuals in such
2 a manner that does not discriminate among the
3 individuals (who seek to elect the product) on a
4 basis described in subsection (b).

5 “(3) LIMITATION ON TERMINATION OF ELEC-
6 TION.—

7 “(A) IN GENERAL.—Subject to subpara-
8 graph (B), a Medicare Choice organization may
9 not for any reason terminate the election of any
10 individual under section 1805 for a Medicare
11 Choice product it offers.

12 “(B) BASIS FOR TERMINATION OF ELEC-
13 TION.—A Medicare Choice organization may
14 terminate an individual’s election under section
15 1805 with respect to a Medicare Choice product
16 it offers if—

17 “(i) any premiums required with re-
18 spect to such product are not paid on a
19 timely basis (consistent with standards
20 under section 1856 that provide for a
21 grace period for late payment of pre-
22 miums),

23 “(ii) the individual has engaged in
24 disruptive behavior (as specified in such
25 standards), or

1 “(iii) the product is terminated with
2 respect to all individuals under this part.

3 Any individual whose election is so terminated
4 is deemed to have elected the Non-Medicare
5 Choice option (as defined in section
6 1805(a)(3)(A)).

7 “(C) ORGANIZATION OBLIGATION WITH
8 RESPECT TO ELECTION FORMS.—Pursuant to a
9 contract under section 1858, each Medicare
10 Choice organization receiving an election form
11 under section 1805(c)(2) shall transmit to the
12 Secretary (at such time and in such manner as
13 the Secretary may specify) a copy of such form
14 or such other information respecting the elec-
15 tion as the Secretary may specify.

16 “(4) SPECIAL RULES FOR LIMITED ENROLL-
17 MENT MEDICARE CHOICE ORGANIZATIONS.—

18 “(A) TAFT-HARTLEY SPONSORS.—

19 “(i) IN GENERAL.—Subject to sub-
20 paragraph (D), a Medicare Choice organi-
21 zation that is a Taft-Hartley sponsor (as
22 defined in clause (ii)) shall limit eligibility
23 of enrollees under this part for Medicare
24 Choice products it offers to individuals who
25 are entitled to obtain benefits through such

1 products under the terms of an applicable
2 collective bargaining agreement.

3 “(ii) TAFT-HARTLEY SPONSOR.—In
4 this part and section 1805, the term ‘Taft-
5 Hartley sponsor’ means, in relation to a
6 group health plan that is established or
7 maintained by two or more employers or
8 jointly by one or more employers and one
9 or more employee organizations, the asso-
10 ciation, committee, joint board of trustees,
11 or other similar group of representatives of
12 parties who establish or maintain the plan.

13 “(B) QUALIFIED ASSOCIATIONS.—

14 “(i) IN GENERAL.—Subject to sub-
15 paragraph (D), a Medicare Choice organi-
16 zation that is a qualified association (as
17 defined in clause (iii)) shall limit eligibility
18 of individuals under this part for products
19 it offers to individuals who are members of
20 the association (or who are spouses of such
21 individuals).

22 “(ii) LIMITATION ON TERMINATION
23 OF COVERAGE.—Such a qualifying associa-
24 tion offering a Medicare Choice product to
25 an individual may not terminate coverage

1 of the individual on the basis that the indi-
2 vidual is no longer a member of the asso-
3 ciation except pursuant to a change of
4 election during an open election period oc-
5 ccurring on or after the date of the termi-
6 nation of membership.

7 “(iii) QUALIFIED ASSOCIATION.—In
8 this part and section 1805, the term ‘quali-
9 fied association’ means an association, reli-
10 gious fraternal organization, or other orga-
11 nization (which may be a trade, industry,
12 or professional association, a chamber of
13 commerce, or a public entity association)
14 that the Secretary finds—

15 “(I) has been formed for pur-
16 poses other than the sale of any
17 health insurance and does not restrict
18 membership based on the health sta-
19 tus, claims experience, receipt of
20 health care, medical history, or lack of
21 evidence of insurability, of an individ-
22 ual,

23 “(II) does not exist solely or
24 principally for the purpose of selling
25 insurance, and

1 “(III) has at least 1,000 individ-
2 ual members or 200 employer mem-
3 bers.

4 Such term includes a subsidiary or cor-
5 poration that is wholly owned by one or
6 more qualified organizations.

7 “(C) UNIONS.—

8 “(i) IN GENERAL.—Subject to sub-
9 paragraph (D), a union sponsor (as de-
10 fined in clause (ii)) shall limit eligibility of
11 enrollees under this part for Medicare
12 Choice products it offers to individuals who
13 are members of the sponsor and affiliated
14 with the sponsor through an employment
15 relationship with any employer or are the
16 spouses of such members.

17 “(ii) UNION SPONSOR.—In this part
18 and section 1805, the term ‘union sponsor’
19 means an employee organization in relation
20 to a group health plan that is established
21 or maintained by the organization other
22 than pursuant to a collective bargaining
23 agreement.

24 “(D) LIMITATION.—Rules of eligibility to
25 carry out the previous subparagraphs of this

1 paragraph shall not have the effect of denying
2 eligibility to individuals on the basis of health
3 status, claims experience, receipt of health care,
4 medical history, or lack of evidence of insurabil-
5 ity.

6 “(E) LIMITED ENROLLMENT MEDICARE
7 CHOICE ORGANIZATION.—In this part and sec-
8 tion 1805, the term ‘limited enrollment Medi-
9 care Choice organization’ means a Medicare
10 Choice organization that is a union sponsor, a
11 Taft-Hartley sponsor, or a qualified association.

12 “(F) EMPLOYER, ETC.—In this paragraph,
13 the terms ‘employer’, ‘employee organization’,
14 and ‘group health plan’ have the meanings
15 given such terms for purposes of part 6 of sub-
16 title B of title I of the Employee Retirement In-
17 come Security Act of 1974.

18 “(d) SUBMISSION AND CHARGING OF PREMIUMS.—

19 “(1) IN GENERAL.—Each Medicare Choice or-
20 ganization shall file with the Secretary each year, in
21 a form and manner and at a time specified by the
22 Secretary—

23 “(A) the amount of the monthly premiums
24 for coverage under each Medicare Choice prod-
25 uct it offers under this part in each payment

1 area (as determined for purposes of section
2 1855) in which the product is being offered;
3 and

4 “(B) the enrollment capacity in relation to
5 the product in each such area.

6 “(2) AMOUNTS OF PREMIUMS CHARGED.—The
7 amount of the monthly premium charged by a Medi-
8 care Choice organization for a Medicare Choice
9 product offered in a payment area to an individual
10 under this part shall be equal to the amount (if any)
11 by which—

12 “(A) the amount of the monthly premium
13 for the product for the period involved, as es-
14 tablished under paragraph (3) and submitted
15 under paragraph (1), exceeds

16 “(B) $\frac{1}{12}$ of the annual Medicare Choice
17 capitation rate specified in section 1855(b)(2)
18 for the area and period involved.

19 “(3) UNIFORM PREMIUM.—The premiums
20 charged by a Medicare Choice organization under
21 this part may not vary among individuals who reside
22 in the same payment area.

23 “(4) TERMS AND CONDITIONS OF IMPOSING
24 PREMIUMS.—Each Medicare Choice organization
25 shall permit the payment of monthly premiums on a

1 monthly basis and may terminate election of individ-
2 uals for a Medicare Choice product for failure to
3 make premium payments only in accordance with
4 subsection (c)(3)(B).

5 “(5) RELATION OF PREMIUMS AND COST-SHAR-
6 ING TO BENEFITS.—In no case may the portion of
7 a Medicare Choice organization’s premium rate and
8 the actuarial value of its deductibles, coinsurance,
9 and copayments charged (to the extent attributable
10 to the minimum benefits described in subsection
11 (a)(1) and not counting any amount attributable to
12 balance billing) to individuals who are enrolled under
13 this part with the organization exceed the actuarial
14 value of the coinsurance and deductibles that would
15 be applicable on the average to individuals enrolled
16 under this part with the organization (or, if the Sec-
17 retary finds that adequate data are not available to
18 determine that actuarial value, the actuarial value
19 of the coinsurance and deductibles applicable on the
20 average to individuals in the area, in the State, or
21 in the United States, eligible to enroll under this
22 part with the organization, or other appropriate
23 data) and entitled to benefits under part A and en-
24 rolled under part B if they were not members of a
25 Medicare Choice organization.

1 “(e) REQUIREMENT FOR ADDITIONAL BENEFITS,
2 PART B PREMIUM DISCOUNT REBATES, OR BOTH.—

3 “(1) REQUIREMENT.—

4 “(A) IN GENERAL.—Each Medicare Choice
5 organization (in relation to a Medicare Choice
6 product it offers) shall provide that if there is
7 an excess amount (as defined in subparagraph
8 (B)) for the product for a contract year, subject
9 to the succeeding provisions of this subsection,
10 the organization shall provide to individuals
11 such additional benefits (as the organization
12 may specify), a monetary rebate (paid on a
13 monthly basis) of the part B monthly premium,
14 or a combination thereof, in an total value
15 which is at least equal to the adjusted excess
16 amount (as defined in subparagraph (C)).

17 “(B) EXCESS AMOUNT.—For purposes of
18 this paragraph, the ‘excess amount’, for an or-
19 ganization for a product, is the amount (if any)
20 by which—

21 “(i) the average of the capitation pay-
22 ments made to the organization under this
23 part for the product at the beginning of
24 contract year, exceeds

1 “(ii) the actuarial value of the mini-
2 mum benefits described in subsection
3 (a)(1) under the product for individuals
4 under this part, as determined based upon
5 an adjusted community rate described in
6 paragraph (5) (as reduced for the actuarial
7 value of the coinsurance and deductibles
8 under parts A and B).

9 “(C) ADJUSTED EXCESS AMOUNT.—For
10 purposes of this paragraph, the ‘adjusted excess
11 amount’, for an organization for a product, is
12 the excess amount reduced to reflect any
13 amount withheld and reserved for the organiza-
14 tion for the year under paragraph (3).

15 “(D) UNIFORM APPLICATION.—This para-
16 graph shall be applied uniformly for all enroll-
17 ees for a product in a service area.

18 “(E) CONSTRUCTION.—Nothing in this
19 subsection shall be construed as preventing a
20 Medicare Choice organization from providing
21 health care benefits that are in addition to the
22 benefits otherwise required to be provided under
23 this paragraph and from imposing a premium
24 for such additional benefits.

1 “(2) LIMITATION ON AMOUNT OF PART B PRE-
2 MIUM DISCOUNT REBATE.—In no case shall the
3 amount of a part B premium discount rebate under
4 paragraph (1)(A) exceed, with respect to a month,
5 the amount of premiums imposed under part B (not
6 taking into account section 1839(b) (relating to pen-
7 alty for late enrollment) or 1839(h) (relating to af-
8 fluence testing)), for the individual for the month.
9 Except as provided in the previous sentence, a Medi-
10 care Choice organization is not authorized to provide
11 for cash or other monetary rebates as an inducement
12 for enrollment or otherwise.

13 “(3) STABILIZATION FUND.—A Medicare
14 Choice organization may provide that a part of the
15 value of an excess actuarial amount described in
16 paragraph (1) be withheld and reserved in the Fed-
17 eral Hospital Insurance Trust Fund and in the Fed-
18 eral Supplementary Medical Insurance Trust Fund
19 (in such proportions as the Secretary determines to
20 be appropriate) by the Secretary for subsequent an-
21 nual contract periods, to the extent required to sta-
22 bilize and prevent undue fluctuations in the addi-
23 tional benefits and rebates offered in those subse-
24 quent periods by the organization in accordance with
25 such paragraph. Any of such value of amount re-

1 served which is not provided as additional benefits
2 described in paragraph (1)(A) to individuals electing
3 the Medicare Choice product in accordance with
4 such paragraph prior to the end of such periods,
5 shall revert for the use of such trust funds.

6 “(4) DETERMINATION BASED ON INSUFFICIENT
7 DATA.—For purposes of this subsection, if the Sec-
8 retary finds that there is insufficient enrollment ex-
9 perience (including no enrollment experience in the
10 case of a provider-sponsored organization) to deter-
11 mine an average of the capitation payments to be
12 made under this part at the beginning of a contract
13 period, the Secretary may determine such an aver-
14 age based on the enrollment experience of other con-
15 tracts entered into under this part.

16 “(5) ADJUSTED COMMUNITY RATE.—

17 “(A) IN GENERAL.—For purposes of this
18 subsection, subject to subparagraph (B), the
19 term ‘adjusted community rate’ for a service or
20 services means, at the election of a Medicare
21 Choice organization, either—

22 “(i) the rate of payment for that serv-
23 ice or services which the Secretary annu-
24 ally determines would apply to an individ-
25 ual electing a Medicare Choice product

1 under this part if the rate of payment were
2 determined under a ‘community rating sys-
3 tem’ (as defined in section 1302(8) of the
4 Public Health Service Act, other than sub-
5 paragraph (C)), or

6 “(ii) such portion of the weighted ag-
7 gregate premium, which the Secretary an-
8 nually estimates would apply to such an in-
9 dividual, as the Secretary annually esti-
10 mates is attributable to that service or
11 services,

12 but adjusted for differences between the utiliza-
13 tion characteristics of the individuals electing
14 coverage under this part and the utilization
15 characteristics of the other enrollees with the
16 organization (or, if the Secretary finds that
17 adequate data are not available to adjust for
18 those differences, the differences between the
19 utilization characteristics of individuals select-
20 ing other Medicare Choice coverage, or individ-
21 uals in the area, in the State, or in the United
22 States, eligible to elect Medicare Choice cov-
23 erage under this part and the utilization char-
24 acteristics of the rest of the population in the

1 area, in the State, or in the United States, re-
2 spectively).

3 “(B) SPECIAL RULE FOR PROVIDER-SPON-
4 SORED ORGANIZATIONS.—In the case of a Med-
5 icare Choice organization that is a provider-
6 sponsored organization, the adjusted community
7 rate under subparagraph (A) for a Medicare
8 Choice product may be computed (in a manner
9 specified by the Secretary) using data in the
10 general commercial marketplace or (during a
11 transition period) based on the costs incurred
12 by the organization in providing such a product.

13 “(f) RULES REGARDING PHYSICIAN PARTICIPA-
14 TION.—

15 “(1) PROCEDURES.—Each Medicare Choice or-
16 ganization shall establish reasonable procedures re-
17 lating to the participation (under an agreement be-
18 tween a physician and the organization) of physi-
19 cians under Medicare Choice products offered by the
20 organization under this part. Such procedures shall
21 include—

22 “(A) providing notice of the rules regard-
23 ing participation,

1 “(B) providing written notice of participa-
2 tion decisions that are adverse to physicians,
3 and

4 “(C) providing a process within the organi-
5 zation for appealing adverse decisions, including
6 the presentation of information and views of the
7 physician regarding such decision.

8 “(2) CONSULTATION IN MEDICAL POLICIES.—A
9 Medicare Choice organization shall consult with phy-
10 sicians who have entered into participation agree-
11 ments with the organization regarding the organiza-
12 tion’s medical policy, quality, and medical manage-
13 ment procedures.

14 “(3) LIMITATIONS ON PHYSICIAN INCENTIVE
15 PLANS.—

16 “(A) IN GENERAL.—Each Medicare Choice
17 organization may not operate any physician in-
18 centive plan (as defined in subparagraph (B))
19 unless the following requirements are met:

20 “(i) No specific payment is made di-
21 rectly or indirectly under the plan to a
22 physician or physician group as an induce-
23 ment to reduce or limit medically necessary
24 services provided with respect to a specific
25 individual enrolled with the organization.

1 “(ii) If the plan places a physician or
2 physician group at substantial financial
3 risk (as determined by the Secretary) for
4 services not provided by the physician or
5 physician group, the organization—

6 “(I) provides stop-loss protection
7 for the physician or group that is ade-
8 quate and appropriate, based on
9 standards developed by the Secretary
10 that take into account the number of
11 physicians placed at such substantial
12 financial risk in the group or under
13 the plan and the number of individ-
14 uals enrolled with the organization
15 who receive services from the physi-
16 cian or the physician group, and

17 “(II) conducts periodic surveys of
18 both individuals enrolled and individ-
19 uals previously enrolled with the orga-
20 nization to determine the degree of
21 access of such individuals to services
22 provided by the organization and sat-
23 isfaction with the quality of such serv-
24 ices.

1 “(iii) The organization provides the
2 Secretary with descriptive information re-
3 garding the plan, sufficient to permit the
4 Secretary to determine whether the plan is
5 in compliance with the requirements of this
6 subparagraph.

7 “(B) PHYSICIAN INCENTIVE PLAN DE-
8 FINED.—In this paragraph, the term ‘physician
9 incentive plan’ means any compensation ar-
10 rangement between a Medicare Choice organiza-
11 tion and a physician or physician group that
12 may directly or indirectly have the effect of re-
13 ducing or limiting services provided with respect
14 to individuals enrolled with the organization
15 under this part.

16 “(4) EXCEPTION FOR CERTAIN FEE-FOR-SERV-
17 ICE PLANS.—The previous provisions of this sub-
18 section shall not apply in the case of a Medicare
19 Choice organization in relation to a Medicare Choice
20 product if the organization does not have agree-
21 ments between physicians and the organization for
22 the provision of benefits under the product.

23 “(g) PROVISION OF INFORMATION.—A Medicare
24 Choice organization shall provide the Secretary with such
25 information on the organization and each Medicare Choice

1 product it offers as may be required for the preparation
2 of the information booklet described in section
3 1805(d)(3)(A).

4 “(h) COORDINATED ACUTE AND LONG-TERM CARE
5 BENEFITS UNDER A MEDICARE CHOICE PRODUCT.—
6 Nothing in this part shall be construed as preventing a
7 State from coordinating benefits under its medicaid pro-
8 gram under title XIX with those provided under a Medi-
9 care Choice product in a manner that assures continuity
10 of a full-range of acute care and long-term care services
11 to poor elderly or disabled individuals eligible for benefits
12 under this title and under such program.

13 “PATIENT PROTECTION STANDARDS

14 “SEC. 1853. (a) DISCLOSURE TO ENROLLEES.—A
15 Medicare Choice organization shall disclose in clear, accu-
16 rate, and standardized form, information regarding all of
17 the following for each Medicare Choice product it offers:

18 “(1) Benefits under the Medicare Choice prod-
19 uct offered, including exclusions from coverage.

20 “(2) Rules regarding prior authorization or
21 other review requirements that could result in
22 nonpayment.

23 “(3) Potential liability for cost-sharing for out-
24 of-network services.

25 “(4) The number, mix, and distribution of par-
26 ticipating providers.

1 “(5) The financial obligations of the enrollee,
2 including premiums, deductibles, co-payments, and
3 maximum limits on out-of-pocket losses for items
4 and services (both in and out of network).

5 “(6) Statistics on enrollee satisfaction with the
6 product and organization, including rates of
7 reenrollment.

8 “(7) Enrollee rights and responsibilities, includ-
9 ing the grievance process provided under subsection
10 (f).

11 “(8) A statement that the use of the 911 emer-
12 gency telephone number is appropriate in emergency
13 situations and an explanation of what constitutes an
14 emergency situation.

15 “(9) A description of the organization’s quality
16 assurance program under subsection (d).

17 Such information shall be disclosed to each enrollee under
18 this part at the time of enrollment and at least annually
19 thereafter.

20 “(b) ACCESS TO SERVICES.—

21 “(1) IN GENERAL.—A Medicare Choice organi-
22 zation offering a Medicare Choice product may re-
23 strict the providers from whom the benefits under
24 the product are provided so long as—

1 “(A) the organization makes such benefits
2 available and accessible to each individual elect-
3 ing the product within the product service area
4 with reasonable promptness and in a manner
5 which assures continuity in the provision of
6 benefits;

7 “(B) when medically necessary the organi-
8 zation makes such benefits available and acces-
9 sible 24 hours a day and 7 days a week;

10 “(C) the product provides for reimburse-
11 ment with respect to services which are covered
12 under subparagraphs (A) and (B) and which
13 are provided to such an individual other than
14 through the organization, if—

15 “(i) the services were medically nec-
16 essary and immediately required because of
17 an unforeseen illness, injury, or condition,
18 and

19 “(ii) it was not reasonable given the
20 circumstances to obtain the services
21 through the organization; and

22 “(D) coverage is provided for emergency
23 services (as defined in paragraph (5)) without
24 regard to prior authorization or the emergency

1 care provider's contractual relationship with the
2 organization.

3 “(2) MINIMUM PAYMENT LEVELS WHERE PRO-
4 VIDING POINT-OF-SERVICE COVERAGE.—If a Medi-
5 care Choice product provides benefits for items and
6 services (not described in paragraph (1)(C)) through
7 a network of providers and also permits payment to
8 be made under the product for such items and serv-
9 ices not provided through such a network, the pay-
10 ment level under the product with respect to such
11 items and services furnished outside the network
12 shall be at least 70 percent (or, if the effective cost-
13 sharing rate is 50 percent, at least 35 percent) of
14 the lesser of—

15 “(A) the payment basis (determined with-
16 out regard to deductibles and cost-sharing) that
17 would have applied for such items and services
18 under parts A and B, or

19 “(B) the amount charged by the entity fur-
20 nishing such items and services.

21 “(3) PROTECTION OF ENROLLEES FOR CERTAIN
22 OUT-OF-NETWORK SERVICES.—

23 “(A) PARTICIPATING PROVIDERS.—In the
24 case of physicians' services or renal dialysis
25 services described in subparagraph (C) which

1 are furnished by a participating physician or
2 provider of services or renal dialysis facility to
3 an individual enrolled with a Medicare Choice
4 organization under this section, the applicable
5 participation agreement is deemed to provide
6 that the physician or provider of services or
7 renal dialysis facility will accept as payment in
8 full from the organization the amount that
9 would be payable to the physician or provider of
10 services or renal dialysis facility under part B
11 and from the individual under such part, if the
12 individual were not enrolled with such an orga-
13 nization under this part.

14 “(B) NONPARTICIPATING PROVIDERS.—In
15 the case of physicians’ services described in sub-
16 paragraph (C) which are furnished by a
17 nonparticipating physician, the limitations on
18 actual charges for such services otherwise appli-
19 cable under part B (to services furnished by in-
20 dividuals not enrolled with a Medicare Choice
21 organization under this section) shall apply in
22 the same manner as such limitations apply to
23 services furnished to individuals not enrolled
24 with such an organization.

1 “(C) SERVICES DESCRIBED.—The physi-
2 cians’ services or renal dialysis services de-
3 scribed in this subparagraph are physicians’
4 services or renal dialysis services which are fur-
5 nished to an enrollee of a Medicare Choice or-
6 ganization under this part by a physician, pro-
7 vider of services, or renal dialysis facility who is
8 not under a contract with the organization.

9 “(4) PROTECTION FOR NEEDED SERVICES.—A
10 Medicare Choice organization that provides covered
11 services through a network of providers shall provide
12 coverage of services provided by a provider that is
13 not part of the network if the service cannot be pro-
14 vided by a provider that is part of the network and
15 the organization authorized the service directly or
16 through referral by the primary care physician who
17 is designated by the organization for the individual
18 involved.

19 “(5) EMERGENCY SERVICES.—In this sub-
20 section, the term ‘emergency services’ means—

21 “(A) health care items and services fur-
22 nished in the emergency department of a hos-
23 pital, and

24 “(B) ancillary services routinely available
25 to such department,

1 to the extent they are required to evaluate and treat
2 an emergency medical condition (as defined in para-
3 graph (6)) until the condition is stabilized.

4 “(6) EMERGENCY MEDICAL CONDITION.—In
5 paragraph (5), the term ‘emergency medical condi-
6 tion’ means a medical condition, the onset of which
7 is sudden, that manifests itself by symptoms of suf-
8 ficient severity, including severe pain, that a prudent
9 layperson, who possesses an average knowledge of
10 health and medicine, could reasonably expect the ab-
11 sence of immediate medical attention to result in—

12 “(A) placing the person’s health in serious
13 jeopardy,

14 “(B) serious impairment to bodily func-
15 tions, or

16 “(C) serious dysfunction of any bodily
17 organ or part.

18 “(7) PROTECTION AGAINST BALANCE BILL-
19 ING.—The limitations on billing that apply to a pro-
20 vider (including a physician) under parts A and B
21 in the case of an individual electing the non-Medi-
22 care Choice option shall apply to an individual who
23 elects the Medicare Choice option in the case of any
24 provider that (under the Medicare Choice option)
25 may bill the enrollee directly for services.

1 “(c) CONFIDENTIALITY AND ACCURACY OF EN-
2 ROLLEE RECORDS.—Each Medicare Choice organization
3 shall establish procedures—

4 “(1) to safeguard the privacy of individually
5 identifiable enrollee information, and

6 “(2) to maintain accurate and timely medical
7 records for enrollees.

8 “(d) QUALITY ASSURANCE PROGRAM.—

9 “(1) IN GENERAL.—Each Medicare Choice or-
10 ganization must have arrangements, established in
11 accordance with regulations of the Secretary, for an
12 ongoing quality assurance program for health care
13 services it provides to such individuals.

14 “(2) ELEMENTS OF PROGRAM.—The quality as-
15 surance program shall—

16 “(A) stress health outcomes;

17 “(B) provide for the establishment of writ-
18 ten protocols for utilization review, based on
19 current standards of medical practice;

20 “(C) provide review by physicians and
21 other health care professionals of the process
22 followed in the provision of such health care
23 services;

1 “(D) monitors and evaluates high volume
2 and high risk services and the care of acute and
3 chronic conditions;

4 “(E) evaluates the continuity and coordi-
5 nation of care that enrollees receive;

6 “(F) has mechanisms to detect both under-
7 utilization and overutilization of services;

8 “(G) after identifying areas for improve-
9 ment, establishes or alters practice parameters;

10 “(H) takes action to improve quality and
11 assesses the effectiveness of such action
12 through systematic follow-up;

13 “(I) makes available information on quality
14 and outcomes measures to facilitate beneficiary
15 comparison and choice of health coverage op-
16 tions (in such form and on such quality and
17 outcomes measures as the Secretary determines
18 to be appropriate);

19 “(J) is evaluated on an ongoing basis as to
20 its effectiveness; and

21 “(K) provide for external accreditation or
22 review, by a utilization and quality control peer
23 review organization under part B of title XI or
24 other qualified independent review organization,
25 of the quality of services furnished by the orga-

1 nization meets professionally recognized stand-
2 ards of health care (including providing ade-
3 quate access of enrollees to services).

4 “(3) EXCEPTION FOR CERTAIN FEE-FOR-SERV-
5 ICE PLANS.—Paragraph (1) and subsection (c)(2)
6 shall not apply in the case of a Medicare Choice or-
7 ganization in relation to a Medicare Choice product
8 to the extent the organization provides for coverage
9 of benefits without restrictions relating to utilization
10 and without regard to whether the provider has a
11 contract or other arrangement with the plan for the
12 provision of such benefits.

13 “(4) TREATMENT OF ACCREDITATION.—The
14 Secretary shall provide that a Medicare Choice orga-
15 nization is deemed to meet the requirements of para-
16 graphs (1) and (2) of this subsection and subsection
17 (c) if the organization is accredited (and periodically
18 reaccredited) by a private organization under a proc-
19 ess that the Secretary has determined assures that
20 the organization meets standards that are no less
21 stringent than the standards established under sec-
22 tion 1856 to carry out this subsection and sub-
23 section (c).

24 “(e) COVERAGE DETERMINATIONS.—

1 “(1) DECISIONS ON NONEMERGENCY CARE.—A
2 Medicare Choice organization shall make determina-
3 tions regarding authorization requests for non-
4 emergency care on a timely basis, depending on the
5 urgency of the situation.

6 “(2) APPEALS.—

7 “(A) IN GENERAL.—Appeals from a deter-
8 mination of an organization denying coverage
9 shall be decided within 30 days of the date of
10 receipt of medical information, but not later
11 than 60 days after the date of the decision.

12 “(B) PHYSICIAN DECISION ON CERTAIN
13 APPEALS.—Appeal decisions relating to a deter-
14 mination to deny coverage based on a lack of
15 medical necessity shall be made only by a physi-
16 cian.

17 “(C) EMERGENCY CASES.—Appeals from
18 such a determination involving a life-threaten-
19 ing or emergency situation shall be decided on
20 an expedited basis.

21 “(f) GRIEVANCES AND APPEALS.—

22 “(1) GRIEVANCE MECHANISM.—Each Medicare
23 Choice organization must provide meaningful proce-
24 dures for hearing and resolving grievances between
25 the organization (including any entity or individual

1 through which the organization provides health care
2 services) and enrollees under this part.

3 “(2) APPEALS.—An enrollee with an organiza-
4 tion under this part who is dissatisfied by reason of
5 the enrollee’s failure to receive any health service to
6 which the enrollee believes the enrollee is entitled
7 and at no greater charge than the enrollee believes
8 the enrollee is required to pay is entitled, if the
9 amount in controversy is \$100 or more, to a hearing
10 before the Secretary to the same extent as is pro-
11 vided in section 205(b), and in any such hearing the
12 Secretary shall make the organization a party. If the
13 amount in controversy is \$1,000 or more, the indi-
14 vidual or organization shall, upon notifying the other
15 party, be entitled to judicial review of the Sec-
16 retary’s final decision as provided in section 205(g),
17 and both the individual and the organization shall be
18 entitled to be parties to that judicial review. In ap-
19 plying sections 205(b) and 205(g) as provided in
20 this subparagraph, and in applying section 205(l)
21 thereto, any reference therein to the Commissioner
22 of Social Security or the Social Security Administra-
23 tion shall be considered a reference to the Secretary
24 or the Department of Health and Human Services,
25 respectively.

1 “(3) COORDINATION WITH SECRETARY OF
2 LABOR.—The Secretary shall consult with the Sec-
3 retary of Labor so as to ensure that the require-
4 ments of this subsection, as they apply in the case
5 of grievances referred to in paragraph (1) to which
6 section 503 of the Employee Retirement Income Se-
7 curity Act of 1974 applies, are applied in a manner
8 consistent with the requirements of such section
9 503.

10 “(g) INFORMATION ON ADVANCE DIRECTIVES.—
11 Each Medicare Choice organization shall meet the require-
12 ment of section 1866(f) (relating to maintaining written
13 policies and procedures respecting advance directives).

14 “(h) APPROVAL OF MARKETING MATERIALS.—

15 “(1) SUBMISSION.—Each Medicare Choice or-
16 ganization may not distribute marketing materials
17 unless—

18 “(A) at least 45 days before the date of
19 distribution the organization has submitted the
20 material to the Secretary for review, and

21 “(B) the Secretary has not disapproved the
22 distribution of such material.

23 “(2) REVIEW.—The standards established
24 under section 1856 shall include guidelines for the
25 review of all such material submitted and under

1 such guidelines the Secretary shall disapprove such
2 material if the material is materially inaccurate or
3 misleading or otherwise makes a material misrepre-
4 sentation.

5 “(3) DEEMED APPROVAL (1-STOP SHOPPING).—
6 In the case of material that is submitted under para-
7 graph (1)(A) to the Secretary or a regional office of
8 the Department of Health and Human Services and
9 the Secretary or the office has not disapproved the
10 distribution of marketing materials under paragraph
11 (1)(B) with respect to a Medicare Choice product in
12 an area, the Secretary is deemed not to have dis-
13 approved such distribution in all other areas covered
14 by the product and organization.

15 “(4) PROHIBITION OF CERTAIN MARKETING
16 PRACTICES.—Each Medicare Choice organization
17 shall conform to fair marketing standards in relation
18 to Medicare Choice products offered under this part,
19 included in the standards established under section
20 1856. Such standards shall include a prohibition
21 against an organization (or agent of such an organi-
22 zation) completing any portion of any election form
23 under section 1805 on behalf of any individual.

24 “(i) ADDITIONAL STANDARDIZED INFORMATION ON
25 QUALITY, OUTCOMES, AND OTHER FACTORS.—

1 “(1) IN GENERAL.—In addition to any other in-
2 formation required to be provided under this part,
3 each Medicare Choice organization shall provide the
4 Secretary (at a time, not less frequently than annu-
5 ally, and in an electronic, standardized form and
6 manner specified by the Secretary) such information
7 as the Secretary determines to be necessary, consist-
8 ent with this part, to evaluate the performance of
9 the organization in providing benefits to enrollees.

10 “(2) INFORMATION TO BE INCLUDED.—Subject
11 to paragraph (3), information to be provided under
12 this subsection shall include at least the following:

13 “(A) Information on the characteristics of
14 enrollees that may affect their need for or use
15 of health services and the determination of risk-
16 adjusted payments under section 1855.

17 “(B) Information on the types of treat-
18 ments and outcomes of treatments with respect
19 to the clinical health, functional status, and
20 well-being of enrollees.

21 “(C) Information on health care expendi-
22 tures and the volume and prices of procedures.

23 “(D) Information on the flexibility per-
24 mitted by plans to enrollees in their selection of
25 providers.

1 “(3) SPECIAL TREATMENT.—The Secretary
2 may waive the provision of such information under
3 paragraph (2), or require such other information, as
4 the Secretary finds appropriate in the case of a
5 newly established Medicare Choice organization for
6 which such information is not available.

7 “(j) DEMONSTRATION PROJECTS.—The Secretary
8 shall provide for demonstration projects to determine the
9 effectiveness, cost, and impact of alternative methods of
10 providing comparative information about the performance
11 of Medicare Choice organizations and products and the
12 performance of medicare supplemental policies in relation
13 to such products. Such projects shall include information
14 about health care outcomes resulting from coverage under
15 different products and policies.

16 “PROVIDER-SPONSORED ORGANIZATIONS

17 “SEC. 1854. (a) PROVIDER-SPONSORED ORGANIZA-
18 TION DEFINED.—

19 “(1) IN GENERAL.—In this part, the term ‘pro-
20 vider-sponsored organization’ means a public or pri-
21 vate entity that (in accordance with standards estab-
22 lished under subsection (b)) is a provider, or group
23 of affiliated providers, that provides a substantial
24 proportion (as defined by the Secretary under such
25 standards) of the health care items and services

1 under the contract under this part directly through
2 the provider or affiliated group of providers.

3 “(2) SUBSTANTIAL PROPORTION.—In defining
4 what is a ‘substantial proportion’ for purposes of
5 paragraph (1), the Secretary—

6 “(A) shall take into account the need for
7 such an organization to assume responsibility
8 for a substantial proportion of services in order
9 to assure financial stability and the practical
10 difficulties in such an organization integrating
11 a very wide range of service providers; and

12 “(B) may vary such proportion based upon
13 relevant differences among organizations, such
14 as their location in an urban or rural area.

15 “(3) AFFILIATION.—For purposes of this sub-
16 section, a provider is ‘affiliated’ with another pro-
17 vider if, through contract, ownership, or otherwise—

18 “(A) one provider, directly or indirectly,
19 controls, is controlled by, or is under common
20 control with the other,

21 “(B) each provider is a participant in a
22 lawful combination under which each provider
23 shares, directly or indirectly, substantial finan-
24 cial risk in connection with their operations,

1 “(C) both providers are part of a con-
2 trolled group of corporations under section
3 1563 of the Internal Revenue Code of 1986, or

4 “(D) both providers are part of an affili-
5 ated service group under section 414 of such
6 Code.

7 “(4) CONTROL.—For purposes of paragraph
8 (3), control is presumed to exist if one party, di-
9 rectly or indirectly, owns, controls, or holds the
10 power to vote, or proxies for, not less than 51 per-
11 cent of the voting rights or governance rights of an-
12 other.

13 “(b) PREEMPTION OF STATE INSURANCE LICENSING
14 REQUIREMENTS.—

15 “(1) IN GENERAL.—This section supersedes
16 any State law which—

17 “(A) requires that a provider-sponsored or-
18 ganization meet requirements for insurers of
19 health services or health maintenance organiza-
20 tions doing business in the State with respect to
21 initial capitalization and establishment of finan-
22 cial reserves against insolvency, or

23 “(B) imposes requirements that would
24 have the effect of prohibiting the organization

1 from complying with the applicable require-
2 ments of this part,
3 insofar as such the law applies to individuals en-
4 rolled with the organization under this part.

5 “(2) EXCEPTION FOR IDENTICAL STAND-
6 ARDS.—Paragraph (1) shall not apply with respect
7 to any State law to the extent that such law provides
8 the application of standards that are identical to the
9 standards established for provider-sponsored organi-
10 zations under this part.

11 “(3) CONSTRUCTION.—Nothing in this sub-
12 section shall be construed as affecting the operation
13 of section 514 of the Employee Retirement Income
14 Security Act of 1974.

15 “PAYMENTS TO MEDICARE CHOICE ORGANIZATIONS

16 “SEC. 1855. (a) PAYMENTS.—

17 “(1) IN GENERAL.—Under a contract under
18 section 1858 the Secretary shall pay to each Medi-
19 care Choice organization, with respect to coverage of
20 an individual under this part in a payment area for
21 a month, an amount equal to the monthly adjusted
22 Medicare Choice capitation rate (as provided under
23 subsection (b)) with respect to that individual for
24 that area.

25 “(2) ANNUAL ANNOUNCEMENT.—The Secretary
26 shall annually determine, and shall announce (in a

1 manner intended to provide notice to interested par-
2 ties) not later than September 7 before the calendar
3 year concerned—

4 “(A) the annual Medicare Choice capita-
5 tion rate for each payment area for the year,
6 and

7 “(B) the factors to be used in adjusting
8 such rates under subsection (b) for payments
9 for months in that year.

10 “(3) ADVANCE NOTICE OF METHODOLOGICAL
11 CHANGES.—At least 45 days before making the an-
12 nouncement under paragraph (2) for a year, the
13 Secretary shall provide for notice to Medicare Choice
14 organizations of proposed changes to be made in the
15 methodology or benefit coverage assumptions from
16 the methodology and assumptions used in the pre-
17 vious announcement and shall provide such organi-
18 zations an opportunity to comment on such proposed
19 changes.

20 “(4) EXPLANATION OF ASSUMPTIONS.—In each
21 announcement made under paragraph (2) for a year,
22 the Secretary shall include an explanation of the as-
23 sumptions (including any benefit coverage assump-
24 tions) and changes in methodology used in the an-
25 nouncement in sufficient detail so that Medicare

1 Choice organizations can compute monthly adjusted
2 Medicare Choice capitation rates for classes of indi-
3 viduals located in each payment area which is in
4 whole or in part within the service area of such an
5 organization.

6 “(b) MONTHLY ADJUSTED MEDICARE CHOICE CAPI-
7 TATION RATE.—

8 “(1) IN GENERAL.—For purposes of this sec-
9 tion, the ‘monthly adjusted Medicare Choice capita-
10 tion rate’ under this subsection, for a month in a
11 year for an individual in a payment area (specified
12 under paragraph (3)) and in a class (established
13 under paragraph (4)), is $\frac{1}{12}$ of the annual Medicare
14 Choice capitation rate specified in paragraph (2) for
15 that area for the year, adjusted to reflect the actuar-
16 ial value of benefits under this title with respect to
17 individuals in such class compared to the national
18 average for individuals in all classes.

19 “(2) ANNUAL MEDICARE CHOICE CAPITATION
20 RATES.—

21 “(A) IN GENERAL.—For purposes of this
22 section, the annual Medicare Choice capitation
23 rate for a payment area for a year is equal to
24 the annual Medicare Choice capitation rate for
25 the area for the previous year (or, in the case

1 of 1996, the average annual per capita rate of
2 payment described in section 1876(a)(1)(C) for
3 the area for 1995) increased by the per capita
4 growth rate for that area and year (as deter-
5 mined under subsection (c)).

6 “(B) SPECIAL RULES FOR 1996.—

7 “(i) FLOOR AT 85 PERCENT OF NA-
8 TIONAL AVERAGE.—In no case shall the
9 annual Medicare Choice capitation rate for
10 a payment area for 1996 be less than 85
11 percent of the national average of such
12 rates for such year for all payment areas
13 (weighted to reflect the number of medi-
14 care beneficiaries in each such area).

15 “(ii) REMOVAL OF MEDICAL EDU-
16 CATION AND DISPROPORTIONATE SHARE
17 HOSPITAL PAYMENTS FROM CALCULATION
18 OF ADJUSTED AVERAGE PER CAPITA
19 COST.—In determining the annual Medi-
20 care Choice capitation rate for 1996, the
21 average annual per capita rate of payment
22 described in section 1876(a)(1)(C) for
23 1995 shall be determined as though the
24 Secretary had excluded from such rate any
25 amounts which the Secretary estimated

1 would have been payable under this title
2 during the year for—

3 “(I) payment adjustments under
4 section 1886(d)(5)(F) for hospitals
5 serving a disproportionate share of
6 low-income patients; and

7 “(II) the indirect costs of medical
8 education under section
9 1886(d)(5)(B) or for direct graduate
10 medical education costs under section
11 1886(h).

12 “(3) PAYMENT AREA DEFINED.—

13 “(A) IN GENERAL.—In this section, the
14 term ‘payment area’ means—

15 “(i) a metropolitan statistical area, or

16 “(ii) all areas of a State outside of such an
17 area.

18 “(B) SPECIAL RULE FOR ESRD BENE-
19 FICIARIES.—Such term means, in the case of
20 the population group described in paragraph
21 (5)(C), each State.

22 “(4) CLASSES.—

23 “(A) IN GENERAL.—For purposes of this
24 section, the Secretary shall define appropriate
25 classes of enrollees, consistent with paragraph

1 (5), based on age, gender, welfare status, insti-
2 tutionalization, and such other factors as the
3 Secretary determines to be appropriate, so as to
4 ensure actuarial equivalence. The Secretary
5 may add to, modify, or substitute for such
6 classes, if such changes will improve the deter-
7 mination of actuarial equivalence.

8 “(B) RESEARCH.—The Secretary shall
9 conduct such research as may be necessary to
10 provide for greater accuracy in the adjustment
11 of capitation rates under this subsection. Such
12 research may include research into the addition
13 or modification of classes under subparagraph
14 (A). The Secretary shall submit to Congress a
15 report on such research by not later than Janu-
16 ary 1, 1997.

17 “(5) DIVISION OF MEDICARE POPULATION.—In
18 carrying out paragraph (4) and this section, the Sec-
19 retary shall recognize the following separate popu-
20 lation groups:

21 “(A) AGED.—Individuals 65 years of age
22 or older who are not described in subparagraph
23 (C).

1 “(B) DISABLED.—Disabled individuals
2 who are under 65 years of age and not de-
3 scribed in subparagraph (C).

4 “(C) INDIVIDUALS WITH END STAGE
5 RENAL DISEASE.—Individuals who are deter-
6 mined to have end stage renal disease.

7 “(c) PER CAPITA GROWTH RATES.—

8 “(1) FOR 1996.—

9 “(A) IN GENERAL.—For purposes of this
10 section and subject to subparagraph (B), the
11 per capita growth rates for 1996, for a payment
12 area assigned to a service utilization cohort
13 under subsection (d), shall be the following:

14 “(i) BELOW AVERAGE SERVICE UTILI-
15 ZATION COHORT.—For areas assigned to
16 the below average service utilization cohort,
17 9.6 percent.

18 “(ii) ABOVE AVERAGE SERVICE UTILI-
19 ZATION COHORT.—For areas assigned to
20 the above average service utilization co-
21 hort, 4.8 percent.

22 “(iii) HIGHEST SERVICE UTILIZATION
23 COHORT.—For areas assigned to the high-
24 est service utilization cohort, 2.1 percent.

1 “(B) BUDGET NEUTRAL ADJUSTMENT.—
2 The Secretary shall adjust the per capita
3 growth rates specified in subparagraph (A) for
4 all the areas by such uniform factor as may be
5 necessary to assure that the total capitation
6 payments under this section during 1996 are
7 the same as the amount such payments would
8 have been if the per capita growth rate for all
9 such areas for 1996 were equal to the national
10 average per capita growth rate, specified in
11 paragraph (3) for 1996.

12 “(2) FOR SUBSEQUENT YEARS.—

13 “(A) IN GENERAL.—For purposes of this
14 section and subject to subparagraph (B), the
15 Secretary shall compute a per capita growth
16 rate for each year after 1996, for each payment
17 area as assigned to a service utilization cohort
18 under subsection (d), consistent with the follow-
19 ing rules:

20 “(i) BELOW AVERAGE SERVICE UTILI-
21 ZATION COHORT SET AT 143 PERCENT OF
22 NATIONAL AVERAGE PER CAPITA GROWTH
23 RATE.—The per capita growth rate for
24 areas assigned to the below average service
25 utilization cohort for the year shall be 160

1 percent of the national average per capita
2 growth rate for the year (as specified
3 under paragraph (3)).

4 “(ii) ABOVE AVERAGE SERVICE UTILI-
5 ZATION COHORT SET AT 80 PERCENT OF
6 NATIONAL AVERAGE PER CAPITA GROWTH
7 RATE.—The per capita growth rate for
8 areas assigned to the above average service
9 utilization cohort for the year shall be 80
10 percent of the national average per capita
11 growth rate for the year.

12 “(iii) HIGHEST SERVICE UTILIZATION
13 COHORT SET AT 40 PERCENT OF NATIONAL
14 AVERAGE PER CAPITA GROWTH RATE.—
15 The per capita growth rate for areas as-
16 signed to the highest service utilization co-
17 hort for the year shall be 35 percent of the
18 national average per capita growth rate for
19 the year.

20 “(B) AVERAGE PER CAPITA GROWTH RATE
21 AT NATIONAL AVERAGE TO ASSURE BUDGET
22 NEUTRALITY.—The Secretary shall compute per
23 capita growth rates for a year under subpara-
24 graph (A) in a manner so that the weighted av-
25 erage per capita growth rate for all areas for

1 the year (weighted to reflect the number of
2 medicare beneficiaries in each area) is equal to
3 the national average per capita growth rate
4 under paragraph (3) for the year.

5 “(3) NATIONAL AVERAGE PER CAPITA GROWTH
6 RATES.—In this subsection, the ‘national average
7 per capita growth rate’ for—

8 “(A) 1996 is 6.0 percent,

9 “(B) 1997 is 6.0 percent,

10 “(C) 1998 is 6.0 percent,

11 “(D) 1999 is 5.5 percent,

12 “(E) 2000 is 5.5 percent,

13 “(F) 2001 is 5.5 percent,

14 “(G) 2002 is 5.5 percent, and

15 “(H) each subsequent year is 5.5 percent.

16 “(d) ASSIGNMENT OF PAYMENT AREAS TO SERVICE
17 UTILIZATION COHORTS.—

18 “(1) IN GENERAL.—For purposes of determin-
19 ing per capita growth rates under subsection (c) for
20 areas for a year, the Secretary shall assign each pay-
21 ment area to a service utilization cohort (based on
22 the service utilization index value for that area de-
23 termined under paragraph (2)) as follows:

24 “(A) BELOW AVERAGE SERVICE UTILIZA-
25 TION COHORT.—Areas with a service utilization

1 index value of less than 1.00 shall be assigned
2 to the below average service utilization cohort.

3 “(B) ABOVE AVERAGE SERVICE UTILIZA-
4 TION COHORT.—Areas with a service utilization
5 index value of at least 1.00 but less than 1.20
6 shall be assigned to the above average service
7 utilization cohort.

8 “(C) HIGHEST SERVICE UTILIZATION CO-
9 HORT.—Areas with a service utilization index
10 value of at least 1.20 shall be assigned to the
11 highest service utilization cohort.

12 “(2) DETERMINATION OF SERVICE UTILIZATION
13 INDEX VALUES.—In order to determine the per cap-
14 ita growth rate for a payment area for each year
15 (beginning with 1996), the Secretary shall determine
16 for such area and year a service utilization index
17 value, which is equal to—

18 “(A) the annual Medicare Choice capita-
19 tion rate under this section for the area for the
20 year in which the determination is made (or, in
21 the case of 1996, the average annual per capita
22 rate of payment (described in section
23 1876(a)(1)(C)) for the area for 1995); divided
24 by

1 “(B) the input-price-adjusted annual na-
2 tional Medicare Choice capitation rate (as de-
3 termined under paragraph (3)) for that area for
4 the year in which the determination is made.

5 “(3) DETERMINATION OF INPUT-PRICE-AD-
6 JUSTED RATES.—

7 “(A) IN GENERAL.—For purposes of para-
8 graph (2), the ‘input-price-adjusted annual na-
9 tional Medicare Choice capitation rate’ for a
10 payment area for a year is equal to the sum,
11 for all the types of medicare services (as classi-
12 fied by the Secretary), of the product (for each
13 such type) of—

14 “(i) the national standardized Medi-
15 care Choice capitation rate (determined
16 under subparagraph (B)) for the year,

17 “(ii) the proportion of such rate for
18 the year which is attributable to such type
19 of services, and

20 “(iii) an index that reflects (for that
21 year and that type of services) the relative
22 input price of such services in the area
23 compared to the national average input
24 price of such services.

1 In applying clause (iii), the Secretary shall, sub-
2 ject to subparagraph (C), apply those indices
3 under this title that are used in applying (or
4 updating) national payment rates for specific
5 areas and localities.

6 “(B) NATIONAL STANDARDIZED MEDICARE
7 CHOICE CAPITATION RATE.—In this paragraph,
8 the ‘national standardized Medicare Choice
9 capitation rate’ for a year is equal to—

10 “(i) the sum (for all payment areas)
11 of the product of (I) the annual Medicare
12 Choice capitation rate for that year for the
13 area under subsection (b)(2), and (II) the
14 average number of medicare beneficiaries
15 residing in that area in the year; divided
16 by

17 “(ii) the total average number of med-
18 icare beneficiaries residing in all the pay-
19 ment areas for that year.

20 “(C) SPECIAL RULES FOR 1996.—In apply-
21 ing this paragraph for 1996—

22 “(i) medicare services shall be divided
23 into 2 types of services: part A services
24 and part B services;

1 “(ii) the proportions described in sub-
2 paragraph (A)(ii) for such types of services
3 shall be—

4 “(I) for part A services, the ratio
5 (expressed as a percentage) of the av-
6 erage annual per capita rate of pay-
7 ment for the area for part A for 1995
8 to the total average annual per capita
9 rate of payment for the area for parts
10 A and B for 1995, and

11 “(II) for part B services, 100
12 percent minus the ratio described in
13 subclause (I);

14 “(iii) for the part A services, 70 per-
15 cent of payments attributable to such serv-
16 ices shall be adjusted by the index used
17 under section 1886(d)(3)(E) to adjust pay-
18 ment rates for relative hospital wage levels
19 for hospitals located in the payment area
20 involved;

21 “(iv) for part B services—

22 “(I) 66 percent of payments at-
23 tributable to such services shall be ad-
24 justed by the index of the geographic
25 area factors under section 1848(e)

1 used to adjust payment rates for phy-
2 sicians' services furnished in the pay-
3 ment area, and

4 “(II) of the remaining 34 percent
5 of the amount of such payments, 70
6 percent shall be adjusted by the index
7 described in clause (iii);

8 “(v) the index values shall be com-
9 puted based only on the beneficiary popu-
10 lation described in subsection (b)(5)(A).

11 The Secretary may continue to apply the rules
12 described in this subparagraph (or similar
13 rules) for 1997.

14 “(e) PAYMENT PROCESS.—

15 “(1) IN GENERAL.—Subject to section 1859(f),
16 the Secretary shall make monthly payments under
17 this section in advance and in accordance with the
18 rate determined under subsection (a) to the plan for
19 each individual enrolled with a Medicare Choice or-
20 ganization under this part.

21 “(2) ADJUSTMENT TO REFLECT NUMBER OF
22 ENROLLEES.—

23 “(A) IN GENERAL.—The amount of pay-
24 ment under this subsection may be retroactively
25 adjusted to take into account any difference be-

1 tween the actual number of individuals enrolled
2 with an organization under this part and the
3 number of such individuals estimated to be so
4 enrolled in determining the amount of the ad-
5 vance payment.

6 “(B) SPECIAL RULE FOR CERTAIN EN-
7 ROLLEES.—

8 “(i) IN GENERAL.—Subject to clause
9 (ii), the Secretary may make retroactive
10 adjustments under subparagraph (A) to
11 take into account individuals enrolled dur-
12 ing the period beginning on the date on
13 which the individual enrolls with a Medi-
14 care Choice organization under a product
15 operated, sponsored, or contributed to by
16 the individual’s employer or former em-
17 ployer (or the employer or former employer
18 of the individual’s spouse) and ending on
19 the date on which the individual is enrolled
20 in the organization under this part, except
21 that for purposes of making such retro-
22 active adjustments under this subpara-
23 graph, such period may not exceed 90
24 days.

1 “(ii) EXCEPTION.—No adjustment
2 may be made under clause (i) with respect
3 to any individual who does not certify that
4 the organization provided the individual
5 with the disclosure statement described in
6 section 1853(a) at the time the individual
7 enrolled with the organization.

8 “(f) PAYMENTS FROM TRUST FUND.—The payment
9 to a Medicare Choice organization under this section for
10 individuals enrolled under this part with the organization,
11 and payments to a Medicare Choice MSA under subsection
12 (f)(1)(B), shall be made from the Federal Hospital Insur-
13 ance Trust Fund and the Federal Supplementary Medical
14 Insurance Trust Fund in such proportion as the Secretary
15 determines reflects the relative weight that benefits under
16 part A and under part B represents of the actuarial value
17 of the total benefits under this title.

18 “(g) SPECIAL RULE FOR CERTAIN INPATIENT HOS-
19 PITAL STAYS.—In the case of an individual who is receiv-
20 ing inpatient hospital services from a subsection (d) hos-
21 pital (as defined in section 1886(d)(1)(B)) as of the effec-
22 tive date of the individual’s—

23 “(1) election under this part of a Medicare
24 Choice product offered by a Medicare Choice organi-
25 zation—

1 “(A) payment for such services until the
2 date of the individual’s discharge shall be made
3 under this title through the Medicare Choice
4 product or Non-Medicare Choice option (as the
5 case may be) elected before the election with
6 such organization,

7 “(B) the elected organization shall not be
8 financially responsible for payment for such
9 services until the date after the date of the indi-
10 vidual’s discharge, and

11 “(C) the organization shall nonetheless be
12 paid the full amount otherwise payable to the
13 organization under this part; or

14 “(2) termination of election with respect to a
15 Medicare Choice organization under this part—

16 “(A) the organization shall be financially
17 responsible for payment for such services after
18 such date and until the date of the individual’s
19 discharge,

20 “(B) payment for such services during the
21 stay shall not be made under section 1886(d) or
22 by any succeeding Medicare Choice organiza-
23 tion, and

24 “(C) the terminated organization shall not
25 receive any payment with respect to the individ-

1 ual under this part during the period the indi-
2 vidual is not enrolled.

3 “ESTABLISHMENT OF STANDARDS FOR MEDICARE
4 CHOICE ORGANIZATIONS AND PRODUCTS

5 “SEC. 1856. (a) INTERIM STANDARDS.—

6 “(1) IN GENERAL.—The Secretary shall issue
7 regulations regarding standards for Medicare Choice
8 organizations and products within 180 days after
9 the date of the enactment of this section. Such regu-
10 lations shall be issued on an interim basis, but shall
11 become effective upon publication and shall be effec-
12 tive through the end of 1999.

13 “(2) SOLICITATION OF VIEWS.—In developing
14 standards under this subsection relating to solvency
15 of Medicare Choice organizations, the Secretary shall
16 solicit the views of the American Academy of Actu-
17 aries.

18 “(3) EFFECT ON STATE REGULATIONS.—Regu-
19 lations under this subsection shall not preempt State
20 regulations for Medicare Choice organizations for
21 products not offered under this part.

22 “(b) PERMANENT STANDARDS.—

23 “(1) IN GENERAL.—The Secretary shall develop
24 permanent standards under this subsection.

25 “(2) CONSULTATION.—In developing standards
26 under this subsection, the Secretary shall consult

1 with the National Association of Insurance Commis-
2 sioners, associations representing the various types
3 of Medicare Choice organizations, and medicare
4 beneficiaries.

5 “(3) EFFECTIVENESS.—The standards under
6 this subsection shall take effect for periods begin-
7 ning on or after January 1, 2000.

8 “(c) SOLVENCY.—In establishing interim and perma-
9 nent standards under this section relating to solvency of
10 organizations, the Secretary shall recognize the multiple
11 means of demonstrating solvency, including—

12 “(1) reinsurance purchased through a recog-
13 nized commerce company or through a captive com-
14 pany owned directly or indirectly by 3 or more pro-
15 vider-sponsored organizations,

16 “(2) unrestricted surplus,

17 “(3) guarantees, and

18 “(4) letters of credit.

19 In such standards, the Secretary may treat as admitted
20 assets the assets used by a provider-sponsored organiza-
21 tion in delivering covered services.

22 “(d) APPLICATION OF NEW STANDARDS TO ENTI-
23 TIES WITH A CONTRACT.—In the case of a Medicare
24 Choice organization with a contract in effect under this
25 part at the time standards applicable to the organization

1 under this section are changed, the organization may elect
2 not to have such changes apply to the organization until
3 the end of the current contract year (or, if there is less
4 than 6 months remaining in the contract year, until 1 year
5 after the end of the current contract year).

6 “(e) RELATION TO STATE LAWS.—The standards es-
7 tablished under this section shall supersede any State law.
8 The standard or regulation with respect to Medicare
9 Choice products which are offered by Medicare Choice or-
10 ganizations and are issued by organizations to which sec-
11 tion 1851(b)(1) applies, to the extent such law or regula-
12 tion is inconsistent with such standards.

13 “MEDICARE CHOICE CERTIFICATION

14 “SEC. 1857. (a) IN GENERAL.—

15 “(1) ESTABLISHMENT.—The Secretary shall es-
16 tablish a process for the certification of organiza-
17 tions and products offered by organizations as meet-
18 ing the applicable standards for Medicare Choice or-
19 ganizations and Medicare Choice products estab-
20 lished under section 1856.

21 “(2) INVOLVEMENT OF SECRETARY OF
22 LABOR.—Such process shall be established and oper-
23 ated in cooperation with the Secretary of Labor with
24 respect to union sponsors and Taft-Hartley spon-
25 sors.

1 “(3) USE OF PRIVATE ACCREDITATION PROC-
2 ESSES.—

3 “(A) IN GENERAL.—The process under
4 this subsection shall, to the maximum extent
5 practicable, provide that Medicare Choice orga-
6 nizations and products that are licensed or cer-
7 tified through a qualified private accreditation
8 process that the Secretary finds applies stand-
9 ards that are no less stringent than the require-
10 ments of this part are deemed to meet the cor-
11 responding requirements of this part for such
12 an organization or product.

13 “(B) PERIODIC ACCREDITATION.—The use
14 of an accreditation under subparagraph (A)
15 shall be valid only for such period as the Sec-
16 retary specifies.

17 “(4) USER FEES.—The Secretary may impose
18 user fees on entities seeking certification under this
19 subsection in such amounts as the Secretary deems
20 sufficient to finance the costs of such certification.

21 “(b) NOTICE TO ENROLLEES IN CASE OF DECERTI-
22 FICATION.—If a Medicare Choice organization or product
23 is decertified under this section, the organization shall no-
24 tify each enrollee with the organization and product under
25 this part of such decertification.

1 “(c) QUALIFIED ASSOCIATIONS.—In the case of Med-
2 icare Choice products offered by a Medicare Choice orga-
3 nization that is a qualified association (as defined in sec-
4 tion 1854(c)(4)(C)) and issued by an organization to
5 which section 1851(b)(1) applies or by a provider-spon-
6 sored organization (as defined in section 1854(a)), nothing
7 in this section shall be construed as limiting the authority
8 of States to regulate such products.

9 “CONTRACTS WITH MEDICARE CHOICE ORGANIZATIONS

10 “SEC. 1858. (a) IN GENERAL.—The Secretary shall
11 not permit the election under section 1805 of a Medicare
12 Choice product offered by a Medicare Choice organization
13 under this part, and no payment shall be made under sec-
14 tion 1856 to an organization, unless the Secretary has en-
15 tered into a contract under this section with an organiza-
16 tion with respect to the offering of such product. Such
17 a contract with an organization may cover more than one
18 Medicare Choice product. Such contract shall provide that
19 the organization agrees to comply with the applicable re-
20 quirements and standards of this part and the terms and
21 conditions of payment as provided for in this part.

22 “(b) ENROLLMENT REQUIREMENTS.—

23 “(1)(A) MINIMUM ENROLLMENT REQUIRE-
24 MENT.—Subject to subparagraphs (B) and (C), the
25 Secretary may not enter into a contract under this
26 section with a Medicare Choice organization (other

1 than a union sponsor or Taft-Hartley sponsor) un-
2 less the organization has at least 5,000 individuals
3 (or 1,500 individuals in the case of an organization
4 that is a provider-sponsored organization) who are
5 receiving health benefits through the organization,
6 except that the standards under section 1856 may
7 permit the organization to have a lesser number of
8 beneficiaries (but not less than 500 in the case of
9 an organization that is a provider-sponsored organi-
10 zation) if the organization primarily serves individ-
11 uals residing outside of urbanized areas.

12 “(B) ALLOWING TRANSITION.—The Secretary
13 may waive the requirement of subparagraph (A)
14 during the first 3 contract years with respect to an
15 organization.

16 “(C) TREATMENT OF AREAS WITH LOW MAN-
17 AGED CARE PENETRATION.—The Secretary may
18 waive the requirement of subparagraph (A) in the
19 case of organizations operating in areas in which
20 there is a low proportion of medicare beneficiaries
21 who have made the Medicare Choice election.

22 “(2) REQUIREMENT FOR ENROLLMENT OF
23 NON-MEDICARE BENEFICIARIES.—

24 “(A) IN GENERAL.—Each Medicare Choice
25 organization with which the Secretary enters

1 into a contract under this section shall have, for
2 the duration of such contract, an enrolled mem-
3 bership at least one-half of which consists of in-
4 dividuals who are not entitled to benefits under
5 this title or under a State plan approved under
6 title XIX.

7 “(B) EXCEPTION.—Subparagraph (A)
8 shall not apply to—

9 “(i) an organization that has been
10 certified by a national organization recog-
11 nized by the Secretary and has been found
12 to have met performance standards estab-
13 lished by the Secretary for at least 2 years,
14 or

15 “(ii) a provider-sponsored organiza-
16 tion for which commercial payments to
17 providers participating in the organization
18 exceed the payments to the organization
19 under this part.

20 “(C) MODIFICATION AND WAIVER.—The
21 Secretary may modify or waive the requirement
22 imposed by subparagraph (A)—

23 “(i) to the extent that more than 50
24 percent of the population of the area
25 served by the organization consists of indi-

1 individuals who are entitled to benefits under
2 this title or under a State plan approved
3 under title XIX, or

4 “(ii) in the case of an organization
5 that is owned and operated by a govern-
6 mental entity, only with respect to a period
7 of three years beginning on the date the
8 organization first enters into a contract
9 under this section, and only if the organi-
10 zation has taken and is making reasonable
11 efforts to enroll individuals who are not en-
12 titled to benefits under this title or under
13 a State plan approved under title XIX.

14 “(D) ENFORCEMENT.—If the Secretary
15 determines that an organization has failed to
16 comply with the requirements of this para-
17 graph, the Secretary may provide for the sus-
18 pension of enrollment of individuals under this
19 part or of payment to the organization under
20 this part for individuals newly enrolled with the
21 organization, after the date the Secretary noti-
22 fies the organization of such noncompliance.

23 “(c) CONTRACT PERIOD AND EFFECTIVENESS.—

24 “(1) PERIOD.—Each contract under this sec-
25 tion shall be for a term of at least one year, as de-

1 terminated by the Secretary, and may be made auto-
2 matically renewable from term to term in the ab-
3 sence of notice by either party of intention to termi-
4 nate at the end of the current term.

5 “(2) TERMINATION AUTHORITY.—In accord-
6 ance with procedures established under subsection
7 (h), the Secretary may at any time terminate any
8 such contract or may impose the intermediate sanc-
9 tions described in an applicable paragraph of sub-
10 section (g) on the Medicare Choice organization if
11 the Secretary determines that the organization—

12 “(A) has failed substantially to carry out
13 the contract;

14 “(B) is carrying out the contract in a man-
15 ner inconsistent with the efficient and effective
16 administration of this part;

17 “(C) is operating in a manner that is not
18 in the best interests of the individuals covered
19 under the contract; or

20 “(D) no longer substantially meets the ap-
21 plicable conditions of this part.

22 “(3) EFFECTIVE DATE OF CONTRACTS.—The
23 effective date of any contract executed pursuant to
24 this section shall be specified in the contract.

1 “(4) PREVIOUS TERMINATIONS.—The Secretary
2 may not enter into a contract with a Medicare
3 Choice organization if a previous contract with that
4 organization under this section was terminated at
5 the request of the organization within the preceding
6 five-year period, except in circumstances which war-
7 rant special consideration, as determined by the Sec-
8 retary.

9 “(5) NO CONTRACTING AUTHORITY.—The au-
10 thority vested in the Secretary by this part may be
11 performed without regard to such provisions of law
12 or regulations relating to the making, performance,
13 amendment, or modification of contracts of the
14 United States as the Secretary may determine to be
15 inconsistent with the furtherance of the purpose of
16 this title.

17 “(d) PROTECTIONS AGAINST FRAUD AND BENE-
18 FICIARY PROTECTIONS.—

19 “(1) INSPECTION AND AUDIT.—Each contract
20 under this section shall provide that the Secretary,
21 or any person or organization designated by the Sec-
22 retary—

23 “(A) shall have the right to inspect or oth-
24 erwise evaluate (i) the quality, appropriateness,
25 and timeliness of services performed under the

1 contract and (ii) the facilities of the organiza-
2 tion when there is reasonable evidence of some
3 need for such inspection, and

4 “(B) shall have the right to audit and in-
5 spect any books and records of the Medicare
6 Choice organization that pertain (i) to the abil-
7 ity of the organization to bear the risk of poten-
8 tial financial losses, or (ii) to services performed
9 or determinations of amounts payable under the
10 contract.

11 “(2) ENROLLEE NOTICE AT TIME OF TERMI-
12 NATION.—Each contract under this section shall re-
13 quire the organization to provide (and pay for) writ-
14 ten notice in advance of the contract’s termination,
15 as well as a description of alternatives for obtaining
16 benefits under this title, to each individual enrolled
17 with the organization under this part.

18 “(3) DISCLOSURE.—

19 “(A) IN GENERAL.—Each Medicare Choice
20 organization shall, in accordance with regula-
21 tions of the Secretary, report to the Secretary
22 financial information which shall include the
23 following:

1 “(i) Such information as the Sec-
2 retary may require demonstrating that the
3 organization has a fiscally sound operation.

4 “(ii) A copy of the report, if any, filed
5 with the Health Care Financing Adminis-
6 tration containing the information required
7 to be reported under section 1124 by dis-
8 closing entities.

9 “(iii) A description of transactions, as
10 specified by the Secretary, between the or-
11 ganization and a party in interest. Such
12 transactions shall include—

13 “(I) any sale or exchange, or
14 leasing of any property between the
15 organization and a party in interest;

16 “(II) any furnishing for consider-
17 ation of goods, services (including
18 management services), or facilities be-
19 tween the organization and a party in
20 interest, but not including salaries
21 paid to employees for services pro-
22 vided in the normal course of their
23 employment and health services pro-
24 vided to members by hospitals and
25 other providers and by staff, medical

1 group (or groups), individual practice
2 association (or associations), or any
3 combination thereof; and

4 “(III) any lending of money or
5 other extension of credit between an
6 organization and a party in interest.

7 The Secretary may require that information re-
8 ported respecting an organization which con-
9 trols, is controlled by, or is under common con-
10 trol with, another entity be in the form of a
11 consolidated financial statement for the organi-
12 zation and such entity.

13 “(B) PARTY IN INTEREST DEFINED.—For
14 the purposes of this paragraph, the term ‘party
15 in interest’ means—

16 “(i) any director, officer, partner, or
17 employee responsible for management or
18 administration of a Medicare Choice orga-
19 nization, any person who is directly or in-
20 directly the beneficial owner of more than
21 5 percent of the equity of the organization,
22 any person who is the beneficial owner of
23 a mortgage, deed of trust, note, or other
24 interest secured by, and valuing more than
25 5 percent of the organization, and, in the

1 case of a Medicare Choice organization or-
2 ganized as a nonprofit corporation, an in-
3 corporator or member of such corporation
4 under applicable State corporation law;

5 “(ii) any entity in which a person de-
6 scribed in clause (i)—

7 “(I) is an officer or director;

8 “(II) is a partner (if such entity
9 is organized as a partnership);

10 “(III) has directly or indirectly a
11 beneficial interest of more than 5 per-
12 cent of the equity; or

13 “(IV) has a mortgage, deed of
14 trust, note, or other interest valuing
15 more than 5 percent of the assets of
16 such entity;

17 “(iii) any person directly or indirectly
18 controlling, controlled by, or under com-
19 mon control with an organization; and

20 “(iv) any spouse, child, or parent of
21 an individual described in clause (i).

22 “(C) ACCESS TO INFORMATION.—Each
23 Medicare Choice organization shall make the in-
24 formation reported pursuant to subparagraph

1 (A) available to its enrollees upon reasonable
2 request.

3 “(4) LOAN INFORMATION.—The contract shall
4 require the organization to notify the Secretary of
5 loans and other special financial arrangements which
6 are made between the organization and subcontractors,
7 affiliates, and related parties.

8 “(f) ADDITIONAL CONTRACT TERMS.—The contract
9 shall contain such other terms and conditions not incon-
10 sistent with this part (including requiring the organization
11 to provide the Secretary with such information) as the
12 Secretary may find necessary and appropriate.

13 “(g) INTERMEDIATE SANCTIONS.—

14 “(1) IN GENERAL.—If the Secretary determines
15 that a Medicare Choice organization with a contract
16 under this section—

17 “(A) fails substantially to provide medi-
18 cally necessary items and services that are re-
19 quired (under law or under the contract) to be
20 provided to an individual covered under the con-
21 tract, if the failure has adversely affected (or
22 has substantial likelihood of adversely affecting)
23 the individual;

1 “(B) imposes premiums on individuals en-
2 rolled under this part in excess of the premiums
3 permitted;

4 “(C) acts to expel or to refuse to re-enroll
5 an individual in violation of the provisions of
6 this part;

7 “(D) engages in any practice that would
8 reasonably be expected to have the effect of de-
9 nying or discouraging enrollment (except as
10 permitted by this part) by eligible individuals
11 with the organization whose medical condition
12 or history indicates a need for substantial fu-
13 ture medical services;

14 “(E) misrepresents or falsifies information
15 that is furnished—

16 “(i) to the Secretary under this part,
17 or

18 “(ii) to an individual or to any other
19 entity under this part;

20 “(F) fails to comply with the requirements
21 of section 1852(f)(3); or

22 “(G) employs or contracts with any indi-
23 vidual or entity that is excluded from participa-
24 tion under this title under section 1128 or
25 1128A for the provision of health care, utiliza-

1 tion review, medical social work, or administra-
2 tive services or employs or contracts with any
3 entity for the provision (directly or indirectly)
4 through such an excluded individual or entity of
5 such services;

6 the Secretary may provide, in addition to any other
7 remedies authorized by law, for any of the remedies
8 described in paragraph (2).

9 “(2) REMEDIES.—The remedies described in
10 this paragraph are—

11 “(A) civil money penalties of not more
12 than \$25,000 for each determination under
13 paragraph (1) or, with respect to a determina-
14 tion under subparagraph (D) or (E)(i) of such
15 paragraph, of not more than \$100,000 for each
16 such determination, plus, with respect to a de-
17 termination under paragraph (1)(B), double the
18 excess amount charged in violation of such
19 paragraph (and the excess amount charged
20 shall be deducted from the penalty and returned
21 to the individual concerned), and plus, with re-
22 spect to a determination under paragraph
23 (1)(D), \$15,000 for each individual not enrolled
24 as a result of the practice involved,

1 “(B) suspension of enrollment of individ-
2 uals under this part after the date the Sec-
3 retary notifies the organization of a determina-
4 tion under paragraph (1) and until the Sec-
5 retary is satisfied that the basis for such deter-
6 mination has been corrected and is not likely to
7 recur, or

8 “(C) suspension of payment to the organi-
9 zation under this part for individuals enrolled
10 after the date the Secretary notifies the organi-
11 zation of a determination under paragraph (1)
12 and until the Secretary is satisfied that the
13 basis for such determination has been corrected
14 and is not likely to recur.

15 “(3) OTHER INTERMEDIATE SANCTIONS.—In
16 the case of a Medicare Choice organization for which
17 the Secretary makes a determination under sub-
18 section (c)(2) the basis of which is not described in
19 paragraph (1), the Secretary may apply the follow-
20 ing intermediate sanctions:

21 “(A) civil money penalties of not more
22 than \$25,000 for each determination under
23 subsection (c)(2) if the deficiency that is the
24 basis of the determination has directly adversely
25 affected (or has the substantial likelihood of ad-

1 versely affecting) an individual covered under
2 the organization's contract;

3 “(B) civil money penalties of not more
4 than \$10,000 for each week beginning after the
5 initiation of procedures by the Secretary under
6 subsection (h) during which the deficiency that
7 is the basis of a determination under subsection
8 (c)(2) exists; and

9 “(C) suspension of enrollment of individ-
10 uals under this part after the date the Sec-
11 retary notifies the organization of a determina-
12 tion under subsection (c)(2) and until the Sec-
13 retary is satisfied that the deficiency that is the
14 basis for the determination has been corrected
15 and is not likely to recur.

16 “(4) PROCEDURES FOR IMPOSING SANC-
17 TIONS.—The provisions of section 1128A (other
18 than subsections (a) and (b)) shall apply to a civil
19 money penalty under paragraph (1) or (2) in the
20 same manner as they apply to a civil money penalty
21 or proceeding under section 1128A(a).

22 “(h) PROCEDURES FOR IMPOSING SANCTIONS.—The
23 Secretary may terminate a contract with a Medicare
24 Choice organization under this section or may impose the
25 intermediate sanctions described in subsection (g) on the

1 organization in accordance with formal investigation and
2 compliance procedures established by the Secretary under
3 which—

4 “(1) the Secretary provides the organization
5 with the opportunity to develop and implement a
6 corrective action plan to correct the deficiencies that
7 were the basis of the Secretary’s determination
8 under subsection (c)(2);

9 “(2) the Secretary shall impose more severe
10 sanctions on organizations that have a history of de-
11 ficiencies or that have not taken steps to correct de-
12 ficiencies the Secretary has brought to their atten-
13 tion;

14 “(3) there are no unreasonable or unnecessary
15 delays between the finding of a deficiency and the
16 imposition of sanctions; and

17 “(4) the Secretary provides the organization
18 with reasonable notice and opportunity for hearing
19 (including the right to appeal an initial decision) be-
20 fore imposing any sanction or terminating the con-
21 tract.

22 “DEMONSTRATION PROJECT FOR HIGH DEDUCTIBLE/
23 MEDISAVE PRODUCTS

24 “SEC. 1859. (a) PERMITTING DEMONSTRATION
25 PROJECTS.—

1 “(1) IN GENERAL.—The Secretary shall permit,
2 on a demonstration project basis, the offering of
3 high deductible/medisave products under this part,
4 subject to the special rules provided under this sec-
5 tion.

6 “(2) LIMITATION ON NUMBER AND DURATION
7 OF PROJECTS.—The Secretary shall not permit
8 under this section the offering of more than 10 dem-
9 onstration projects and each such project shall not
10 exceed 7 years in duration.

11 “(b) HIGH DEDUCTIBLE/MEDISAVE PRODUCT DE-
12 FINED.—

13 “(1) IN GENERAL.—In this part, the term ‘high
14 deductible/medisave product’ means a Medicare
15 Choice product that—

16 “(A) provides reimbursement for at least
17 the items and services described in section
18 1852(a)(1) in a year but only after the enrollee
19 incurs countable expenses (as specified under
20 the product) equal to the amount of a deduct-
21 ible (described in paragraph (2));

22 “(B) counts as such expenses (for purposes
23 of such deductible) at least all amounts that
24 would have been payable under parts A and B
25 or by the enrollee if the enrollee had elected to

1 receive benefits through the provisions of such
2 parts; and

3 “(C) provides, after such deductible is met
4 for a year and for all subsequent expenses for
5 benefits referred to in subparagraph (A) in the
6 year, for a level of reimbursement that is not
7 less than—

8 “(i) 100 percent of such expenses, or

9 “(ii) 100 percent of the amounts that
10 would have been paid (without regard to
11 any deductibles or coinsurance) under
12 parts A and B with respect to such ex-
13 penses,

14 whichever is less. Such term does not include
15 the Medicare Choice MSA itself or any con-
16 tribution into such account.

17 “(2) DEDUCTIBLE.—The amount of deductible
18 under a high deductible/medisave product—

19 “(A) for contract year 1997 shall be not
20 more than \$10,000; and

21 “(B) for a subsequent contract year shall
22 be not more than the maximum amount of such
23 deductible for the previous contract year under
24 this paragraph increased by the national aver-

1 age per capita growth rate under section
2 1855(c)(3) for the year.

3 If the amount of the deductible under subparagraph
4 (B) is not a multiple of \$50, the amount shall be
5 rounded to the nearest multiple of \$50.

6 “(c) SPECIAL RULES RELATING TO ENROLLMENT.—
7 The rule under section 1805 relating to election of medi-
8 care choice products shall apply to election of high deduct-
9 ible/medisave products offered under the demonstration
10 project under this section, except as follows:

11 “(1) SPECIAL RULE FOR CERTAIN ANNU-
12 ITANTS.—An individual is not eligible to elect a high
13 deductible/medisave product under section 1805 if
14 the individual is entitled to benefits under chapter
15 89 of title 5, United States Code, as an annuitant
16 or spouse of an annuitant.

17 “(2) TRANSITION PERIOD RULE.—During the
18 transition period (as defined in section
19 1805(e)(1)(B)), an individual who has elected a high
20 deductible/medisave product may not change such
21 election to a Medicare Choice product that is not a
22 high deductible/medisave product unless the individ-
23 ual has had such election in effect for 12 months.

24 “(3) NO 90-DAY DISENROLLMENT OPTION.—
25 Paragraph (4)(A) of section 1805(e) shall not apply

1 to an individual who elects a high deductible/
2 medisave product.

3 “(4) TIMING OF ELECTION.—An individual may
4 elect a high deductible/medisave product only during
5 an annual, coordinated election period described in
6 section 1805(e)(3)(B) or during the month of Octo-
7 ber, 1996.

8 “(5) EFFECTIVENESS OF ELECTION.—An elec-
9 tion of coverage for a high deductible/medisave prod-
10 uct made in a year shall take effect as of the first
11 day of the following year.

12 “(d) SPECIAL RULES RELATING TO BENEFITS.—

13 “(1) IN GENERAL.—Paragraphs (1) and (3) of
14 section 1852(a) shall not apply to high deductible/
15 medisave products.

16 “(2) PREMIUMS.—

17 “(A) APPLICATION OF ALTERNATIVE PRE-
18 MIUM.—In applying section 1852(d)(2) in the
19 case of a high deductible/medisave product, in-
20 stead of the amount specified in subparagraph
21 (B) there shall be substituted the monthly ad-
22 justed Medicare Choice capitation rate specified
23 in section 1855(b)(1) for the individual and pe-
24 riod involved.

1 “(B) CLASS ADJUSTED PREMIUMS.—Not-
2 withstanding section 1852(d)(3), a Medicare
3 Choice organization shall establish premiums
4 for any high deductible/medisave product it of-
5 fers in a payment area based on each of the
6 risk adjustment categories established for pur-
7 poses of determining the amount of the pay-
8 ment to Medicare Choice organizations under
9 section 1855(b)(1) and using the identical de-
10 mographic and other adjustments among such
11 categories as are used for such purposes.

12 “(C) REQUIREMENT FOR ADDITIONAL
13 BENEFITS NOT APPLICABLE.—Section
14 1852(e)(1)(A) shall not apply to a high deduct-
15 ible/medisave product.

16 “(e) ADDITIONAL DISCLOSURE.—In any disclosure
17 made pursuant to section 1853(a)(1) for a high deduct-
18 ible/medisave product, the disclosure shall include a com-
19 parison of benefits under such a product with benefits
20 under other Medicare Choice products.

21 “(f) SPECIAL RULES FOR INDIVIDUALS ELECTING
22 HIGH DEDUCTIBLE/MEDISAVE PRODUCT.—

23 “(1) IN GENERAL.—In the case of an individual
24 who has elected a high deductible/medisave product,
25 notwithstanding the provisions of section 1855—

1 “(A) the amount of the payment to the
2 Medicare Choice organization offering the high
3 deductible/medisave product shall not exceed
4 the premium for the product, and

5 “(B) subject to paragraph (2), the dif-
6 ference between the amount of payment that
7 would otherwise be made and the amount of
8 payment to such organization shall be made di-
9 rectly into a Medicare Choice MSA established
10 (and, if applicable, designated) by the individual
11 under paragraph (2).

12 “(2) ESTABLISHMENT AND DESIGNATION OF
13 MEDICARE CHOICE MEDICAL SAVINGS ACCOUNT AS
14 REQUIREMENT FOR PAYMENT OF CONTRIBUTION.—
15 In the case of an individual who has elected coverage
16 under a high deductible/medisave product, no pay-
17 ment shall be made under paragraph (1)(B) on be-
18 half of an individual for a month unless the individ-
19 ual—

20 “(A) has established before the beginning
21 of the month (or by such other deadline as the
22 Secretary may specify) a Medicare Choice MSA
23 (as defined in section 137(b) of the Internal
24 Revenue Code of 1986), and

1 “(B) if the individual has established more
2 than one Medicare Choice MSA, has designated
3 one of such accounts as the individual’s Medi-
4 care Choice MSA for purposes of this part.

5 Under rules under this section, such an individual
6 may change the designation of such account under
7 subparagraph (B) for purposes of this part.

8 “(3) LUMP SUM DEPOSIT OF MEDICAL SAVINGS
9 ACCOUNT CONTRIBUTION.—In the case of an indi-
10 vidual electing a high deductible/medisave product
11 effective beginning with a month in a year, the
12 amount of the contribution to the Medicare Choice
13 MSA on behalf of the individual for that month and
14 all successive months in the year shall be deposited
15 during that first month. In the case of a termination
16 of such an election as of a month before the end of
17 a year, the Secretary shall provide for a procedure
18 for the recovery of deposits attributable to the re-
19 maining months in the year.

20 “(g) SPECIAL CONTRACT RULES.—

21 “(1) ENROLLMENT REQUIREMENTS WAIVED.—
22 Subsection (b) of section 1858 shall not apply with
23 respect to a contract that relates only to one or more
24 high deductible/medisave products.

1 “(2) EFFECTIVE DATE OF CONTRACTS.—In no
2 case shall a contract under section 1858 which pro-
3 vides for coverage under a high deductible/medisave
4 account be effective before January 1997 with re-
5 spect to such coverage.”.

6 (b) CONFORMING REFERENCES TO PREVIOUS PART
7 C.—Any reference in law (in effect before the date of the
8 enactment of this Act) to part C of title XVIII of the So-
9 cial Security Act is deemed a reference to part D of such
10 title (as in effect after such date).

11 (c) USE OF INTERIM, FINAL REGULATIONS.—In
12 order to carry out the amendment made by subsection (a)
13 in a timely manner, the Secretary of Health and Human
14 Services may promulgate regulations that take effect on
15 an interim basis, after notice and pending opportunity for
16 public comment.

17 (d) ADVANCE DIRECTIVES.—Section 1866(f)(1) (42
18 U.S.C. 1395cc(f)(1)) is amended—

19 (1) in paragraph (1)—

20 (A) by inserting “1853(g),” after
21 “1833(s),”, and

22 (B) by inserting “, Medicare Choice orga-
23 nization,” after “provider of services”, and

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

1 “(4) Nothing in this subsection shall be construed to
2 require the provision of information regarding assisted
3 suicide, euthanasia, or mercy killing.”.

4 (e) CONFORMING AMENDMENT.—Section
5 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended
6 by inserting before the semicolon at the end the following:
7 “and in the case of hospitals to accept as payment in full
8 for inpatient hospital services that are covered under this
9 title and are furnished to any individual enrolled under
10 part C with a Medicare Choice organization which does
11 not have a contract establishing payment amounts for
12 services furnished to members of the organization the
13 amounts that would be made as a payment in full under
14 this title if the individuals were not so enrolled”.

15 **SEC. 8003. REPORTS.**

16 (a) ALTERNATIVE PAYMENT APPROACHES.—By not
17 later than 18 months after the date of the enactment of
18 this Act, the Secretary of Health and Human Services (in
19 this title referred to as the “Secretary”) shall submit to
20 Congress a report on alternative provider payment ap-
21 proaches under the medicare program, including—

22 (1) combined hospital and physician payments
23 per admission,

24 (2) partial capitation models for subsets of
25 medicare benefits, and

1 (3) risk-sharing arrangements in which the Sec-
2 retary defines the risk corridor and shares in gains
3 and losses.

4 Such report shall include recommendations for implement-
5 ing and testing such approaches and legislation that may
6 be required to implement and test such approaches.

7 (b) COVERAGE OF RETIRED WORKERS.—

8 (1) IN GENERAL.—The Secretary shall work
9 with employers and health benefit plans to develop
10 standards and payment methodologies to allow re-
11 tired workers to continue to participate in employer
12 health plans instead of participating in the medicare
13 program. Such standards shall also cover workers
14 covered under the Federal Employees Health Bene-
15 fits Program under chapter 89 of title 5, United
16 States Code.

17 (2) REPORT.—Not later than 18 months after
18 the date of the enactment of this Act, the Secretary
19 shall submit to Congress a report on the develop-
20 ment of such standards and payment methodologies.
21 The report shall include recommendations relating to
22 such legislation as may be necessary.

23 **SEC. 8004. TRANSITIONAL RULES FOR CURRENT MEDICARE**
24 **HMO PROGRAM.**

25 (a) TRANSITION FROM CURRENT CONTRACTS.—

1 (1) LIMITATION ON NEW CONTRACTS.—The
2 Secretary of Health and Human Services (in this
3 section referred to as the “Secretary”) shall not
4 enter into any risk-sharing or cost reimbursement
5 contract under section 1876 of the Social Security
6 Act with an eligible organization for any contract
7 year beginning on or after the date standards for
8 Medicare Choice organizations and products are first
9 established under section 1856(a) of such Act with
10 respect to Medicare Choice organizations that are in-
11 surers or health maintenance organizations unless
12 such a contract had been in effect under section
13 1876 of such Act for the organization for the pre-
14 vious contract year.

15 (2) TERMINATION OF CURRENT CONTRACTS.—

16 (A) RISK-SHARING CONTRACTS.—Notwith-
17 standing any other provision of law, the Sec-
18 retary shall not extend or continue any risk-
19 sharing contract with an eligible organization
20 under section 1876 of the Social Security Act
21 (for which a contract was entered into consist-
22 ent with paragraph (1)(A)) for any contract
23 year beginning on or after 1 year after the date
24 standards described in paragraph (1)(A) are es-
25 tablished.

1 (B) COST REIMBURSEMENT CONTRACTS.—

2 The Secretary shall not extend or continue any
3 reasonable cost reimbursement contract with an
4 eligible organization under section 1876 of the
5 Social Security Act for any contract year begin-
6 ning on or after January 1, 1998.

7 (b) CONFORMING PAYMENT RATES UNDER RISK-
8 SHARING CONTRACTS.—Notwithstanding any other provi-
9 sion of law, the Secretary shall provide that payment
10 amounts under risk-sharing contracts under section
11 1876(a) of the Social Security Act for months in a year
12 (beginning with January 1996) shall be computed—

13 (1) with respect to individuals entitled to bene-
14 fits under both parts A and B of title XVIII of such
15 Act, by substituting payment rates under section
16 1855(a) of such Act for the payment rates otherwise
17 established under section 1876(a) of such Act, and

18 (2) with respect to individuals only entitled to
19 benefits under part B of such title, by substituting
20 an appropriate proportion of such rates (reflecting
21 the relative proportion of payments under such title
22 attributable to such part) for the payment rates oth-
23 erwise established under section 1876(a) of such
24 Act.

1 For purposes of carrying out this paragraph for payment
2 for months in 1996, the Secretary shall compute, an-
3 nounce, and apply the payment rates under section
4 1855(a) of such Act (notwithstanding any deadlines speci-
5 fied in such section) in as timely a manner as possible
6 and may (to the extent necessary) provide for retroactive
7 adjustment in payments made not in accordance with such
8 rates.

9 **PART 2—SPECIAL RULES FOR MEDICARE CHOICE**

10 **MEDICAL SAVINGS ACCOUNTS**

11 **SEC. 8011. MEDICARE CHOICE MSA'S.**

12 (a) IN GENERAL.—Part III of subchapter B of chap-
13 ter 1 of the Internal Revenue Code of 1986 (relating to
14 amounts specifically excluded from gross income) is
15 amended by redesignating section 137 as section 138 and
16 by inserting after section 136 the following new section:

17 **“SEC. 137. MEDICARE CHOICE MSA'S.**

18 “(a) EXCLUSION.—Gross income shall not include
19 any payment to the Medicare Choice MSA of an individual
20 by the Secretary of Health and Human Services under
21 section 1859(f)(1)(B) of the Social Security Act.

22 “(b) MEDICARE CHOICE MSA.—For purposes of this
23 section—

24 “(1) MEDICARE CHOICE MSA.—The term ‘Medi-
25 care Choice MSA’ means a trust created or orga-

1 nized in the United States exclusively for the pur-
2 pose of paying the qualified medical expenses of the
3 account holder, but only if the written governing in-
4 strument creating the trust meets the following re-
5 quirements:

6 “(A) Except in the case of a trustee-to-
7 trustee transfer described in subsection (d)(4),
8 no contribution will be accepted unless it is
9 made by the Secretary of Health and Human
10 Services under section 1859(f)(1)(B) of the So-
11 cial Security Act.

12 “(B) The trustee is a bank (as defined in
13 section 408(n)), an insurance company (as de-
14 fined in section 816), or another person who
15 demonstrates to the satisfaction of the Sec-
16 retary that the manner in which such person
17 will administer the trust will be consistent with
18 the requirements of this section.

19 “(C) No part of the trust assets will be in-
20 vested in life insurance contracts.

21 “(D) The assets of the trust will not be
22 commingled with other property except in a
23 common trust fund or common investment
24 fund.

1 “(E) The interest of an individual in the
2 balance in his account is nonforfeitable.

3 “(F) Trustee-to-trustee transfers described
4 in subsection (d)(4) may be made to and from
5 the trust.

6 “(2) QUALIFIED MEDICAL EXPENSES.—

7 “(A) IN GENERAL.—The term ‘qualified
8 medical expenses’ means, with respect to an ac-
9 count holder, amounts paid by such holder—

10 “(i) for medical care (as defined in
11 section 213(d)) for the account holder, but
12 only to the extent such amounts are not
13 compensated for by insurance or otherwise,
14 or

15 “(ii) for long-term care insurance for
16 the account holder.

17 “(B) HEALTH INSURANCE MAY NOT BE
18 PURCHASED FROM ACCOUNT.—Subparagraph
19 (A)(i) shall not apply to any payment for insur-
20 ance.

21 “(3) ACCOUNT HOLDER.—The term ‘account
22 holder’ means the individual on whose behalf the
23 Medicare Choice MSA is maintained.

1 “(4) CERTAIN RULES TO APPLY.—Rules similar
2 to the rules of subsections (g) and (h) of section 408
3 shall apply for purposes of this section.

4 “(c) TAX TREATMENT OF ACCOUNTS.—

5 “(1) IN GENERAL.—A Medicare Choice MSA is
6 exempt from taxation under this subtitle unless such
7 MSA has ceased to be a Medicare Choice MSA by
8 reason of paragraph (2). Notwithstanding the pre-
9 ceding sentence, any such MSA is subject to the
10 taxes imposed by section 511 (relating to imposition
11 of tax on unrelated business income of charitable,
12 etc. organizations).

13 “(2) ACCOUNT ASSETS TREATED AS DISTRIB-
14 UTED IN THE CASE OF PROHIBITED TRANSACTIONS
15 OR ACCOUNT PLEDGED AS SECURITY FOR LOAN.—
16 Rules similar to the rules of paragraphs (2) and (4)
17 of section 408(e) shall apply to Medicare Choice
18 MSA’s, and any amount treated as distributed under
19 such rules shall be treated as not used to pay quali-
20 fied medical expenses.

21 “(d) TAX TREATMENT OF DISTRIBUTIONS.—

22 “(1) INCLUSION OF AMOUNTS NOT USED FOR
23 QUALIFIED MEDICAL EXPENSES.—No amount shall
24 be included in the gross income of the account hold-
25 er by reason of a payment or distribution from a

1 Medicare Choice MSA which is used exclusively to
2 pay the qualified medical expenses of the account
3 holder. Any amount paid or distributed from a Medi-
4 care Choice MSA which is not so used shall be in-
5 cluded in the gross income of such holder.

6 “(2) PENALTY FOR DISTRIBUTIONS NOT USED
7 FOR QUALIFIED MEDICAL EXPENSES IF MINIMUM
8 BALANCE NOT MAINTAINED.—

9 “(A) IN GENERAL.—The tax imposed by
10 this chapter for any taxable year in which there
11 is a payment or distribution from a Medicare
12 Choice MSA which is not used exclusively to
13 pay the qualified medical expenses of the ac-
14 count holder shall be increased by 50 percent of
15 the excess (if any) of—

16 “(i) the amount of such payment or
17 distribution, over

18 “(ii) the excess (if any) of—

19 “(I) the fair market value of the
20 assets in the Medicare Choice MSA as
21 of the close of the calendar year pre-
22 ceding the calendar year in which the
23 taxable year begins, over

24 “(II) an amount equal to 60 per-
25 cent of the deductible under the cata-

1 strophic health plan covering the ac-
2 count holder as of January 1 of the
3 calendar year in which the taxable
4 year begins.

5 “(B) EXCEPTIONS.—Subparagraph (A)
6 shall not apply if the payment or distribution is
7 made on or after the date the account holder—

8 “(i) becomes disabled within the
9 meaning of section 72(m)(7), or

10 “(ii) dies.

11 “(C) SPECIAL RULES.—For purposes of
12 subparagraph (A)—

13 “(i) all Medicare Choice MSA’s of the
14 account holder shall be treated as 1 ac-
15 count,

16 “(ii) all payments and distributions
17 not used exclusively to pay the qualified
18 medical expenses of the account holder
19 during any taxable year shall be treated as
20 1 distribution, and

21 “(iii) any distribution of property
22 shall be taken into account at its fair mar-
23 ket value on the date of the distribution.

24 “(3) WITHDRAWAL OF ERRONEOUS CONTRIBU-
25 TIONS.—Paragraphs (1) and (2) shall not apply to

1 any payment or distribution from a Medicare Choice
2 MSA to the Secretary of Health and Human Serv-
3 ices of an erroneous contribution to such MSA and
4 of the net income attributable to such contribution.

5 “(4) TRUSTEE-TO-TRUSTEE TRANSFERS.—
6 Paragraphs (1) and (2) shall not apply to any trust-
7 ee-to-trustee transfer from a Medicare Choice MSA
8 of an account holder to another Medicare Choice
9 MSA of such account holder.

10 “(5) COORDINATION WITH MEDICAL EXPENSE
11 DEDUCTION.—For purposes of section 213, any pay-
12 ment or distribution out of a Medicare Choice MSA
13 for qualified medical expenses shall not be treated as
14 an expense paid for medical care.

15 “(e) TREATMENT OF ACCOUNT AFTER DEATH OF
16 ACCOUNT HOLDER.—

17 “(1) TREATMENT IF DESIGNATED BENEFICIARY
18 IS SPOUSE.—

19 “(A) IN GENERAL.—In the case of an ac-
20 count holder’s interest in a Medicare Choice
21 MSA which is payable to (or for the benefit of)
22 such holder’s spouse upon the death of such
23 holder, such Medicare Choice MSA shall be
24 treated as a Medicare Choice MSA of such
25 spouse as of the date of such death.

1 “(B) SPECIAL RULES IF SPOUSE NOT MED-
2 ICARE ELIGIBLE.—If, as of the date of such
3 death, such spouse is not entitled to benefits
4 under title XVIII of the Social Security Act,
5 then after the date of such death—

6 “(i) the Secretary of Health and
7 Human Services may not make any pay-
8 ments to such Medicare Choice MSA, other
9 than payments attributable to periods be-
10 fore such date,

11 “(ii) in applying subsection (b)(2)
12 with respect to such Medicare Choice
13 MSA, references to the account holder
14 shall be treated as including references to
15 any dependent (as defined in section 152)
16 of such spouse and any subsequent spouse
17 of such spouse, and

18 “(iii) in lieu of applying subsection
19 (d)(2), the rules of section 220(f)(2) shall
20 apply.

21 “(2) TREATMENT IF DESIGNATED BENEFICIARY
22 IS NOT SPOUSE.—In the case of an account holder’s
23 interest in a Medicare Choice MSA which is payable
24 to (or for the benefit of) any person other than such
25 holder’s spouse upon the death of such holder—

1 “(A) such account shall cease to be a Med-
2 icare Choice MSA as of the date of death, and

3 “(B) an amount equal to the fair market
4 value of the assets in such account on such date
5 shall be includible—

6 “(i) if such person is not the estate of
7 such holder, in such person’s gross income
8 for the taxable year which includes such
9 date, or

10 “(ii) if such person is the estate of
11 such holder, in such holder’s gross income
12 for last taxable year of such holder.

13 “(f) REPORTS.—

14 “(1) IN GENERAL.—The trustee of a Medicare
15 Choice MSA shall make such reports regarding such
16 account to the Secretary and to the account holder
17 with respect to—

18 “(A) the fair market value of the assets in
19 such Medicare Choice MSA as of the close of
20 each calendar year, and

21 “(B) contributions, distributions, and other
22 matters,
23 as the Secretary may require by regulations.

24 “(2) TIME AND MANNER OF REPORTS.—The re-
25 ports required by this subsection—

1 “(A) shall be filed at such time and in
2 such manner as the Secretary prescribes in
3 such regulations, and

4 “(B) shall be furnished to the account
5 holder—

6 “(i) not later than January 31 of the
7 calendar year following the calendar year
8 to which such reports relate, and

9 “(ii) in such manner as the Secretary
10 prescribes in such regulations.”

11 (b) EXCLUSION OF MEDICARE CHOICE MSA’S FROM
12 ESTATE TAX.—Part IV of subchapter A of chapter 11 of
13 such Code is amended by adding at the end the following
14 new section:

15 **“SEC. 2057. MEDICARE CHOICE MSA’S.**

16 “For purposes of the tax imposed by section 2001,
17 the value of the taxable estate shall be determined by de-
18 ducting from the value of the gross estate an amount
19 equal to the value of any Medicare Choice MSA (as de-
20 fined in section 137(b)) included in the gross estate.”

21 (c) TAX ON PROHIBITED TRANSACTIONS.—

22 (1) Section 4975 of such Code (relating to tax
23 on prohibited transactions) is amended by adding at
24 the end of subsection (c) the following new para-
25 graph:

1 “(5) SPECIAL RULE FOR MEDICARE CHOICE
2 MSA’S.—An individual for whose benefit a Medicare
3 Choice MSA (within the meaning of section 137(b))
4 is established shall be exempt from the tax imposed
5 by this section with respect to any transaction con-
6 cerning such account (which would otherwise be tax-
7 able under this section) if, with respect to such
8 transaction, the account ceases to be a Medicare
9 Choice MSA by reason of the application of section
10 137(c)(2) to such account.”

11 (2) Paragraph (1) of section 4975(e) of such
12 Code is amended to read as follows:

13 “(1) PLAN.—For purposes of this section, the
14 term ‘plan’ means—

15 “(A) a trust described in section 401(a)
16 which forms a part of a plan, or a plan de-
17 scribed in section 403(a), which trust or plan is
18 exempt from tax under section 501(a),

19 “(B) an individual retirement account de-
20 scribed in section 408(a),

21 “(C) an individual retirement annuity de-
22 scribed in section 408(b),

23 “(D) a medical savings account described
24 in section 220(d),

1 “(E) a Medicare Choice MSA described in
2 section 137(b), or

3 “(F) a trust, plan, account, or annuity
4 which, at any time, has been determined by the
5 Secretary to be described in any preceding sub-
6 paragraph of this paragraph.”

7 (d) FAILURE TO PROVIDE REPORTS ON MEDICARE
8 CHOICE MSA’S.—

9 (1) Subsection (a) of section 6693 of such Code
10 (relating to failure to provide reports on individual
11 retirement accounts or annuities) is amended to read
12 as follows:

13 “(a) REPORTS.—

14 “(1) IN GENERAL.—If a person required to file
15 a report under a provision referred to in paragraph
16 (2) fails to file such report at the time and in the
17 manner required by such provision, such person
18 shall pay a penalty of \$50 for each failure unless it
19 is shown that such failure is due to reasonable
20 cause.

21 “(2) PROVISIONS.—The provisions referred to
22 in this paragraph are—

23 “(A) subsections (i) and (l) of section 408
24 (relating to individual retirement plans),

1 “(B) section 220(h) (relating to medical
2 savings accounts), and

3 “(C) section 137(f) (relating to Medicare
4 Choice MSA’s).”

5 (2) The section heading for section 6693 of
6 such Code is amended to read as follows:

7 **“SEC. 6693. FAILURE TO FILE REPORTS ON INDIVIDUAL RE-**
8 **TIREMENT PLANS AND CERTAIN OTHER TAX-**
9 **FAVORED ACCOUNTS; PENALTIES RELATING**
10 **TO DESIGNATED NONDEDUCTIBLE CON-**
11 **TRIBUTIONS.”**

12 (e) CLERICAL AMENDMENTS.—

13 (1) The table of sections for part III of sub-
14 chapter B of chapter 1 of such Code is amended by
15 striking the last item and inserting the following:

“Sec. 137. Medicare Choice MSA’s.
“Sec. 138. Cross references to other Acts.”

16 (2) The table of sections for subchapter B of
17 chapter 68 of such Code is amended by striking the
18 item relating to section 6693 and inserting the fol-
19 lowing new item:

“Sec. 6693. Failure to file reports on individual retirement plans
and certain other tax-favored accounts; penalties re-
lating to designated nondeductible contributions.”

20 (3) The table of sections for part IV of sub-
21 chapter A of chapter 11 of such Code is amended by
22 adding at the end the following new item:

“Sec. 2057. Medicare Choice MSA’s.”

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1996.

4 **SEC. 8012. CERTAIN REBATES EXCLUDED FROM GROSS IN-**
5 **COME.**

6 (a) IN GENERAL.—Section 105 of the Internal Reve-
7 nue Code of 1986 (relating to amounts received under ac-
8 cident and health plans) is amended by adding at the end
9 the following new subsection:

10 “(j) CERTAIN REBATES UNDER SOCIAL SECURITY
11 ACT.—Gross income does not include any rebate received
12 under section 1852(e)(1)(A) of the Social Security Act
13 during the taxable year.”

14 (b) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall apply to amounts received after the
16 date of the enactment of this Act.

17 **PART 3—SPECIAL ANTITRUST RULE FOR**
18 **PROVIDER SERVICE NETWORKS**

19 **SEC. 8021. APPLICATION OF ANTITRUST RULE OF REASON**
20 **TO PROVIDER SERVICE NETWORKS.**

21 (a) RULE OF REASON STANDARD.—In any action
22 under the antitrust laws, or under any State law similar
23 to the antitrust laws—

24 (1) the conduct of a provider service network in
25 negotiating, making, or performing a contract (in-

1 including the establishment and modification of a fee
2 schedule and the development of a panel of physi-
3 cians), to the extent such contract is for the purpose
4 of providing health care services to individuals under
5 the terms of a Medicare Choice PSO product, and
6 (2) the conduct of any member of such network
7 for the purpose of providing such health care serv-
8 ices under such contract to such extent,
9 shall not be deemed illegal per se. Such conduct shall be
10 judged on the basis of its reasonableness, taking into ac-
11 count all relevant factors affecting competition, including
12 the effects on competition in properly defined markets.

13 (b) DEFINITIONS.—For purposes of subsection (a):

14 (1) ANTITRUST LAWS.—The term “antitrust
15 laws” has the meaning given it in subsection (a) of
16 the first section of the Clayton Act (15 U.S.C. 12),
17 except that such term includes section 5 of the Fed-
18 eral Trade Commission Act (15 U.S.C. 45) to the
19 extent that such section 5 applies to unfair methods
20 of competition.

21 (2) HEALTH CARE PROVIDER.—The term
22 “health care provider” means any individual or en-
23 tity that is engaged in the delivery of health care
24 services in a State and that is required by State law
25 or regulation to be licensed or certified by the State

1 to engage in the delivery of such services in the
2 State.

3 (3) HEALTH CARE SERVICE.—The term “health
4 care service” means any service for which payment
5 may be made under a Medicare Choice PSO product
6 including services related to the delivery or adminis-
7 tration of such service.

8 (4) MEDICARE CHOICE PROGRAM.—The term
9 “Medicare Choice program” means the program
10 under part C of title XVIII of the Social Security
11 Act.

12 (5) MEDICARE CHOICE PSO PRODUCT.—The
13 term “Medicare Choice PSO product” means a Med-
14 icare Choice product offered by a provider-sponsored
15 organization under part C of title XVIII of the So-
16 cial Security Act.

17 (6) PROVIDER SERVICE NETWORK.—The term
18 “provider service network” means an organization
19 that—

20 (A) is organized by, operated by, and com-
21 posed of members who are health care providers
22 and for purposes that include providing health
23 care services,

1 (B) is funded in part by capital contribu-
2 tions made by the members of such organiza-
3 tion,

4 (C) with respect to each contract made by
5 such organization for the purpose of providing
6 a type of health care service to individuals
7 under the terms of a Medicare Choice PSO
8 product—

9 (i) requires all members of such orga-
10 nization who engage in providing such type
11 of health care service to agree to provide
12 health care services of such type under
13 such contract,

14 (ii) receives the compensation paid for
15 the health care services of such type pro-
16 vided under such contract by such mem-
17 bers, and

18 (iii) provides for the distribution of
19 such compensation,

20 (D) has established, consistent with the re-
21 quirements of the Medicare Choice program for
22 provider-sponsored organizations, a program to
23 review, pursuant to written guidelines, the qual-
24 ity, efficiency, and appropriateness of treatment
25 methods and setting of services for all health

1 care providers and all patients participating in
2 such product, along with internal procedures to
3 correct identified deficiencies relating to such
4 methods and such services,

5 (E) has established, consistent with the re-
6 quirements of the Medicare Choice program for
7 provider-sponsored organizations, a program to
8 monitor and control utilization of health care
9 services provided under such product, for the
10 purpose of improving efficient, appropriate care
11 and eliminating the provision of unnecessary
12 health care services,

13 (F) has established a management pro-
14 gram to coordinate the delivery of health care
15 services for all health care providers and all pa-
16 tients participating in such product, for the
17 purpose of achieving efficiencies and enhancing
18 the quality of health care services provided, and

19 (G) has established, consistent with the re-
20 quirements of the Medicare Choice program for
21 provider-sponsored organizations, a grievance
22 and appeal process for such organization de-
23 signed to review and promptly resolve bene-
24 ficiary or patient grievances and complaints.

1 Such term may include a provider-sponsored organi-
2 zation.

3 (7) PROVIDER-SPONSORED ORGANIZATION.—

4 The term “provider-sponsored organization” means
5 a Medicare Choice organization under the Medicare
6 Choice program that is a provider-sponsored organi-
7 zation (as defined in section 1854(a)(1) of the Social
8 Security Act).

9 (8) STATE.—The term “State” has the mean-
10 ing given it in section 4G(2) of the Clayton Act (15
11 U.S.C. 15g(2)).

12 (c) ISSUANCE OF GUIDELINES.—Not later than 120
13 days after the date of the enactment of this Act, the Attor-
14 ney General and the Federal Trade Commission shall
15 issue jointly guidelines specifying the enforcement policies
16 and analytical principles that will be applied by the De-
17 partment of Justice and the Commission with respect to
18 the operation of subsection (a).

19 **PART 4—COMMISSIONS**

20 **SEC. 8031. MEDICARE PAYMENT REVIEW COMMISSION.**

21 (a) IN GENERAL.—Title XVIII, as amended by sec-
22 tion 8001(a), is amended by inserting after section 1805
23 the following new section:

1 “MEDICARE PAYMENT REVIEW COMMISSION

2 “SEC. 1806. (a) ESTABLISHMENT.—There is hereby
3 established the Medicare Payment Review Commission (in
4 this section referred to as the ‘Commission’).

5 “(b) DUTIES.—

6 “(1) GENERAL DUTIES AND REPORTS.—The
7 Commission shall review, and make recommenda-
8 tions to Congress concerning, payment policies under
9 this title. By not later than June 1 of each year, the
10 Commission shall submit a report to Congress con-
11 taining an examination of issues affecting the medi-
12 care program, including the implications of changes
13 in health care delivery in the United States and in
14 the market for health care services on the medicare
15 program. The Commission may submit to Congress
16 from time to time such other reports as the Commis-
17 sion deems appropriate. The Secretary shall respond
18 to recommendations of the Commission in notices of
19 rulemaking proceedings under this title.

20 “(2) SPECIFIC DUTIES RELATING TO MEDICARE
21 CHOICE PROGRAM.—Specifically, the Commission
22 shall review, with respect to the Medicare Choice
23 program under part C—

24 “(A) the appropriateness of the methodol-
25 ogy for making payment to plans under such

1 program, including the making of differential
2 payments and the distribution of differential
3 updates among different payment areas,

4 “(B) the appropriateness of the mecha-
5 nisms used to adjust payments for risk and the
6 need to adjust such mechanisms to take into ac-
7 count health status of beneficiaries,

8 “(C) the implications of risk selection both
9 among Medicare Choice organizations and be-
10 tween the Medicare Choice option and the non-
11 Medicare Choice option,

12 “(D) in relation to payment under part C,
13 the development and implementation of mecha-
14 nisms to assure the quality of care for those en-
15 rolled with Medicare Choice organizations,

16 “(E) the impact of the Medicare Choice
17 program on access to care for medicare bene-
18 ficiaries, and

19 “(F) other major issues in implementation
20 and further development of the Medicare Choice
21 program.

22 “(3) SPECIFIC DUTIES RELATING TO THE FEE-
23 FOR-SERVICE SYSTEM.—Specifically, the Commission
24 shall review payment policies under parts A and B,
25 including—

1 “(A) the factors affecting expenditures for
2 services in different sectors, including the proc-
3 ess for updating hospital, physician, and other
4 fees,

5 “(B) payment methodologies; and

6 “(C) the impact of payment policies on ac-
7 cess and quality of care for medicare bene-
8 ficiaries.

9 “(4) SPECIFIC DUTIES RELATING TO INTER-
10 ACTION OF PAYMENT POLICIES WITH HEALTH CARE
11 DELIVERY GENERALLY.—Specifically the Commis-
12 sion shall review the effect of payment policies under
13 this title on the delivery of health care services
14 under this title and assess the implications of
15 changes in the health services market on the medi-
16 care program.

17 “(c) MEMBERSHIP.—

18 “(1) NUMBER AND APPOINTMENT.—The Com-
19 mission shall be composed of 15 members appointed
20 by the Comptroller General.

21 “(2) QUALIFICATIONS.—The membership of the
22 Commission shall include individuals with national
23 recognition for their expertise in health finance and
24 economics, actuarial science, health facility manage-
25 ment, health plans and integrated delivery systems,

1 reimbursement of health facilities, physicians, and
2 other providers of services, and other related fields,
3 who provide a mix of different professionals, broad
4 geographic representation, and a balance between
5 urban and rural representatives, including physicians
6 and other health professionals, employers, third
7 party payors, individuals skilled in the conduct and
8 interpretation of biomedical, health services, and
9 health economics research and expertise in outcomes
10 and effectiveness research and technology assess-
11 ment. Such membership shall also include represent-
12 atives of consumers and the elderly.

13 “(3) CONSIDERATIONS IN INITIAL APPOINT-
14 MENT.—To the extent possible, in first appointing
15 members to the Commission the Comptroller Gen-
16 eral shall consider appointing individuals who (as of
17 the date of the enactment of this section) were serv-
18 ing on the Prospective Payment Assessment Com-
19 mission or the Physician Payment Review Commis-
20 sion.

21 “(4) TERMS.—

22 “(A) IN GENERAL.—The terms of mem-
23 bers of the Commission shall be for 3 years ex-
24 cept that the Comptroller General shall des-

1 ignate staggered terms for the members first
2 appointed.

3 “(B) VACANCIES.—Any member appointed
4 to fill a vacancy occurring before the expiration
5 of the term for which the member’s predecessor
6 was appointed shall be appointed only for the
7 remainder of that term. A member may serve
8 after the expiration of that member’s term until
9 a successor has taken office. A vacancy in the
10 Commission shall be filled in the manner in
11 which the original appointment was made.

12 “(5) COMPENSATION.—While serving on the
13 business of the Commission (including traveltime), a
14 member of the Commission shall be entitled to com-
15 pensation at the per diem equivalent of the rate pro-
16 vided for level IV of the Executive Schedule under
17 section 5315 of title 5, United States Code; and
18 while so serving away from home and member’s reg-
19 ular place of business, a member may be allowed
20 travel expenses, as authorized by the Chairman of
21 the Commission. Physicians serving as personnel of
22 the Commission may be provided a physician com-
23 parability allowance by the Commission in the same
24 manner as Government physicians may be provided
25 such an allowance by an agency under section 5948

1 of title 5, United States Code, and for such purpose
2 subsection (i) of such section shall apply to the Com-
3 mission in the same manner as it applies to the Ten-
4 nessee Valley Authority. For purposes of pay (other
5 than pay of members of the Commission) and em-
6 ployment benefits, rights, and privileges, all person-
7 nel of the Commission shall be treated as if they
8 were employees of the United States Senate.

9 “(6) CHAIRMAN; VICE CHAIRMAN.—The Comp-
10 troller General shall designate a member of the
11 Commission, at the time of appointment of the mem-
12 ber, as Chairman and a member as Vice Chairman
13 for that term of appointment.

14 “(7) MEETINGS.—The Commission shall meet
15 at the call of the Chairman.

16 “(d) DIRECTOR AND STAFF; EXPERTS AND CON-
17 SULTANTS.—Subject to such review as the Comptroller
18 General deems necessary to assure the efficient adminis-
19 tration of the Commission, the Commission may—

20 “(1) employ and fix the compensation of an Ex-
21 ecutive Director (subject to the approval of the
22 Comptroller General) and such other personnel as
23 may be necessary to carry out its duties (without re-
24 gard to the provisions of title 5, United States Code,
25 governing appointments in the competitive service);

1 “(2) seek such assistance and support as may
2 be required in the performance of its duties from ap-
3 propriate Federal departments and agencies;

4 “(3) enter into contracts or make other ar-
5 rangements, as may be necessary for the conduct of
6 the work of the Commission (without regard to sec-
7 tion 3709 of the Revised Statutes (41 U.S.C. 5));

8 “(4) make advance, progress, and other pay-
9 ments which relate to the work of the Commission;

10 “(5) provide transportation and subsistence for
11 persons serving without compensation; and

12 “(6) prescribe such rules and regulations as it
13 deems necessary with respect to the internal organi-
14 zation and operation of the Commission.

15 “(e) POWERS.—

16 “(1) OBTAINING OFFICIAL DATA.—The Com-
17 mission may secure directly from any department or
18 agency of the United States information necessary
19 to enable it to carry out this section. Upon request
20 of the Chairman, the head of that department or
21 agency shall furnish that information to the Com-
22 mission on an agreed upon schedule.

23 “(2) DATA COLLECTION.—In order to carry out
24 its functions, the Commission shall collect and as-
25 sess information.

1 “(A) utilize existing information, both pub-
2 lished and unpublished, where possible, collected
3 and assessed either by its own staff or under
4 other arrangements made in accordance with
5 this section,

6 “(B) carry out, or award grants or con-
7 tracts for, original research and experimen-
8 tation, where existing information is inad-
9 equate, and

10 “(C) adopt procedures allowing any inter-
11 ested party to submit information for the Com-
12 mission’s use in making reports and rec-
13 ommendations.

14 “(3) ACCESS OF GAO TO INFORMATION.—The
15 Comptroller General shall have unrestricted access
16 to all deliberations, records, and data of the Com-
17 mission, immediately upon request.

18 “(4) PERIODIC AUDIT.—The Commission shall
19 be subject to periodic audit by the General Account-
20 ing Office.

21 “(f) AUTHORIZATION OF APPROPRIATIONS.—

22 “(1) REQUEST FOR APPROPRIATIONS.—The
23 Commission shall submit requests for appropriations
24 in the same manner as the Comptroller General sub-
25 mits requests for appropriations, but amounts ap-

1 appropriated for the Commission shall be separate
2 from amounts appropriated for the Comptroller Gen-
3 eral.

4 “(2) AUTHORIZATION.—There are authorized to
5 be appropriated such sums as may be necessary to
6 carry out the provisions of this section. 60 percent
7 of such appropriation shall be payable from the Fed-
8 eral Hospital Insurance Trust Fund, and 40 percent
9 of such appropriation shall be payable from the Fed-
10 eral Supplementary Medical Insurance Trust
11 Fund.”.

12 (b) ABOLITION OF PROPAC AND PPRC.—

13 (1) PROPAC.—

14 (A) IN GENERAL.—Section 1886(e) (42
15 U.S.C. 1395ww(e)) is amended—

16 (i) by striking paragraphs (2) and (6);

17 and

18 (ii) in paragraph (3), by striking “(A)
19 The Commission” and all that follows
20 through “(B)”.

21 (B) CONFORMING AMENDMENT.—Section
22 1862 (42 U.S.C. 1395y) is amended by striking
23 “Prospective Payment Assessment Commis-
24 sion” each place it appears in subsection

1 (a)(1)(D) and subsection (i) and inserting
2 “Medicare Payment Review Commission”.

3 (2) PPRC.—

4 (A) IN GENERAL.—Title XVIII is amended
5 by striking section 1845 (42 U.S.C. 1395w–1).

6 (B) CONFORMING AMENDMENTS.—

7 (i) Section 1834(b)(2) (42 U.S.C.
8 1395m(b)(2)) is amended by striking
9 “Physician Payment Review Commission”
10 and inserting “Medicare Payment Review
11 Commission”.

12 (ii) Section 1842(b) (42 U.S.C.
13 1395u(b)) is amended by striking “Physi-
14 cian Payment Review Commission” each
15 place it appears in paragraphs (2)(C),
16 (9)(D), and (14)(C)(i) and inserting “Med-
17 icare Payment Review Commission”.

18 (iii) Section 1848 (42 U.S.C.
19 1395w@4) is amended by striking “Physi-
20 cian Payment Review Commission” and in-
21 sserting “Medicare Payment Review Com-
22 mission” each place it appears in para-
23 graph (2)(A)(ii), (2)(B)(iii), and (5) of
24 subsection (c), subsection (d)(2)(F), para-
25 graphs (1)(B), (3), and (4)(A) of sub-

1 section (f), and paragraphs (6)(C) and
2 (7)(C) of subsection (g).

3 (c) EFFECTIVE DATE; TRANSITION.—

4 (1) IN GENERAL.—The Comptroller General
5 shall first provide for appointment of members to
6 the Medicare Payment Review Commission (in this
7 subsection referred to as “MPRC”) by not later
8 than March 31, 1996.

9 (2) TRANSITION.—Effective on a date (not later
10 than 30 days after the date a majority of members
11 of the MPRC have first been appointed, the Pro-
12 spective Payment Assessment Commission (in this
13 subsection referred to as “ProPAC”) and the Physi-
14 cian Payment Review Commission (in this subsection
15 referred to as “PPRC”), and amendments made by
16 subsection (b), are terminated. The Comptroller
17 General, to the maximum extent feasible, shall pro-
18 vide for the transfer to the MPRC of assets and
19 staff of ProPAC and PPRC, without any loss of
20 benefits or seniority by virtue of such transfers.
21 Fund balances available to the ProPAC or PPRC
22 for any period shall be available to the MPRC for
23 such period for like purposes.

24 (3) CONTINUING RESPONSIBILITY FOR RE-
25 PORTS.—The MPRC shall be responsible for the

1 preparation and submission of reports required by
2 law to be submitted (and which have not been sub-
3 mitted by the date of establishment of the MPRC)
4 by the ProPAC and PPRC, and, for this purpose,
5 any reference in law to either such Commission is
6 deemed, after the appointment of the MPRC, to
7 refer to the MPRC.

8 **SEC. 8032. COMMISSION ON THE EFFECT OF THE BABY**
9 **BOOM GENERATION ON THE MEDICARE PRO-**
10 **GRAM.**

11 (a) ESTABLISHMENT.—There is established a com-
12 mission to be known as the Commission on the Effect of
13 the Baby Boom Generation on the Medicare Program (in
14 this section referred to as the “Commission”).

15 (b) DUTIES.—

16 (1) IN GENERAL.—The Commission shall—

17 (A) examine the financial impact on the
18 medicare program of the significant increase in
19 the number of medicare eligible individuals
20 which will occur beginning approximately dur-
21 ing 2010 and lasting for approximately 25
22 years, and

23 (B) make specific recommendations to the
24 Congress respecting a comprehensive approach
25 to preserve the medicare program for the period

1 during which such individuals are eligible for
2 medicare.

3 (2) CONSIDERATIONS IN MAKING REC-
4 COMMENDATIONS.—In making its recommendations,
5 the Commission shall consider the following:

6 (A) The amount and sources of Federal
7 funds to finance the medicare program, includ-
8 ing the potential use of innovative financing
9 methods.

10 (B) The most efficient and effective man-
11 ner of administering the program, including the
12 appropriateness of continuing the enforcement
13 of medicare budget targets under section 8701
14 for fiscal years after fiscal year 2002 and the
15 appropriate long-term growth rates for con-
16 tributions electing coverage under Medicare
17 Choice under part C of title XVIII of such Act.

18 (C) Methods used by other nations to re-
19 spond to comparable demographic patterns in
20 eligibility for health care benefits for elderly
21 and disabled individuals.

22 (D) Modifying age-based eligibility to cor-
23 respond to changes in age-based eligibility
24 under the OASDI program.

1 (E) Trends in employment-related health
2 care for retirees, including the use of medical
3 savings accounts and similar financing devices.

4 (c) MEMBERSHIP.—

5 (1) APPOINTMENT.—The Commission shall be
6 composed of 15 members appointed as follows:

7 (A) The President shall appoint 3 mem-
8 bers.

9 (B) The Majority Leader of the Senate
10 shall appoint, after consultation with the minor-
11 ity leader of the Senate, 6 members, of whom
12 not more than 4 may be of the same political
13 party.

14 (C) The Speaker of the House of Rep-
15 resentatives shall appoint, after consultation
16 with the minority leader of the House of Rep-
17 resentatives, 6 members, of whom not more
18 than 4 may be of the same political party.

19 (2) CHAIRMAN AND VICE CHAIRMAN.—The
20 Commission shall elect a Chairman and Vice Chair-
21 man from among its members.

22 (3) VACANCIES.—Any vacancy in the member-
23 ship of the Commission shall be filled in the manner
24 in which the original appointment was made and

1 shall not affect the power of the remaining members
2 to execute the duties of the Commission.

3 (4) QUORUM.—A quorum shall consist of 8
4 members of the Commission, except that 4 members
5 may conduct a hearing under subsection (e).

6 (5) MEETINGS.—The Commission shall meet at
7 the call of its Chairman or a majority of its mem-
8 bers.

9 (6) COMPENSATION AND REIMBURSEMENT OF
10 EXPENSES.—Members of the Commission are not
11 entitled to receive compensation for service on the
12 Commission. Members may be reimbursed for travel,
13 subsistence, and other necessary expenses incurred
14 in carrying out the duties of the Commission.

15 (d) STAFF AND CONSULTANTS.—

16 (1) STAFF.—The Commission may appoint and
17 determine the compensation of such staff as may be
18 necessary to carry out the duties of the Commission.
19 Such appointments and compensation may be made
20 without regard to the provisions of title 5, United
21 States Code, that govern appointments in the com-
22 petitive services, and the provisions of chapter 51
23 and subchapter III of chapter 53 of such title that
24 relate to classifications and the General Schedule
25 pay rates.

1 (2) CONSULTANTS.—The Commission may pro-
2 cure such temporary and intermittent services of
3 consultants under section 3109(b) of title 5, United
4 States Code, as the Commission determines to be
5 necessary to carry out the duties of the Commission.

6 (e) POWERS.—

7 (1) HEARINGS AND OTHER ACTIVITIES.—For
8 the purpose of carrying out its duties, the Commis-
9 sion may hold such hearings and undertake such
10 other activities as the Commission determines to be
11 necessary to carry out its duties.

12 (2) STUDIES BY GAO.—Upon the request of the
13 Commission, the Comptroller General shall conduct
14 such studies or investigations as the Commission de-
15 termines to be necessary to carry out its duties.

16 (3) COST ESTIMATES BY CONGRESSIONAL
17 BUDGET OFFICE.—

18 (A) Upon the request of the Commission,
19 the Director of the Congressional Budget Office
20 shall provide to the Commission such cost esti-
21 mates as the Commission determines to be nec-
22 essary to carry out its duties.

23 (B) The Commission shall reimburse the
24 Director of the Congressional Budget Office for
25 expenses relating to the employment in the of-

1 fice of the Director of such additional staff as
2 may be necessary for the Director to comply
3 with requests by the Commission under sub-
4 paragraph (A).

5 (4) DETAIL OF FEDERAL EMPLOYEES.—Upon
6 the request of the Commission, the head of any Fed-
7 eral agency is authorized to detail, without reim-
8 bursement, any of the personnel of such agency to
9 the Commission to assist the Commission in carry-
10 ing out its duties. Any such detail shall not interrupt
11 or otherwise affect the civil service status or privi-
12 leges of the Federal employee.

13 (5) TECHNICAL ASSISTANCE.—Upon the re-
14 quest of the Commission, the head of a Federal
15 agency shall provide such technical assistance to the
16 Commission as the Commission determines to be
17 necessary to carry out its duties.

18 (6) USE OF MAILS.—The Commission may use
19 the United States mails in the same manner and
20 under the same conditions as Federal agencies and
21 shall, for purposes of the frank, be considered a
22 commission of Congress as described in section 3215
23 of title 39, United States Code.

24 (7) OBTAINING INFORMATION.—The Commis-
25 sion may secure directly from any Federal agency

1 information necessary to enable it to carry out its
2 duties, if the information may be disclosed under
3 section 552 of title 5, United States Code. Upon re-
4 quest of the Chairman of the Commission, the head
5 of such agency shall furnish such information to the
6 Commission.

7 (8) ADMINISTRATIVE SUPPORT SERVICES.—
8 Upon the request of the Commission, the Adminis-
9 trator of General Services shall provide to the Com-
10 mission on a reimbursable basis such administrative
11 support services as the Commission may request.

12 (9) ACCEPTANCE OF DONATIONS.—The Com-
13 mission may accept, use, and dispose of gifts or do-
14 nations of services or property.

15 (10) PRINTING.—For purposes of costs relating
16 to printing and binding, including the cost of per-
17 sonnel detailed from the Government Printing Of-
18 fice, the Commission shall be deemed to be a com-
19 mittee of the Congress.

20 (f) REPORT.—Not later than May 1, 1997, the Com-
21 mission shall submit to Congress a report containing its
22 findings and recommendations regarding how to protect
23 and preserve the medicare program in a financially solvent
24 manner until 2030 (or, if later, throughout the period of
25 projected solvency of the Federal Old-Age and Survivors

1 Insurance Trust Fund). The report shall include detailed
2 recommendations for appropriate legislative initiatives re-
3 specting how to accomplish this objective.

4 (g) TERMINATION.—The Commission shall terminate
5 60 days after the date of submission of the report required
6 in subsection (f).

7 (h) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated \$1,500,000 to carry out
9 this section. Amounts appropriated to carry out this sec-
10 tion shall remain available until expended.

11 **PART 5—PREEMPTION OF STATE ANTI-MANAGED**

12 **CARE LAWS**

13 **SEC. 8041. PREEMPTION OF STATE LAW RESTRICTIONS ON**

14 **MANAGED CARE ARRANGEMENTS.**

15 (a) LIMITATION ON RESTRICTIONS ON NETWORK
16 PLANS.—Effective as of January 1, 1997—

17 (1) a State may not prohibit or limit a carrier
18 or group health plan providing health coverage from
19 including incentives for enrollees to use the services
20 of participating providers;

21 (2) a State may not prohibit or limit such a
22 carrier or plan from limiting coverage of services to
23 those provided by a participating provider, except as
24 provided in section 1013;

1 (3) a State may not prohibit or limit the nego-
2 tiation of rates and forms of payments for providers
3 by such a carrier or plan with respect to health cov-
4 erage;

5 (4) a State may not prohibit or limit such a
6 carrier or plan from limiting the number of partici-
7 pating providers;

8 (5) a State may not prohibit or limit such a
9 carrier or plan from requiring that services be pro-
10 vided (or authorized) by a practitioner selected by
11 the enrollee from a list of available participating pro-
12 viders or, except for services of a physician who spe-
13 cializes in obstetrics and gynecology, from requiring
14 enrollees to obtain referral in order to have coverage
15 for treatment by a specialist or health institution;
16 and

17 (6) a State may not prohibit or limit the cor-
18 porate practice of medicine.

19 (b) DEFINITIONS.—In this section:

20 (1) MANAGED CARE COVERAGE.—The term
21 “managed care coverage” means health coverage to
22 the extent the coverage is provided through a man-
23 aged care arrangement (as defined in paragraph (3))
24 that meets the applicable requirements of such sec-
25 tion.

1 (2) PARTICIPATING PROVIDER.—The term
2 “participating provider” means an entity or individ-
3 ual which provides, sells, or leases health care serv-
4 ices as part of a provider network (as defined in
5 paragraph (4)).

6 (3) MANAGED CARE ARRANGEMENT.—The term
7 “managed care arrangement” means, with respect to
8 a group health plan or under health insurance cov-
9 erage, an arrangement under such plan or coverage
10 under which providers agree to provide items and
11 services covered under the arrangement to individ-
12 uals covered under the plan or who have such cov-
13 erage.

14 (4) PROVIDER NETWORK.—The term “provider
15 network” means, with respect to a group health plan
16 or health insurance coverage, providers who have en-
17 tered into an agreement described in paragraph (3).

18 **SEC. 8042. PREEMPTION OF STATE LAWS RESTRICTING UTI-**

19 **LIZATION REVIEW PROGRAMS.**

20 (a) IN GENERAL.—Effective January 1, 1997, no
21 State law or regulation shall prohibit or regulate activities
22 under a utilization review program (as defined in sub-
23 section (b)).

24 (b) UTILIZATION REVIEW PROGRAM DEFINED.—In
25 this section, the term “utilization review program” means

1 a system of reviewing the medical necessity and appro-
2 priateness of patient services (which may include inpatient
3 and outpatient services) using specified guidelines. Such
4 a system may include preadmission certification, the appli-
5 cation of practice guidelines, continued stay review, dis-
6 charge planning, preauthorization of ambulatory proce-
7 dures, and retrospective review.

8 (c) EXEMPTION OF LAWS PREVENTING DENIAL OF
9 LIFESAVING MEDICAL TREATMENT PENDING TRANSFER
10 TO ANOTHER HEALTH CARE PROVIDER.—Nothing in this
11 subtitle shall be construed to invalidate any State law that
12 has the effect of preventing involuntary denial of life-pre-
13 serving medical treatment when such denial would cause
14 the involuntary death of the patient pending transfer of
15 the patient to a health care provider willing to provide
16 such treatment.

17 **Subtitle B—Provisions Relating to**
18 **Regulatory Relief**

19 **PART 1—PROVISIONS RELATING TO PHYSICIAN**
20 **FINANCIAL RELATIONSHIPS**

21 **SEC. 8101. REPEAL OF PROHIBITIONS BASED ON COM-**
22 **PENSATION ARRANGEMENTS.**

23 (a) IN GENERAL.—Section 1877(a)(2) (42 U.S.C.
24 1395nn(a)(2)) is amended by striking “is—” and all that
25 follows through “equity,” and inserting the following: “is

1 (except as provided in subsection (c)) an ownership or in-
2 vestment interest in the entity through equity.”.

3 (b) CONFORMING AMENDMENTS.—Section 1877 (42
4 U.S.C. 1395nn) is amended as follows:

5 (1) In subsection (b)—

6 (A) in the heading, by striking “TO BOTH
7 OWNERSHIP AND COMPENSATION ARRANGE-
8 MENT PROVISIONS” and inserting “WHERE FI-
9 NANCIAL RELATIONSHIP EXISTS”; and

10 (B) by redesignating paragraph (4) as
11 paragraph (7).

12 (2) In subsection (c)—

13 (A) by amending the heading to read as
14 follows: “EXCEPTION FOR OWNERSHIP OR IN-
15 VESTMENT INTEREST IN PUBLICLY TRADED
16 SECURITIES AND MUTUAL FUNDS”; and

17 (B) in the matter preceding paragraph (1),
18 by striking “subsection (a)(2)(A)” and inserting
19 “subsection (a)(2)”.

20 (3) In subsection (d)—

21 (A) by striking the matter preceding para-
22 graph (1);

23 (B) in paragraph (3), by striking “para-
24 graph (1)” and inserting “paragraph (4)”; and

1 (C) by redesignating paragraphs (1), (2),
2 and (3) as paragraphs (4), (5), and (6), and by
3 transferring and inserting such paragraphs
4 after paragraph (3) of subsection (b).

5 (4) By striking subsection (e).

6 (5) In subsection (f)(2), as amended by section
7 152(a) of the Social Security Act Amendments of
8 1994—

9 (A) in the matter preceding paragraph (1),
10 by striking “ownership, investment, and com-
11 pensation” and inserting “ownership and in-
12 vestment”;

13 (B) in paragraph (2), by striking “sub-
14 section (a)(2)(A)” and all that follows through
15 “subsection (a)(2)(B),” and inserting “sub-
16 section (a)(2),”; and

17 (C) in paragraph (2), by striking “or who
18 have such a compensation relationship with the
19 entity”.

20 (6) In subsection (h)—

21 (A) by striking paragraphs (1), (2), and
22 (3);

23 (B) in paragraph (4)(A), by striking
24 clauses (iv) and (vi);

1 (C) in paragraph (4)(B), by striking
2 “RULES.—” and all that follows through “(ii)
3 FACULTY” and inserting “RULES FOR FAC-
4 ULTY; and

5 (D) by adding at the end of paragraph (4)
6 the following new subparagraph:

7 “(C) MEMBER OF A GROUP.—A physician
8 is a ‘member’ of a group if the physician is an
9 owner or a bona fide employee, or both, of the
10 group.”.

11 **SEC. 8102. REVISION OF DESIGNATED HEALTH SERVICES**

12 **SUBJECT TO PROHIBITION.**

13 (a) IN GENERAL.—Section 1877(h)(6) (42 U.S.C.
14 1395nn(h)(6)) is amended by striking subparagraphs (B)
15 through (K) and inserting the following:

16 “(B) Items and services furnished by a
17 community pharmacy (as defined in paragraph
18 (1)).

19 “(C) Magnetic resonance imaging and
20 computerized tomography services.

21 “(D) Outpatient physical therapy serv-
22 ices.”.

23 (b) COMMUNITY PHARMACY DEFINED.—Section
24 1877(h) (42 U.S.C. 1395nn(h)), as amended by section

1 8101(b)(6), is amended by inserting before paragraph (4)
2 the following new paragraph:

3 “(1) COMMUNITY PHARMACY.—The term ‘com-
4 munity pharmacy’ means any entity licensed or cer-
5 tified to dispense prescription drugs by the State in
6 which the entity is located (including an entity which
7 dispenses such drugs by mail order).”.

8 (c) CONFORMING AMENDMENTS.—

9 (1) Section 1877(b)(2) (42 U.S.C.
10 1395nn(b)(2)) is amended in the matter preceding
11 subparagraph (A) by striking “services” and all that
12 follows through “supplies)—” and inserting “serv-
13 ices—”.

14 (2) Section 1877(h)(5)(C) (42 U.S.C.
15 1395nn(h)(5)(C)) is amended—

16 (A) by striking “, a request by a radiolo-
17 gist for diagnostic radiology services, and a re-
18 quest by a radiation oncologist for radiation
19 therapy,” and inserting “and a request by a ra-
20 diologist for magnetic resonance imaging or for
21 computerized tomography”, and

22 (B) by striking “radiologist, or radiation
23 oncologist” and inserting “or radiologist”.

1 **SEC. 8103. DELAY IN IMPLEMENTATION UNTIL PROMULGA-**
2 **TION OF REGULATIONS.**

3 (a) IN GENERAL.—Section 13562(b) of OBRA–1993
4 (42 U.S.C. 1395nn note) is amended—

5 (1) in paragraph (1), by striking “paragraph
6 (2)” and inserting “paragraphs (2) and (3)”; and

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

9 “(3) PROMULGATION OF REGULATIONS.—Not-
10 withstanding paragraphs (1) and (2), the amend-
11 ments made by this section shall not apply to any
12 referrals made before the effective date of final regu-
13 lations promulgated by the Secretary of Health and
14 Human Services to carry out such amendments.”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 subsection (a) shall take effect as if included in the enact-
17 ment of OBRA–1993.

18 **SEC. 8104. EXCEPTIONS TO PROHIBITION.**

19 (a) REVISIONS TO EXCEPTION FOR IN-OFFICE AN-
20 CILLARY SERVICES.—

21 (1) REPEAL OF SITE-OF-SERVICE REQUIRE-
22 MENT.—Section 1877 (42 U.S.C. 1395nn) is amend-
23 ed—

24 (A) by amending subparagraph (A) of sub-
25 section (b)(2) to read as follows:

1 “(A) that are furnished personally by the
2 referring physician, personally by a physician
3 who is a member of the same group practice as
4 the referring physician, or personally by individ-
5 uals who are under the general supervision of
6 the physician or of another physician in the
7 group practice, and”, and

8 (B) by adding at the end of subsection (h)
9 the following new paragraph:

10 “(7) GENERAL SUPERVISION.—An individual is
11 considered to be under the ‘general supervision’ of a
12 physician if the physician (or group practice of
13 which the physician is a member) is legally respon-
14 sible for the services performed by the individual and
15 for ensuring that the individual meets licensure and
16 certification requirements, if any, applicable under
17 other provisions of law, regardless of whether or not
18 the physician is physically present when the individ-
19 ual furnishes an item or service.”.

20 (2) CLARIFICATION OF TREATMENT OF PHYSI-
21 CIAN OWNERS OF GROUP PRACTICE.—Section
22 1877(b)(2)(B) (42 U.S.C. 1395nn(b)(2)(B)) is
23 amended by striking “physician or such group prac-
24 tice” and inserting “physician, such group practice,
25 or the physician owners of such group practice”.

1 (3) CONFORMING AMENDMENT.—Section
2 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended by
3 amending the heading to read as follows: “ANCIL-
4 LARY SERVICES FURNISHED PERSONALLY OR
5 THROUGH GROUP PRACTICE.—”.

6 (b) CLARIFICATION OF EXCEPTION FOR SERVICES
7 FURNISHED IN A RURAL AREA.—Paragraph (5) of section
8 1877(b) (42 U.S.C. 1395nn(b)), as transferred by section
9 8101(b)(3)(C), is amended by striking “substantially all”
10 and inserting “not less than 75 percent”.

11 (c) REVISION OF EXCEPTION FOR CERTAIN MAN-
12 AGED CARE ARRANGEMENTS.—Section 1877(b)(3) (42
13 U.S.C. 1395nn(b)(3)) is amended—

14 (1) in the heading by inserting “MANAGED
15 CARE ARRANGEMENTS” after “PREPAID PLANS”;

16 (2) in the matter preceding subparagraph (A),
17 by striking “organization—” and inserting “organi-
18 zation, directly or through contractual arrangements
19 with other entities, to individuals enrolled with the
20 organization—”;

21 (3) in subparagraph (A), by inserting “or part
22 C” after “section 1876”;

23 (4) by striking “or” at the end of subparagraph
24 (C);

1 (5) by striking the period at the end of sub-
2 paragraph (D) and inserting a comma; and

3 (6) by adding at the end the following new sub-
4 paragraphs:

5 “(E) with a contract with a State to pro-
6 vide services under the State plan under title
7 XIX (in accordance with section 1903(m)) or a
8 State MediGrant plan under title XXI; or

9 “(F) which—

10 “(i) provides health care items or
11 services directly or through one or more
12 subsidiary entities or arranges for the pro-
13 vision of health care items or services sub-
14 stantially through the services of health
15 care providers under contract with the or-
16 ganization, and

17 “(ii) (I) assumes financial risk for the
18 provision of health services through mecha-
19 nisms (such as capitation, risk pools, with-
20 holds, and per diem payments) or offers its
21 network of contract health providers to an
22 entity (including self-insured employers
23 and indemnity plans) which assumes finan-
24 cial risk for the provision of such health
25 services, or

1 “(II) has in effect a written agree-
2 ment with the provider of services under
3 which the provider is at significant finan-
4 cial risk (whether through a withhold, capi-
5 tation, incentive pool, per diem payments,
6 or similar risk sharing arrangement) for
7 the cost or utilization of services that the
8 provider is obligated to provide.”.

9 (d) NEW EXCEPTION FOR SHARED FACILITY SERV-
10 ICES.—

11 (1) IN GENERAL.—Section 1877(b) (42 U.S.C.
12 1395nn(b)), as amended by section 8101(b)(3)(C), is
13 amended—

14 (A) by redesignating paragraphs (4)
15 through (7) as paragraphs (5) through (8); and

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

18 “(4) SHARED FACILITY SERVICES.—In the case
19 of a designated health service consisting of a shared
20 facility service of a shared facility—

21 “(A) that is furnished—

22 “(i) personally by the referring physi-
23 cian who is a shared facility physician or
24 personally by an individual directly em-

1 employed or under the general supervision of
2 such a physician,

3 “(ii) by a shared facility in a building
4 in which the referring physician furnishes
5 substantially all of the services of the phy-
6 sician that are unrelated to the furnishing
7 of shared facility services, and

8 “(iii) to a patient of a shared facility
9 physician; and

10 “(B) that is billed by the referring physi-
11 cian or a group practice of which the physician
12 is a member.”.

13 (2) DEFINITIONS.—Section 1877(h) (42 U.S.C.
14 1395nn(h)), as amended by section 8101(b)(6) and
15 section 8102(b), is amended by inserting after para-
16 graph (1) the following new paragraph:

17 “(2) SHARED FACILITY RELATED DEFINI-
18 TIONS.—

19 “(A) SHARED FACILITY SERVICE.—The
20 term ‘shared facility service’ means, with re-
21 spect to a shared facility, a designated health
22 service furnished by the facility to patients of
23 shared facility physicians.

24 “(B) SHARED FACILITY.—The term
25 ‘shared facility’ means an entity that furnishes

1 shared facility services under a shared facility
2 arrangement.

3 “(C) SHARED FACILITY PHYSICIAN.—The
4 term ‘shared facility physician’ means, with re-
5 spect to a shared facility, a physician (or a
6 group practice of which the physician is a mem-
7 ber) who has a financial relationship under a
8 shared facility arrangement with the facility.

9 “(D) SHARED FACILITY ARRANGEMENT.—
10 The term ‘shared facility arrangement’ means,
11 with respect to the provision of shared facility
12 services in a building, a financial arrange-
13 ment—

14 “(i) which is only between physicians
15 who are providing services (unrelated to
16 shared facility services) in the same build-
17 ing,

18 “(ii) in which the overhead expenses
19 of the facility are shared, in accordance
20 with methods previously determined by the
21 physicians in the arrangement, among the
22 physicians in the arrangement, and

23 “(iii) which, in the case of a corpora-
24 tion, is wholly owned and controlled by
25 shared facility physicians.”.

1 (e) NEW EXCEPTION FOR SERVICES FURNISHED IN
2 COMMUNITIES WITH NO ALTERNATIVE PROVIDERS.—
3 Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by
4 section 8101(b)(3)(C) and subsection (d)(1), is amend-
5 ed—

6 (1) by redesignating paragraphs (5) through
7 (8) as paragraphs (6) through (9); and

8 (2) by inserting after paragraph (4) the follow-
9 ing new paragraph:

10 “(5) NO ALTERNATIVE PROVIDERS IN AREA.—
11 In the case of a designated health service furnished
12 in any area with respect to which the Secretary de-
13 termines that individuals residing in the area do not
14 have reasonable access to such a designated health
15 service for which subsection (a)(1) does not apply.”.

16 (f) NEW EXCEPTION FOR SERVICES FURNISHED IN
17 AMBULATORY SURGICAL CENTERS.—Section 1877(b) (42
18 U.S.C. 1395nn(b)), as amended by section 8101(b)(3)(C),
19 subsection (d)(1), and subsection (e)(1), is amended—

20 (1) by redesignating paragraphs (6) through
21 (9) as paragraphs (7) through (10); and

22 (2) by inserting after paragraph (5) the follow-
23 ing new paragraph:

24 “(6) SERVICES FURNISHED IN AMBULATORY
25 SURGICAL CENTERS.—In the case of a designated

1 health service furnished in an ambulatory surgical
2 center described in section 1832(a)(2)(F)(i).”.

3 (g) NEW EXCEPTION FOR SERVICES FURNISHED IN
4 RENAL DIALYSIS FACILITIES.—Section 1877(b) (42
5 U.S.C. 1395nn(b)), as amended by section 8101(b)(3)(C),
6 subsection (d)(1), subsection (e)(1), and subsection (f), is
7 amended—

8 (1) by redesignating paragraphs (7) through
9 (10) as paragraphs (8) through (11); and

10 (2) by inserting after paragraph (6) the follow-
11 ing new paragraph:

12 “(7) SERVICES FURNISHED IN RENAL DIALYSIS
13 FACILITIES.—In the case of a designated health
14 service furnished in a renal dialysis facility under
15 section 1881.”.

16 (h) NEW EXCEPTION FOR SERVICES FURNISHED IN
17 A HOSPICE.—Section 1877(b) (42 U.S.C. 1395nn(b)), as
18 amended by section 8101(b)(3)(C), subsection (d)(1), sub-
19 section (e)(1), subsection (f), and subsection (g), is
20 amended—

21 (1) by redesignating paragraphs (8) through
22 (11) as paragraphs (9) through (12); and

23 (2) by inserting after paragraph (7) the follow-
24 ing new paragraph:

1 “(8) SERVICES FURNISHED BY A HOSPICE PRO-
2 GRAM.—In the case of a designated health service
3 furnished by a hospice program under section
4 1861(dd)(2).”.

5 (i) NEW EXCEPTION FOR SERVICES FURNISHED IN
6 A COMPREHENSIVE OUTPATIENT REHABILITATION FA-
7 CILITY.—Section 1877(b) (42 U.S.C. 1395nn(b)), as
8 amended by section 8101(b)(3)(C), subsection (d)(1), sub-
9 section (e)(1), subsection (f), subsection (g), and sub-
10 section (h), is amended—

11 (1) by redesignating paragraphs (9) through
12 (12) as paragraphs (10) through (13); and

13 (2) by inserting after paragraph (8) the follow-
14 ing new paragraph:

15 “(9) SERVICES FURNISHED IN A COMPREHEN-
16 SIVE OUTPATIENT REHABILITATION FACILITY.—In
17 the case of a designated health service furnished in
18 a comprehensive outpatient rehabilitation facility (as
19 defined in section 1861(cc)(2)).”.

20 (i) DEFINITION OF REFERRAL.—Section
21 1877(h)(5)(A) (42 U.S.C. 1395nn(h)(5)(A)) is amend-
22 ed—

23 (1) by striking “an item or service” and insert-
24 ing “a designated health service”, and

1 (2) by striking “the item or service” and insert-
2 ing “the designated health service”.

3 **SEC. 8105. REPEAL OF REPORTING REQUIREMENTS.**

4 Section 1877 (42 U.S.C. 1395nn) is amended—

5 (1) by striking subsection (f); and

6 (2) by striking subsection (g)(5).

7 **SEC. 8106. PREEMPTION OF STATE LAW.**

8 Section 1877 (42 U.S.C. 1395nn) is amended by add-
9 ing at the end the following new subsection:

10 “(i) PREEMPTION OF STATE LAW.—This section pre-
11 empts State law to the extent State law is inconsistent
12 with this section.”.

13 **SEC. 8107. EFFECTIVE DATE.**

14 Except as provided in section 8103(b), the amend-
15 ments made by this part shall apply to referrals made on
16 or after August 14, 1995, regardless of whether or not
17 regulations are promulgated to carry out such amend-
18 ments.

19 **PART 2—ANTITRUST REFORM**

20 **SEC. 8111. PUBLICATION OF ANTITRUST GUIDELINES ON**
21 **ACTIVITIES OF HEALTH PLANS.**

22 (a) IN GENERAL.—The Attorney General shall pro-
23 vide for the development and publication of explicit guide-
24 lines on the application of antitrust laws to the activities
25 of health plans. The guidelines shall be designed to facili-

1 tate development and operation of plans, consistent with
2 the antitrust laws.

3 (b) REVIEW PROCESS.—The Attorney General shall
4 establish a review process under which the administrator
5 or sponsor of a health plan (or organization that proposes
6 to administer or sponsor a health plan) may submit a re-
7 quest to the Attorney General to obtain a prompt opinion
8 (but in no event later than 90 days after the Attorney
9 General receives the request) from the Department of Jus-
10 tice on the plan’s conformity with the Federal antitrust
11 laws.

12 **SEC. 8112. ISSUANCE OF HEALTH CARE CERTIFICATES OF**
13 **PUBLIC ADVANTAGE.**

14 (a) ISSUANCE AND EFFECT OF CERTIFICATE.—The
15 Attorney General, after consultation with the Secretary,
16 shall issue in accordance with this section a certificate of
17 public advantage to each eligible health care collaborative
18 activity that complies with the requirements in effect
19 under this section on or after the expiration of the 1-year
20 period that begins on the date of the enactment of this
21 Act (without regard to whether or not the Attorney Gen-
22 eral has promulgated regulations to carry out this section
23 by such date). Such activity, and the parties to such activ-
24 ity, shall not be liable under any of the antitrust laws for
25 conduct described in such certificate and engaged in by

1 such activity if such conduct occurs while such certificate
2 is in effect.

3 (b) REQUIREMENTS APPLICABLE TO ISSUANCE OF
4 CERTIFICATES.—

5 (1) STANDARDS TO BE MET.—The Attorney
6 General shall issue a certificate to an eligible health
7 care collaborative activity if the Attorney General
8 finds that—

9 (A) the benefits that are likely to result
10 from carrying out the activity outweigh the re-
11 duction in competition (if any) that is likely to
12 result from the activity, and

13 (B) such reduction in competition is nec-
14 essary to obtain such benefits.

15 (2) FACTORS TO BE CONSIDERED.—

16 (A) WEIGHING OF BENEFITS AGAINST RE-
17 DUCION IN COMPETITION.—For purposes of
18 making the finding described in paragraph
19 (1)(A), the Attorney General shall consider
20 whether the activity is likely—

21 (i) to maintain or to increase the
22 quality of health care by providing new
23 services not currently offered in the rel-
24 evant market,

25 (ii) to increase access to health care,

1 (iii) to achieve cost efficiencies that
2 will be passed on to health care consumers,
3 such as economies of scale, reduced trans-
4 action costs, and reduced administrative
5 costs, that cannot be achieved by the provi-
6 sion of available services and facilities in
7 the relevant market,

8 (iv) to preserve the operation of
9 health care facilities located in underserved
10 geographical areas,

11 (v) to improve utilization of health
12 care resources, and

13 (vi) to reduce inefficient health care
14 resource duplication.

15 (B) NECESSITY OF REDUCTION IN COM-
16 PETITION.—For purposes of making the finding
17 described in paragraph (1)(B), the Attorney
18 General shall consider—

19 (i) the ability of the providers of
20 health care services that are (or likely to
21 be) affected by the health care collabo-
22 rative activity and the entities responsible
23 for making payments to such providers to
24 negotiate societally optimal payment and
25 service arrangements,

1 (ii) the effects of the health care col-
2 laborative activity on premiums and other
3 charges imposed by the entities described
4 in clause (i), and

5 (iii) the availability of equally effi-
6 cient, less restrictive alternatives to achieve
7 the benefits that are intended to be
8 achieved by carrying out the activity.

9 (c) ESTABLISHMENT OF CRITERIA AND PROCE-
10 DURES.—Subject to subsections (d) and (e), not later than
11 1 year after the date of the enactment of this Act, the
12 Attorney General and the Secretary shall establish jointly
13 by rule the criteria and procedures applicable to the issu-
14 ance of certificates under subsection (a). The rules shall
15 specify the form and content of the application to be sub-
16 mitted to the Attorney General to request a certificate,
17 the information required to be submitted in support of
18 such application, the procedures applicable to denying and
19 to revoking a certificate, and the procedures applicable to
20 the administrative appeal (if such appeal is authorized by
21 rule) of the denial and the revocation of a certificate. Such
22 information may include the terms of the health care col-
23 laborative activity (in the case of an activity in existence
24 as of the time of the application) and implementation plan
25 for the collaborative activity.

1 (d) ELIGIBLE HEALTH CARE COLLABORATIVE AC-
2 TIVITY.—To be an eligible health care collaborative activ-
3 ity for purposes of this section, a health care collaborative
4 activity shall submit to the Attorney General an applica-
5 tion that complies with the rules in effect under subsection
6 (c) and that includes—

7 (1) an agreement by the parties to the activity
8 that the activity will not foreclose competition by en-
9 tering into contracts that prevent health care provid-
10 ers from providing health care in competition with
11 the activity,

12 (2) an agreement that the activity will submit
13 to the Attorney General annually a report that de-
14 scribes the operations of the activity and information
15 regarding the impact of the activity on health care
16 and on competition in health care, and

17 (3) an agreement that the parties to the activity
18 will notify the Attorney General and the Secretary of
19 the termination of the activity not later than 30
20 days after such termination occurs.

21 (e) REVIEW OF APPLICATIONS FOR CERTIFICATES.—
22 Not later than 90 days after an eligible health care col-
23 laborative activity submits to the Attorney General an ap-
24 plication that complies with the rules in effect under sub-
25 section (c) and with subsection (d), the Attorney General

1 shall issue or deny the issuance of such certificate. If, be-
2 fore the expiration of such 90-day period, the Attorney
3 General may extend the time for issuance for good cause.

4 (f) REVOCATION OF CERTIFICATE.—Whenever the
5 Attorney General finds that a health care collaborative ac-
6 tivity with respect to which a certificate is in effect does
7 not meet the standards specified in subsection (b), the At-
8 torney General shall revoke such certificate.

9 (g) WRITTEN REASONS; JUDICIAL REVIEW.—

10 (1) DENIAL AND REVOCATION OF CERTIFI-
11 CATES.—If the Attorney General denies an applica-
12 tion for a certificate or revokes a certificate, the At-
13 torney General shall include in the notice of denial
14 or revocation a statement of the reasons relied upon
15 for the denial or revocation of such certificate.

16 (2) JUDICIAL REVIEW.—

17 (A) AFTER ADMINISTRATIVE PROCEED-
18 ING.—(i) If the Attorney General denies an ap-
19 plication submitted or revokes a certificate is-
20 sued under this section after an opportunity for
21 hearing on the record, then any party to the
22 health care collaborative activity involved may
23 commence a civil action, not later than 60 days
24 after receiving notice of the denial or revoca-
25 tion, in an appropriate district court of the

1 United States for review of the record of such
2 denial or revocation.

3 (ii) As part of the Attorney General's an-
4 swer, the Attorney General shall file in such
5 court a certified copy of the record on which
6 such denial or revocation is based. The findings
7 of fact of the Attorney General may be set aside
8 only if found to be unsupported by substantial
9 evidence in such record taken as a whole.

10 (B) DENIAL OR REVOCATION WITHOUT AD-
11 MINISTRATIVE PROCEEDING.—If the Attorney
12 General denies an application submitted or re-
13 vokes a certificate issued under this section
14 without an opportunity for hearing on the
15 record, then any party to the health care col-
16 laborative activity involved may commence a
17 civil action, not later than 60 days after receiv-
18 ing notice of the denial or revocation, in an ap-
19 propriate district court of the United States for
20 de novo review of such denial or revocation.

21 (h) EXEMPTION.—A person shall not be liable under
22 any of the antitrust laws for conduct necessary—

23 (1) to prepare, agree to prepare, or attempt to
24 agree to prepare an application to request a certifi-
25 cate under this section, or

1 (2) to attempt to enter into any health care col-
2 laborative activity with respect to which such a cer-
3 tificate is in effect.

4 (i) DEFINITIONS.—In this section:

5 (1) The term “certificate” means a certificate
6 of public advantage authorized to be issued under
7 subsection (a).

8 (2) The term “health care collaborative activ-
9 ity” means an agreement (whether existing or pro-
10 posed) between 2 or more providers of health care
11 services that is entered into solely for the purpose of
12 sharing in the provision and coordination of health
13 care services and that involves substantial integra-
14 tion and financial risk-sharing between the parties,
15 but does not include the exchanging of information,
16 the entering into of any agreement, or the engage-
17 ment in any other conduct that is not reasonably re-
18 quired to carry out such agreement.

19 (3) The term “health care services” includes
20 services related to the delivery or administration of
21 health care services.

22 (4) The term “liable” means liable for any civil
23 or criminal violation of the antitrust laws.

24 (5) The term “provider of health care services”
25 means any individual or entity that is engaged in the

1 delivery of health care services in a State and that
2 is required by State law or regulation to be licensed
3 or certified by the State to engage in the delivery of
4 such services in the State.

5 **SEC. 8113. STUDY OF IMPACT ON COMPETITION.**

6 The Attorney General, in consultation with the Chair-
7 man of the Federal Trade Commission, annually shall sub-
8 mit to the Congress a report as part of the annual budget
9 oversight proceedings concerning the Antitrust Division of
10 the Department of Justice. The report shall enable the
11 Congress to determine how enforcement of antitrust laws
12 is affecting the formation of efficient, cost-saving joint
13 ventures and if the certificate of public advantage proce-
14 dure set forth in section 8112 has resulted in undesirable
15 reduction in competition in the health care marketplace.
16 The report shall include an evaluation of the factors set
17 forth in paragraphs (2)(A) and (2)(B) of section 8112(b).

18 **SEC. 8114. ANTITRUST EXEMPTION.**

19 The antitrust laws shall not apply with respect to—

20 (1) the merger of, or the attempt to merge, 2
21 or more hospitals,

22 (2) a contract entered into solely by 2 or more
23 hospitals to allocate hospital services, or

24 (3) the attempt by only 2 or more hospitals to
25 enter into a contract to allocate hospital services,

1 if each of such hospitals satisfies all of the requirements
2 of section 8115 at the time such hospitals engage in the
3 conduct described in paragraph (1), (2), or (3), as the case
4 may be.

5 **SEC. 8115. REQUIREMENTS.**

6 The requirements referred to in section 8114 are as
7 follows:

8 (1) The hospital is located outside of a city, or
9 in a city that has less than 150,000 inhabitants, as
10 determined in accordance with the most recent data
11 available from the Bureau of the Census.

12 (2) In the most recently concluded calendar
13 year, the hospital received more than 40 percent of
14 its gross revenue from payments made under Fed-
15 eral programs.

16 (3) There is in effect with respect to the hos-
17 pital a certificate issued by the Health Care Financ-
18 ing Administration specifying that such Administra-
19 tion has determined that Federal expenditures would
20 be reduced, consumer costs would not increase, and
21 access to health care services would not be reduced,
22 if the hospital and the other hospitals that requested
23 such certificate merge, or allocate the hospital serv-
24 ices specified in such request, as the case may be.

1 **SEC. 8116. DEFINITION.**

2 For purposes of this subtitle, the term “antitrust
3 laws” has the meaning given such term in subsection (a)
4 of the first section of the Clayton Act (15 U.S.C. 12), ex-
5 cept that such term includes section 5 of the Federal
6 Trade Commission Act (15 U.S.C. 45) to the extent that
7 such section 5 applies with respect to unfair methods of
8 competition.

9 **PART 3—MALPRACTICE REFORM**

10 **Subpart A—Uniform Standards for Malpractice**

11 **Claims**

12 **SEC. 8121. APPLICABILITY.**

13 Except as provided in section 8131, this subpart shall
14 apply to any medical malpractice liability action brought
15 in a Federal or State court, and to any medical mal-
16 practice claim subject to an alternative dispute resolution
17 system, that is initiated on or after January 1, 1996.

18 **SEC. 8122. REQUIREMENT FOR INITIAL RESOLUTION OF AC-**
19 **TION THROUGH ALTERNATIVE DISPUTE RES-**
20 **OLUTION.**

21 (a) IN GENERAL.—

22 (1) STATE CASES.—A medical malpractice li-
23 ability action may not be brought in any State court
24 during a calendar year unless the medical mal-
25 practice liability claim that is the subject of the ac-
26 tion has been initially resolved under an alternative

1 dispute resolution system certified for the year by
2 the Secretary under section 8132(a), or, in the case
3 of a State in which such a system is not in effect
4 for the year, under the alternative Federal system
5 established under section 8132(b).

6 (2) FEDERAL DIVERSITY ACTIONS.—A medical
7 malpractice liability action may not be brought in
8 any Federal court under section 1332 of title 28,
9 United States Code, during a calendar year unless
10 the medical malpractice liability claim that is the
11 subject of the action has been initially resolved
12 under the alternative dispute resolution system re-
13 ferred to in paragraph (1) that applied in the State
14 whose law applies in such action.

15 (3) CLAIMS AGAINST UNITED STATES.—

16 (A) ESTABLISHMENT OF PROCESS FOR
17 CLAIMS.—The Attorney General shall establish
18 an alternative dispute resolution process for the
19 resolution of tort claims consisting of medical
20 malpractice liability claims brought against the
21 United States under chapter 171 of title 28,
22 United States Code. Under such process, the
23 resolution of a claim shall occur after the com-
24 pletion of the administrative claim process ap-

1 applicable to the claim under section 2675 of such
2 title.

3 (B) REQUIREMENT FOR INITIAL RESOLU-
4 TION UNDER PROCESS.—A medical malpractice
5 liability action based on a medical malpractice
6 liability claim described in subparagraph (A)
7 may not be brought in any Federal court unless
8 the claim has been initially resolved under the
9 alternative dispute resolution process estab-
10 lished by the Attorney General under such sub-
11 paragraph.

12 (b) INITIAL RESOLUTION OF CLAIMS UNDER
13 ADR.—For purposes of subsection (a), an action is “ini-
14 tially resolved” under an alternative dispute resolution
15 system if—

16 (1) the ADR reaches a decision on whether the
17 defendant is liable to the plaintiff for damages; and

18 (2) if the ADR determines that the defendant
19 is liable, the ADR reaches a decision on the amount
20 of damages assessed against the defendant.

21 (c) PROCEDURES FOR FILING ACTIONS.—

22 (1) NOTICE OF INTENT TO CONTEST DECI-
23 SION.—Not later than 60 days after a decision is is-
24 sued with respect to a medical malpractice liability
25 claim under an alternative dispute resolution system,

1 each party affected by the decision shall submit a
2 sealed statement to a court of competent jurisdiction
3 indicating whether or not the party intends to con-
4 test the decision.

5 (2) DEADLINE FOR FILING ACTION.—A medical
6 malpractice liability action may not be brought by a
7 party unless—

8 (A) the party has filed the notice of intent
9 required by paragraph (1); and

10 (B) the party files the action in a court of
11 competent jurisdiction not later than 90 days
12 after the decision resolving the medical mal-
13 practice liability claim that is the subject of the
14 action is issued under the applicable alternative
15 dispute resolution system.

16 (3) COURT OF COMPETENT JURISDICTION.—
17 For purposes of this subsection, the term “court of
18 competent jurisdiction” means—

19 (A) with respect to actions filed in a State
20 court, the appropriate State trial court; and

21 (B) with respect to actions filed in a Fed-
22 eral court, the appropriate United States dis-
23 trict court.

24 (d) LEGAL EFFECT OF UNCONTESTED ADR DECI-
25 SION.—The decision reached under an alternative dispute

1 resolution system shall, for purposes of enforcement by a
2 court of competent jurisdiction, have the same status in
3 the court as the verdict of a medical malpractice liability
4 action adjudicated in a State or Federal trial court. The
5 previous sentence shall not apply to a decision that is con-
6 tested by a party affected by the decision pursuant to sub-
7 section (c)(1).

8 **SEC. 8123. OPTIONAL APPLICATION OF PRACTICE GUIDE-**
9 **LINES.**

10 (a) DEVELOPMENT AND CERTIFICATION OF GUIDE-
11 LINES.—Each State may develop, for certification by the
12 Secretary, a set of specialty clinical practice guidelines,
13 based on recommended guidelines from national specialty
14 societies, to be updated annually. In the absence of rec-
15 ommended guidelines from such societies, each State may
16 develop such guidelines based on such criteria as the State
17 considers appropriate (including based on recommended
18 guidelines developed by the Agency for Health Care Policy
19 and Research).

20 (b) PROVISION OF HEALTH CARE UNDER GUIDE-
21 LINES.—Notwithstanding any other provision of law, in
22 any medical malpractice liability action arising from the
23 conduct of a health care provider or health care profes-
24 sional, if such conduct was in accordance with a guideline
25 developed by the State in which the conduct occurred and

1 certified by the Secretary under subsection (a), the guide-
2 line—

3 (1) may be introduced by any party to the ac-
4 tion (including a health care provider, health care
5 professional, or patient); and

6 (2) if introduced, shall establish a rebuttable
7 presumption that the conduct was in accordance
8 with the appropriate standard of medical care, which
9 may only be overcome by the presentation of clear
10 and convincing evidence on behalf of the party
11 against whom the presumption operates.

12 **SEC. 8124. TREATMENT OF NONECONOMIC AND PUNITIVE**
13 **DAMAGES.**

14 (a) **LIMITATION ON NONECONOMIC DAMAGES.**—The
15 total amount of noneconomic damages that may be award-
16 ed to a claimant and the members of the claimant's family
17 for losses resulting from the injury which is the subject
18 of a medical malpractice liability action may not exceed
19 \$500,000, regardless of the number of parties against
20 whom the action is brought or the number of actions
21 brought with respect to the injury.

22 (b) **NO AWARD OF PUNITIVE DAMAGES AGAINST**
23 **MANUFACTURER OF MEDICAL PRODUCT.**—In the case of
24 a medical malpractice liability action in which the plaintiff
25 alleges a claim against the manufacturer of a medical

1 product, no punitive or exemplary damages may be award-
2 ed against such manufacturer.

3 (c) JOINT AND SEVERAL LIABILITY FOR NON-
4 ECONOMIC DAMAGES.—The liability of each defendant for
5 noneconomic damages shall be several only and shall not
6 be joint, and each defendant shall be liable only for the
7 amount of noneconomic damages allocated to the defend-
8 ant in direct proportion to the defendant's percentage of
9 responsibility (as determined by the trier of fact).

10 (d) USE OF PUNITIVE DAMAGE AWARDS FOR OPER-
11 ATION OF ADR SYSTEMS IN STATES.—

12 (1) IN GENERAL.—The total amount of any pu-
13 nitive damages awarded in a medical malpractice li-
14 ability action shall be paid to the State in which the
15 action is brought (or, in a case brought in Federal
16 court, in the State in which the health care services
17 that caused the injury that is the subject of the ac-
18 tion were provided), and shall be used by the State
19 solely to implement and operate the State alternative
20 dispute resolution system certified by the Secretary
21 under section 8132 (except as provided in paragraph
22 (2)).

23 (2) USE OF REMAINING AMOUNTS FOR PRO-
24 VIDER LICENSING AND DISCIPLINARY ACTIVITIES.—
25 If the amount of punitive damages paid to a State

1 under paragraph (1) for a year is greater than the
2 State's costs of implementing and operating the
3 State alternative dispute resolution system during
4 the year, the balance of such punitive damages paid
5 to the State shall be used solely to carry out activi-
6 ties to assure the safety and quality of health care
7 services provided in the State, including (but not
8 limited to)—

9 (A) licensing or certifying health care pro-
10 fessionals and health care providers in the
11 State; and

12 (B) carrying out programs to reduce mal-
13 practice-related costs for providers volunteering
14 to provide services in medically underserved
15 areas.

16 (3) MAINTENANCE OF EFFORT.—A State shall
17 use any amounts paid pursuant to paragraph (1) to
18 supplement and not to replace amounts spent by the
19 State for implementing and operating the State al-
20 ternative dispute resolution system or carrying out
21 the activities described in paragraph (2).

22 (e) DRUGS AND DEVICES.—

23 (1)(A) Punitive damages shall not be awarded
24 against a manufacturer or product seller of a drug
25 (as defined in section 201(g)(1) of the Federal

1 Food, Drug, and Cosmetic Act (21 U.S.C.
2 321(g)(1)) or medical device (as defined in section
3 201(h) of the Federal Food, Drug, and Cosmetic
4 Act (21 U.S.C. 321(h)) which caused the claimant's
5 harm where—

6 (i) such drug or device was subject to pre-
7 market approval by the Food and Drug Admin-
8 istration with respect to the safety of the for-
9 mulation or performance of the aspect of such
10 drug or device which caused the claimant's
11 harm or the adequacy of the packaging or label-
12 ing of such drug or device, and such drug was
13 approved by the Food and Drug Administra-
14 tion; or

15 (ii) the drug is generally recognized as safe
16 and effective pursuant to conditions established
17 by the Food and Drug Administration and ap-
18 plicable regulations, including packaging and la-
19 beling regulations.

20 (B) Subparagraph (A) shall not apply in any
21 case in which the defendant, before or after pre-
22 market approval of a drug or device—

23 (i) intentionally and wrongfully withheld
24 from or misrepresented to the Food and Drug
25 Administration information concerning such

1 drug or device required to be submitted under
2 the Federal Food, Drug, and Cosmetic Act (21
3 U.S.C. 301 et seq.) or section 351 of the Public
4 Health Service Act (42 U.S.C. 262) that is ma-
5 terial and relevant to the harm suffered by the
6 claimant, or

7 (ii) made an illegal payment to an official
8 or employee of the Food and Drug Administra-
9 tion for the purpose of securing or maintaining
10 approval of such drug or device.

11 (2) PACKAGING.—In a product liability action
12 for harm which is alleged to relate to the adequacy
13 of the packaging (or labeling relating to such pack-
14 aging) of a drug which is required to have tamper-
15 resistant packaging under regulations of the Sec-
16 retary of Health and Human Services (including la-
17 beling regulations related to such packaging), the
18 manufacturer of the drug shall not be held liable for
19 punitive damages unless the drug is found by the
20 court by clear and convincing evidence to be sub-
21 stantially out of compliance with such regulations.

22 **SEC. 8125. PERIODIC PAYMENTS FOR FUTURE LOSSES.**

23 (a) IN GENERAL.—In any medical malpractice liabil-
24 ity action in which the damages awarded for future eco-
25 nomic loss exceeds \$100,000, a defendant may not be re-

1 quired to pay such damages in a single, lump-sum pay-
2 ment, but may be permitted to make such payments on
3 a periodic basis. The periods for such payments shall be
4 determined by the court, based upon projections of when
5 such expenses are likely to be incurred.

6 (b) WAIVER.—A court may waive the application of
7 subsection (a) with respect to a defendant if the court de-
8 termines that it is not in the best interests of the plaintiff
9 to receive payments for damages on such a periodic basis.

10 **SEC. 8126. TREATMENT OF ATTORNEY'S FEES AND OTHER**
11 **COSTS.**

12 (a) REQUIRING PARTY CONTESTING ADR RULING
13 TO PAY ATTORNEY'S FEES AND OTHER COSTS.—

14 (1) IN GENERAL.—The court in a medical mal-
15 practice liability action shall require the party that
16 (pursuant to section 8122(c)(1)) contested the ruling
17 of the alternative dispute resolution system with re-
18 spect to the medical malpractice liability claim that
19 is the subject of the action to pay to the opposing
20 party the costs incurred by the opposing party under
21 the action, including attorney's fees, fees paid to ex-
22 pert witnesses, and other litigation expenses (but not
23 including court costs, filing fees, or other expenses
24 paid directly by the party to the court, or any fees
25 or costs associated with the resolution of the claim

1 under the alternative dispute resolution system), but
2 only if—

3 (A) in the case of an action in which the
4 party that contested the ruling is the claimant,
5 the amount of damages awarded to the party
6 under the action is less than the amount of
7 damages awarded to the party under the ADR
8 system; and

9 (B) in the case of an action in which the
10 party that contested the ruling is the defendant,
11 the amount of damages assessed against the
12 party under the action is greater than the
13 amount of damages assessed under the ADR
14 system.

15 (2) EXCEPTIONS.—Paragraph (1) shall not
16 apply if—

17 (A) the party contesting the ruling made
18 under the previous alternative dispute resolu-
19 tion system shows that—

20 (i) the ruling was procured by corrup-
21 tion, fraud, or undue means,

22 (ii) there was partiality or corruption
23 under the system,

1 (iii) there was other misconduct under
2 the system that materially prejudiced the
3 party's rights, or

4 (iv) the ruling was based on an error
5 of law;

6 (B) the party contesting the ruling made
7 under the alternative dispute resolution system
8 presents new evidence before the trier of fact
9 that was not available for presentation under
10 the ADR system;

11 (C) the medical malpractice liability action
12 raised a novel issue of law; or

13 (D) the court finds that the application of
14 such paragraph to a party would constitute an
15 undue hardship, and issues an order waiving or
16 modifying the application of such paragraph
17 that specifies the grounds for the court's deci-
18 sion.

19 (3) LIMIT ON ATTORNEYS' FEES PAID.—Attor-
20 neys' fees that are required to be paid under para-
21 graph (1) by the contesting party shall not exceed
22 the amount of the attorneys' fees incurred by the
23 contesting party in the action. If the attorneys' fees
24 of the contesting party are based on a contingency
25 fee agreement, the amount of attorneys' fees for

1 purposes of the preceding sentence shall not exceed
2 the reasonable value of those services.

3 (4) RECORDS.—In order to receive attorneys’
4 fees under paragraph (1), counsel of record in the
5 medical malpractice liability action involved shall
6 maintain accurate, complete records of hours worked
7 on the action, regardless of the fee arrangement
8 with the client involved.

9 (b) CONTINGENCY FEE DEFINED.—As used in this
10 section, the term “contingency fee” means any fee for pro-
11 fessional legal services which is, in whole or in part, con-
12 tingent upon the recovery of any amount of damages,
13 whether through judgment or settlement.

14 **SEC. 8127. UNIFORM STATUTE OF LIMITATIONS.**

15 (a) IN GENERAL.—Except as provided in subsection
16 (b), no medical malpractice claim may be initiated after
17 the expiration of the 2-year period that begins on the date
18 on which the alleged injury that is the subject of such
19 claim was discovered, but in no event may such a claim
20 be initiated after the expiration of the 4-year period that
21 begins on the date on which the alleged injury that is the
22 subject of such claim occurred.

23 (b) EXCEPTION FOR MINORS.—In the case of an al-
24 leged injury suffered by a minor who has not attained 6
25 years of age, a medical malpractice claim may not be initi-

1 ated after the expiration of the 2-year period that begins
2 on the date on which the alleged injury that is the subject
3 of such claim was discovered or should reasonably have
4 been discovered, but in no event may such a claim be initi-
5 ated after the date on which the minor attains 12 years
6 of age.

7 **SEC. 8128. SPECIAL PROVISION FOR CERTAIN OBSTETRIC**
8 **SERVICES.**

9 (a) **IN GENERAL.**—In the case of a medical mal-
10 practice claim relating to services provided during labor
11 or the delivery of a baby, if the health care professional
12 or health care provider against whom the claim is brought
13 did not previously treat the claimant for the pregnancy,
14 the trier of fact may not find that such professional or
15 provider committed malpractice and may not assess dam-
16 ages against such professional or provider unless the mal-
17 practice is proven by clear and convincing evidence.

18 (b) **APPLICABILITY TO GROUP PRACTICES OR**
19 **AGREEMENTS AMONG PROVIDERS.**—For purposes of sub-
20 section (a), a health care professional shall be considered
21 to have previously treated an individual for a pregnancy
22 if the professional is a member of a group practice whose
23 members previously treated the individual for the preg-
24 nancy or is providing services to the individual during

1 labor or the delivery of a baby pursuant to an agreement
2 with another professional.

3 **SEC. 8129. JURISDICTION OF FEDERAL COURTS.**

4 Nothing in this subpart shall be construed to estab-
5 lish any jurisdiction over any medical malpractice liability
6 action in the district courts of the United States on the
7 basis of sections 1331 or 1337 of title 28, United States
8 Code.

9 **SEC. 8130. PREEMPTION.**

10 (a) IN GENERAL.—The provisions of this subpart
11 shall preempt any State law to the extent such law is in-
12 consistent with such provisions, except that the provisions
13 of this subpart shall not preempt any State law that pro-
14 vides for defenses or places limitations on a person’s liabil-
15 ity in addition to those contained in this part, places great-
16 er limitations on the amount of attorneys’ fees that can
17 be collected, or otherwise imposes greater restrictions than
18 those provided in this part.

19 (b) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE
20 OF LAW OR VENUE.—Nothing in this subpart shall be
21 construed to—

22 (1) waive or affect any defense of sovereign im-
23 munity asserted by any State under any provision of
24 law;

1 (2) waive or affect any defense of sovereign im-
2 munity asserted by the United States;

3 (3) affect the applicability of any provision of
4 the Foreign Sovereign Immunities Act of 1976;

5 (4) preempt State choice-of-law rules with re-
6 spect to claims brought by a foreign nation or a citi-
7 zen of a foreign nation; or

8 (5) affect the right of any court to transfer
9 venue or to apply the law of a foreign nation or to
10 dismiss a claim of a foreign nation or of a citizen
11 of a foreign nation on the ground in inconvenient
12 forum.

13 **Subpart B—Requirements for State Alternative**
14 **Dispute Resolution Systems (ADR)**

15 **SEC. 8131. BASIC REQUIREMENTS.**

16 (a) IN GENERAL.—A State’s alternative dispute reso-
17 lution system meets the requirements of this section if the
18 system—

19 (1) applies to all medical malpractice liability
20 claims under the jurisdiction of the courts of that
21 State;

22 (2) requires that a written opinion resolving the
23 dispute be issued not later than 6 months after the
24 date by which each party against whom the claim is
25 filed has received notice of the claim (other than in

1 exceptional cases for which a longer period is re-
2 quired for the issuance of such an opinion), and that
3 the opinion contain—

4 (A) findings of fact relating to the dispute,

5 and

6 (B) a description of the costs incurred in
7 resolving the dispute under the system (includ-
8 ing any fees paid to the individuals hearing and
9 resolving the claim), together with an appro-
10 priate assessment of the costs against any of
11 the parties;

12 (3) requires individuals who hear and resolve
13 claims under the system to meet such qualifications
14 as the State may require (in accordance with regula-
15 tions of the Secretary);

16 (4) is approved by the State or by local govern-
17 ments in the State;

18 (5) with respect to a State system that consists
19 of multiple dispute resolution procedures—

20 (A) permits the parties to a dispute to se-
21 lect the procedure to be used for the resolution
22 of the dispute under the system, and

23 (B) if the parties do not agree on the pro-
24 cedure to be used for the resolution of the dis-

1 pute, assigns a particular procedure to the
2 parties;

3 (6) provides for the transmittal to the State
4 agency responsible for monitoring or disciplining
5 health care professionals and health care providers
6 of any findings made under the system that such a
7 professional or provider committed malpractice, un-
8 less, during the 90-day period beginning on the date
9 the system resolves the claim against the profes-
10 sional or provider, the professional or provider
11 brings an action contesting the decision made under
12 the system; and

13 (7) provides for the regular transmittal to the
14 Administrator for Health Care Policy and Research
15 of information on disputes resolved under the sys-
16 tem, in a manner that assures that the identity of
17 the parties to a dispute shall not be revealed.

18 (b) APPLICATION OF MALPRACTICE LIABILITY
19 STANDARDS TO ALTERNATIVE DISPUTE RESOLUTION.—
20 The provisions of subpart A (other than section 8122)
21 shall apply with respect to claims brought under a State
22 alternative dispute resolution system or the alternative
23 Federal system in the same manner as such provisions
24 apply with respect to medical malpractice liability actions
25 brought in the State.

1 **SEC. 8132. CERTIFICATION OF STATE SYSTEMS; APPLICA-**
2 **BILITY OF ALTERNATIVE FEDERAL SYSTEM.**

3 (a) CERTIFICATION.—

4 (1) IN GENERAL.—Not later than October 1 of
5 each year (beginning with 1995), the Secretary, in
6 consultation with the Attorney General, shall deter-
7 mine whether a State's alternative dispute resolution
8 system meets the requirements of this subpart for
9 the following calendar year.

10 (2) BASIS FOR CERTIFICATION.—The Secretary
11 shall certify a State's alternative dispute resolution
12 system under this subsection for a calendar year if
13 the Secretary determines under paragraph (1) that
14 the system meets the requirements of section 8131,
15 including the requirement described in section 8124
16 that punitive damages awarded under the system are
17 paid to the State for the uses described in such
18 section.

19 (b) APPLICABILITY OF ALTERNATIVE FEDERAL
20 SYSTEM.—

21 (1) ESTABLISHMENT AND APPLICABILITY.—
22 Not later than October 1, 1995, the Secretary, in
23 consultation with the Attorney General, shall estab-
24 lish by rule an alternative Federal ADR system for
25 the resolution of medical malpractice liability claims
26 during a calendar year in States that do not have

1 in effect an alternative dispute resolution system
2 certified under subsection (a) for the year.

3 (2) REQUIREMENTS FOR SYSTEM.—Under the
4 alternative Federal ADR system established under
5 paragraph (1)—

6 (A) paragraphs (1), (2), (6), and (7) of
7 section 8131(a) shall apply to claims brought
8 under the system;

9 (B) if the system provides for the resolu-
10 tion of claims through arbitration, the claims
11 brought under the system shall be heard and
12 resolved by arbitrators appointed by the Sec-
13 retary in consultation with the Attorney Gen-
14 eral; and

15 (C) with respect to a State in which the
16 system is in effect, the Secretary may (at the
17 State's request) modify the system to take into
18 account the existence of dispute resolution pro-
19 cedures in the State that affect the resolution
20 of medical malpractice liability claims.

21 (3) TREATMENT OF STATES WITH ALTER-
22 NATIVE SYSTEM IN EFFECT.—If the alternative Fed-
23 eral ADR system established under this subsection is
24 applied with respect to a State for a calendar year,
25 the State shall make a payment to the United States

1 (at such time and in such manner as the Secretary
2 may require) in an amount equal to 110 percent of
3 the costs incurred by the United States during the
4 year as a result of the application of the system with
5 respect to the State.

6 **SEC. 8133. REPORTS ON IMPLEMENTATION AND EFFEC-**
7 **TIVENESS OF ALTERNATIVE DISPUTE RESO-**
8 **LUTION SYSTEMS.**

9 (a) IN GENERAL.—Not later than 5 years after the
10 date of the enactment of this Act, the Secretary shall pre-
11 pare and submit to the Congress a report describing and
12 evaluating State alternative dispute resolution systems op-
13 erated pursuant to this subpart and the alternative Fed-
14 eral system established under section 8132(b).

15 (b) CONTENTS OF REPORT.—The Secretary shall in-
16 clude in the report prepared and submitted under sub-
17 section (a)—

18 (1) information on—

19 (A) the effect of the alternative dispute
20 resolution systems on the cost of health care
21 within each State,

22 (B) the impact of such systems on the ac-
23 cess of individuals to health care within the
24 State, and

1 (C) the effect of such systems on the qual-
2 ity of health care provided within the State; and
3 (2) to the extent that such report does not pro-
4 vide information on no-fault systems operated by
5 States as alternative dispute resolution systems pur-
6 suant to this part, an analysis of the feasibility and
7 desirability of establishing a system under which
8 medical malpractice liability claims shall be resolved
9 on a no-fault basis.

10 **Subpart C—Definitions**

11 **SEC. 8141. DEFINITIONS.**

12 As used in this part:

13 (1) ALTERNATIVE DISPUTE RESOLUTION SYS-
14 TEM.—The term “alternative dispute resolution sys-
15 tem” means a system that is enacted or adopted by
16 a State to resolve medical malpractice claims other
17 than through a medical malpractice liability action.

18 (2) CLAIMANT.—The term “claimant” means
19 any person who brings a health care liability action
20 and, in the case of an individual who is deceased, in-
21 competent, or a minor, the person on whose behalf
22 such an action is brought.

23 (3) CLEAR AND CONVINCING EVIDENCE.—The
24 term “clear and convincing evidence” is that meas-
25 ure or degree of proof that will produce in the mind

1 of the trier of fact a firm belief or conviction as to
2 the truth of the allegations sought to be established,
3 except that such measure or degree of proof is more
4 than that required under preponderance of the evi-
5 dence, but less than that required for proof beyond
6 a reasonable doubt.

7 (4) ECONOMIC DAMAGES.—The term “economic
8 damages” means damages paid to compensate an in-
9 dividual for losses for hospital and other medical ex-
10 penses, lost wages, lost employment, and other pecu-
11 niary losses.

12 (5) HEALTH CARE PROFESSIONAL.—The term
13 “health care professional” means any individual who
14 provides health care services in a State and who is
15 required by State law or regulation to be licensed or
16 certified by the State to provide such services in the
17 State.

18 (6) HEALTH CARE PROVIDER.—The term
19 “health care provider” means any organization or
20 institution that is engaged in the delivery of health
21 care services in a State that is required by State law
22 or regulation to be licensed or certified by the State
23 to engage in the delivery of such services in the
24 State.

1 (7) INJURY.—The term “injury” means any ill-
2 ness, disease, or other harm that is the subject of
3 a medical malpractice claim.

4 (8) MEDICAL MALPRACTICE LIABILITY AC-
5 TION.—The term “medical malpractice liability ac-
6 tion” means any civil action brought pursuant to
7 State law in which a plaintiff alleges a medical mal-
8 practice claim against a health care provider or
9 health care professional, but does not include any
10 action in which the plaintiff’s sole allegation is an
11 allegation of an intentional tort.

12 (9) MEDICAL MALPRACTICE CLAIM.—The term
13 “medical malpractice claim” means any claim relat-
14 ing to the provision of (or the failure to provide)
15 health care services or the use of a medical product,
16 without regard to the theory of liability asserted,
17 and includes any third-party claim, cross-claim,
18 counterclaim, or contribution claim in a medical
19 malpractice liability action.

20 (10) MEDICAL PRODUCT.—

21 (A) IN GENERAL.—The term “medical
22 product” means, with respect to the allegation
23 of a claimant, a drug (as defined in section
24 201(g)(1) of the Federal Food, Drug, and Cos-
25 metic Act (21 U.S.C. 321(g)(1)) or a medical

1 device (as defined in section 201(h) of the Fed-
2 eral Food, Drug, and Cosmetic Act (21 U.S.C.
3 321(h)) if—

4 (i) such drug or device was subject to
5 premarket approval under section 505,
6 507, or 515 of the Federal Food, Drug,
7 and Cosmetic Act (21 U.S.C. 355, 357, or
8 360e) or section 351 of the Public Health
9 Service Act (42 U.S.C. 262) with respect
10 to the safety of the formulation or per-
11 formance of the aspect of such drug or de-
12 vice which is the subject of the claimant's
13 allegation or the adequacy of the packag-
14 ing or labeling of such drug or device, and
15 such drug or device is approved by the
16 Food and Drug Administration; or

17 (ii) the drug or device is generally rec-
18 ognized as safe and effective under regula-
19 tions issued by the Secretary of Health
20 and Human Services under section 201(p)
21 of the Federal Food, Drug, and Cosmetic
22 Act (21 U.S.C. 321(p)).

23 (B) EXCEPTION IN CASE OF MISREPRE-
24 SENTATION OR FRAUD.—Notwithstanding sub-
25 paragraph (A), the term “medical product”

1 shall not include any product described in such
2 subparagraph if the claimant shows that the
3 product is approved by the Food and Drug Ad-
4 ministration for marketing as a result of with-
5 held information, misrepresentation, or an ille-
6 gal payment by manufacturer of the product.

7 (11) NONECONOMIC DAMAGES.—The term
8 “noneconomic damages” means damages paid to
9 compensate an individual for losses for physical and
10 emotional pain, suffering, inconvenience, physical
11 impairment, mental anguish, disfigurement, loss of
12 enjoyment of life, loss of consortium, and other
13 nonpecuniary losses, but does not include punitive
14 damages.

15 (12) PUNITIVE DAMAGES.—The term “punitive
16 damages” means compensation, in addition to com-
17 pensation for actual harm suffered, that is awarded
18 for the purpose of punishing a person for conduct
19 deemed to be malicious, wanton, willful, or exces-
20 sively reckless.

1 **PART 4—PAYMENT AREAS FOR PHYSICIANS’**

2 **SERVICES UNDER MEDICARE**

3 **SEC. 8151. MODIFICATION OF PAYMENT AREAS USED TO**
4 **DETERMINE PAYMENTS FOR PHYSICIANS’**
5 **SERVICES UNDER MEDICARE.**

6 (a) IN GENERAL.—Section 1848(j)(2) (42 U.S.C.
7 1395w@4(j)(2)) is amended to read as follows:

8 “(2) FEE SCHEDULE AREA.—

9 “(A) GENERAL RULE.—Except as provided
10 in subparagraph (B), the term ‘fee schedule
11 area’ means, with respect to physicians’ services
12 furnished in a State, the State.

13 “(B) EXCEPTION FOR STATES WITH HIGH-
14 EST VARIATION AMONG AREAS.—In the case of
15 the 15 States with the greatest variation in cost
16 associated with physicians’ services among var-
17 ious geographic areas of the State (as deter-
18 mined by the Secretary in accordance with such
19 standards as the Secretary considers appro-
20 priate), the fee schedule area applicable with re-
21 spect to physicians’ services furnished in the
22 State shall be a locality used under section
23 1842(b) for purposes of computing payment
24 amounts for physicians’ services, except that
25 the Secretary shall revise the localities used

1 under such section so that there are no more
2 than 5 such localities in any State.”.

3 (b) BUDGET-NEUTRALITY REQUIREMENT.—The
4 Secretary of Health and Human Services shall carry out
5 the amendment made by subsection (a) in a manner which
6 ensures that the aggregate amount of payment made for
7 physicians’ services under part B of the medicare program
8 in any year does not exceed the aggregate amount of pay-
9 ment which would have been made for such services under
10 part B during the year if the amendment were not in ef-
11 fect.

12 (c) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply to physicians’ services furnished
14 on or after January 1, 1997.

15 **Subtitle C—Medicare Payments to**
16 **Health Care Providers**

17 **PART 1—PROVISIONS AFFECTING ALL**
18 **PROVIDERS**

19 **SEC. 8201. ONE-YEAR FREEZE IN PAYMENTS TO PROVID-**
20 **ERS.**

21 (a) FREEZE IN UPDATES.—

22 (1) IN GENERAL.—Notwithstanding any other
23 provision of law, except as otherwise provided in
24 paragraph (2), for purposes of determining the
25 amount to paid for an item or service under title

1 XVIII of the Social Security Act, the percentage in-
2 crease in any economic index by which a payment
3 amount under title XVIII of the Social Security Act
4 is required to be increased during fiscal year 1996
5 shall be deemed to be zero.

6 (2) EXCEPTIONS.—Paragraph (1) shall not
7 apply to the determination of hospital-specific FTE
8 resident amounts under section 1886(h) of such Act.

9 (b) ECONOMIC INDEX.— The term “economic index”
10 includes—

11 (1) the hospital market basket index (described
12 in section 1886(b)(3)(B)(iii) of the Social Security
13 Act),

14 (2) the medicare economic index (referred to in
15 the fourth sentence of section 1842(b)(3) of such
16 Act),

17 (3) the consumer price index for all urban con-
18 sumers (U.S. city average), and

19 (4) any other index used to adjust payment
20 amounts under title XVIII of such Act.

21 (c) EXTENSION OF PAYMENT FREEZE FOR SNFs
22 AND HHAs.—

23 (1) SKILLED NURSING FACILITIES.—

24 (A) NO CHANGE IN COST LIMITS.—Section
25 13503(a)(1) of OBRA-1993 is amended by

1 striking “1994 and 1995” and inserting “1994,
2 1995, and 1996”.

3 (B) DELAY IN UPDATES; NO CATCH UP.—
4 The last sentence of section 1888(a) (42 U.S.C.
5 1395yy(a)) is amended—

6 (i) by striking “1995” and inserting
7 “1996”, and

8 (ii) by striking “subsection.” and in-
9 sserting “subsection (except that such up-
10 dates may not take into account any
11 changes in the routine service costs of
12 skilled nursing facilities during cost report-
13 ing periods which began during fiscal year
14 1994, 1995, or 1996).”.

15 (C) PROSPECTIVE PAYMENTS.—Section
16 13505(b) of OBRA–1993 is amended by strik-
17 ing “fiscal years 1994 and 1995” and inserting
18 “fiscal years 1994, 1995, and 1996”.

19 (2) HOME HEALTH AGENCIES.—

20 (A) NO CHANGE IN COST LIMITS.—Section
21 13564(a)(1) of OBRA–1993 is amended by
22 striking “1996” and inserting “1997”.

23 (B) DELAY IN UPDATES; NO CATCH UP.—
24 Section 1861(v)(1)(L)(iii) (42 U.S.C.
25 1395x(v)(1)(L)(iii)) is amended—

- 1 (i) by striking “1996” and inserting
2 “1997”, and
3 (ii) by adding at the end the follow-
4 ing: “In establishing limits under this sub-
5 paragraph, the Secretary may not take
6 into account any changes in the routine
7 service costs of the provision of services
8 furnished by home health agencies with re-
9 spect to cost reporting periods which began
10 on or after July 1, 1994, and before July
11 1, 1997.”.

12 **PART 2—PROVISIONS AFFECTING DOCTORS**

13 **SEC. 8211. PAYMENTS FOR PHYSICIANS’ SERVICES.**

14 (a) ESTABLISHING UPDATE TO CONVERSION FACTOR
15 TO MATCH SPENDING UNDER SUSTAINABLE GROWTH
16 RATE.—

17 (1) IN GENERAL.—Section 1848(d)(2) (42
18 U.S.C. 1395ww(d)(2)) is amended to read as fol-
19 lows:

20 “(2) RECOMMENDATION OF UPDATE.—

21 “(A) IN GENERAL.—Not later than April
22 15 of each year (beginning with 1996), the Sec-
23 retary shall transmit to the Congress a report
24 that includes a recommendation on the appro-
25 priate update in the conversion factor for all

1 physicians' services (as defined in subsection
2 (f)(3)(A)) in the following year. In making the
3 recommendation, the Secretary shall consider—

4 “(i) the percentage change in the
5 medicare economic index (described in the
6 fourth sentence of section 1842(b)(3)) for
7 that year;

8 “(ii) such factors as enter into the
9 calculation of the update adjustment factor
10 as described in paragraph (3)(B); and

11 “(iii) access to services.

12 “(B) ADDITIONAL CONSIDERATIONS.—In
13 making recommendations under subparagraph
14 (A), the Secretary may also consider—

15 “(i) unexpected changes by physicians
16 in response to the implementation of the
17 fee schedule;

18 “(ii) unexpected changes in outlay
19 projections;

20 “(iii) changes in the quality or appro-
21 priateness of care;

22 “(iv) any other relevant factors not
23 measured in the resource-based payment
24 methodology; and

1 “(v) changes in volume or intensity of
2 services.

3 “(C) COMMISSION REVIEW.—The Medicare
4 Payment Review Commission shall review the
5 report submitted under subparagraph (A) in a
6 year and shall submit to the Congress, by not
7 later than May 15 of the year, a report includ-
8 ing its recommendations respecting the update
9 in the conversion factor for the following year.”.

10 (2) UPDATE.—Section 1848(d)(3) (42 U.S.C.
11 1395w@4(d)(3)) is amended to read as follows:

12 “(3) UPDATE.—

13 “(A) IN GENERAL.—Unless Congress oth-
14 erwise provides, subject to subparagraph (E),
15 for purposes of this section the update for a
16 year (beginning with 1997) is equal to the
17 product of—

18 “(i) 1 plus the Secretary’s estimate of
19 the percentage increase in the medicare
20 economic index (described in the fourth
21 sentence of section 1842(b)(3)) for the
22 year (divided by 100), and

23 “(ii) 1 plus the Secretary’s estimate of
24 the update adjustment factor for the year
25 (divided by 100),

1 minus 1 and multiplied by 100.

2 “(B) UPDATE ADJUSTMENT FACTOR.—The
3 ‘update adjustment factor’ for a year is equal to
4 the quotient of—

5 “(i) the difference between (I) the
6 sum of the allowed expenditures for physi-
7 cians’ services furnished during each of the
8 years 1995 through the year involved and
9 (II) the sum of the amount of actual ex-
10 penditures for physicians’ services fur-
11 nished during each of the years 1995
12 through the previous year; divided by

13 “(ii) the Secretary’s estimate of al-
14 lowed expenditures for physicians’ services
15 furnished during the year.

16 “(C) DETERMINATION OF ALLOWED EX-
17 PENDITURES.—For purposes of subparagraph
18 (B), allowed expenditures for physicians’ serv-
19 ices shall be determined as follows (as esti-
20 mated by the Secretary):

21 “(i) In the case of allowed expendi-
22 tures for 1995, such expenditures shall be
23 equal to actual expenditures for services
24 furnished during the 12-month period end-
25 ing with June 30, 1995.

1 “(ii) In the case of allowed expendi-
2 tures for 1996 and each subsequent year,
3 such expenditures shall be equal to allowed
4 expenditures for the previous year, in-
5 creased by the sustainable growth rate
6 under subsection (f) for the fiscal year
7 which begins during the year.

8 “(D) DETERMINATION OF ACTUAL EX-
9 PENDITURES.—For purposes of subparagraph
10 (B), the amount of actual expenditures for phy-
11 sicians’ services furnished during a year shall
12 be equal to the amount of expenditures for such
13 services during the 12-month period ending
14 with June of the previous year.

15 “(E) RESTRICTION ON VARIATION FROM
16 MEDICARE ECONOMIC INDEX.—Notwithstanding
17 the amount of the update adjustment factor de-
18 termined under subparagraph (B) for a year,
19 the update in the conversion factor under this
20 paragraph for the year may not be—

21 “(i) greater than 103 percent of 1
22 plus the Secretary’s estimate of the per-
23 centage increase in the medicare economic
24 index (described in the fourth sentence of

1 section 1842(b)(3)) for the year (divided
2 by 100), minus 1 and multiplied by 100; or
3 “(ii) less than 91.75 percent of 1 plus
4 the Secretary’s estimate of the percentage
5 increase in the medicare economic index
6 (described in the fourth sentence of section
7 1842(b)(3)) for the year (divided by 100),
8 minus 1 and multiplied by 100.”.

9 (3) EFFECTIVE DATE.—The amendments made
10 by this subsection shall apply to physicians’ services
11 furnished on or after January 1, 1997.

12 (b) REPLACEMENT OF VOLUME PERFORMANCE
13 STANDARD WITH SUSTAINABLE GROWTH RATE.—Section
14 1848(f) (42 U.S.C. 1395w@4(f)) is amended to read as
15 follows:

16 “(f) SUSTAINABLE GROWTH RATE.—

17 “(1) PROCESS FOR ESTABLISHING SUSTAIN-
18 ABLE GROWTH RATE OF INCREASE.—

19 “(A) SECRETARY’S RECOMMENDATION.—

20 By not later than April 15 of each year (begin-
21 ning with 1996), the Secretary shall transmit to
22 the Congress a recommendation on the sustain-
23 able growth rate for the fiscal year beginning in
24 such year. In making the recommendation, the

1 Secretary shall confer with organizations rep-
2 resenting physicians and shall consider—

3 “(i) inflation,

4 “(ii) changes in numbers of enrollees
5 (other than private plan enrollees) under
6 this part,

7 “(iii) changes in the age composition
8 of enrollees (other than private plan enroll-
9 ees) under this part,

10 “(iv) changes in technology,

11 “(v) evidence of inappropriate utiliza-
12 tion of services,

13 “(vi) evidence of lack of access to nec-
14 essary physicians’ services, and

15 “(vii) such other factors as the Sec-
16 retary considers appropriate.

17 “(B) COMMISSION REVIEW.—The Medicare
18 Payment Review Commission shall review the
19 recommendation transmitted during a year
20 under subparagraph (A) and shall make its rec-
21 ommendation to Congress, by not later than
22 May 15 of the year, respecting the sustainable
23 growth rate for the fiscal year beginning in that
24 year.

1 “(C) PUBLICATION OF SUSTAINABLE
2 GROWTH RATE.—The Secretary shall cause to
3 have the sustainable growth rate published in
4 the Federal Register, in the last 15 days of Oc-
5 tober of each calendar year (beginning with
6 1997), for the fiscal year beginning in that
7 year. The Secretary shall cause to have pub-
8 lished in the Federal Register, by not later than
9 January 1, 1997, the paragraph (2) for fiscal
10 year 1997.

11 “(2) SPECIFICATION OF GROWTH RATE.—

12 “(A) FISCAL YEAR 1996.—The sustainable
13 growth rate for all physicians’ services for fiscal
14 year 1996 shall be equal to the product of—

15 “(i) 1 plus the Secretary’s estimate of
16 the percentage change in the medicare eco-
17 nomic index for 1996 (described in the
18 fourth sentence of section 1842(b)(3)) (di-
19 vided by 100),

20 “(ii) 1 plus the Secretary’s estimate of
21 the percentage change (divided by 100) in
22 the average number of individuals enrolled
23 under this part (other than private plan
24 enrollees) from fiscal year 1995 to fiscal
25 year 1996,

1 “(iii) 1 plus the Secretary’s estimate
2 of the projected percentage growth in real
3 gross domestic product per capita (divided
4 by 100) from fiscal year 1995 to fiscal
5 year 1996, and

6 “(iv) 1 plus the Secretary’s estimate
7 of the percentage change (divided by 100)
8 in expenditures for all physicians’ services
9 in fiscal year 1996 (compared with fiscal
10 year 1995) which will result from changes
11 in law (including the Common Sense Bal-
12 anced Budget Act of 1995), determined
13 without taking into account estimated
14 changes in expenditures due to changes in
15 the volume and intensity of physicians’
16 services or changes in expenditures result-
17 ing from changes in the update to the con-
18 version factor under subsection (d),

19 minus 1 and multiplied by 100.

20 “(B) SUBSEQUENT FISCAL YEARS.—The
21 sustainable growth rate for all physicians’ serv-
22 ices for fiscal year 1997 and each subsequent
23 fiscal year shall be equal to the product of—

24 “(i) 1 plus the Secretary’s estimate of
25 the percentage change in the medicare eco-

1 nomic index for the fiscal year involved
2 (described in the fourth sentence of section
3 1842(b)(3)) (divided by 100),

4 “(ii) 1 plus the Secretary’s estimate of
5 the percentage change (divided by 100) in
6 the average number of individuals enrolled
7 under this part (other than private plan
8 enrollees) from the previous fiscal year to
9 the fiscal year involved,

10 “(iii) 1 plus the Secretary’s estimate
11 of the projected percentage growth in real
12 gross domestic product per capita (divided
13 by 100) from the previous fiscal year to
14 the fiscal year involved, and

15 “(iv) 1 plus the Secretary’s estimate
16 of the percentage change (divided by 100)
17 in expenditures for all physicians’ services
18 in the fiscal year (compared with the pre-
19 vious fiscal year) which will result from
20 changes in law, determined without taking
21 into account estimated changes in expendi-
22 tures due to changes in the volume and in-
23 tensity of physicians’ services or changes in
24 expenditures resulting from changes in the

1 update to the conversion factor under sub-
2 section (d)(3),
3 minus 1 and multiplied by 100.

4 “(3) DEFINITIONS.—In this subsection:

5 “(A) SERVICES INCLUDED IN PHYSICIANS’
6 SERVICES.—The term ‘physicians’ services’ in-
7 cludes other items and services (such as clinical
8 diagnostic laboratory tests and radiology serv-
9 ices), specified by the Secretary, that are com-
10 monly performed or furnished by a physician or
11 in a physician’s office, but does not include
12 services furnished to a private plan enrollee.

13 “(B) PRIVATE PLAN ENROLLEE.—The
14 term ‘private plan enrollee’ means, with respect
15 to a fiscal year, an individual enrolled under
16 this part who has elected to receive benefits
17 under this title for the fiscal year through a
18 Medicare Choice product under part C or
19 through enrollment with an eligible organization
20 with a risk-sharing contract under section
21 1876.”.

22 (c) ESTABLISHMENT OF SINGLE CONVERSION FAC-
23 TOR FOR 1996.—

24 (1) IN GENERAL.—Section 1848(d)(1) (42
25 U.S.C. 1395w@4(d)(1)) is amended—

1 (A) by redesignating subparagraph (C) as
2 subparagraph (D); and

3 (B) by inserting after subparagraph (B)
4 the following new subparagraph:

5 “(C) SPECIAL RULE FOR 1996.—For
6 1996, the conversion factor under this sub-
7 section shall be \$36.40 for all physicians’ serv-
8 ices.”.

9 (2) CONFORMING AMENDMENTS.—Section 1848
10 (42 U.S.C. 1395w@4), as amended by paragraph
11 (1), is amended—

12 (A) by striking “(or factors)” each place it
13 appears in subsection (d)(1)(A) and
14 (d)(1)(D)(ii);

15 (B) in subsection (d)(1)(A), by striking “or
16 updates”;

17 (C) in subsection (d)(1)(D)(ii), by striking
18 “(or updates)”; and

19 (D) in subsection (i)(1)(C), by striking
20 “conversion factors” and inserting “the conver-
21 sion factor”.

1 **PART 3—PROVISIONS AFFECTING HOSPITALS**

2 **SEC. 8221. REDUCTION IN UPDATE FOR INPATIENT HOS-**
3 **PITAL SERVICES.**

4 (a) PPS HOSPITALS.—Section 1886(b)(3)(B)(i) (42
5 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

6 (1) by amending subclause (XII) to read as fol-
7 lows:

8 “(XII) for each of the fiscal years 1997 through
9 2002, the market basket percentage increase minus
10 0.5 percentage point for hospitals in a rural area,
11 and the market basket percentage increase minus
12 1.5 percentage points for all other hospitals, and”;
13 and

14 (2) in subclause (XIII), by striking “1998” and
15 inserting “2003”.

16 (b) PPS-EXEMPT HOSPITALS.—

17 (1) IN GENERAL.—Section 1886(b)(3)(B)(ii)
18 (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

19 (A) in subclause (V)—

20 (i) by striking “thorough 1997” and
21 inserting “through 1996”, and

22 (ii) by striking “and” at the end;

23 (B) by redesignating subclause (VI) as
24 subclause (VII); and

25 (C) by inserting after subclause (V) the
26 following new subclause:

1 “(VI) fiscal years 1997 through 2002, is the
2 market basket percentage increase minus 1.0 per-
3 centage point, and”.

4 (2) CONFORMING AMENDMENT.—Section
5 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is
6 amended by striking clause (v).

7 **SEC. 8222. ELIMINATION OF FORMULA-DRIVEN OVERPAY-**
8 **MENTS FOR CERTAIN OUTPATIENT HOSPITAL**
9 **SERVICES.**

10 (a) AMBULATORY SURGICAL CENTER PROCE-
11 DURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C.
12 1395l(i)(3)(B)(i)(II)) is amended—

13 (1) by striking “of 80 percent”; and

14 (2) by striking the period at the end and insert-
15 ing the following: “, less the amount a provider may
16 charge as described in clause (ii) of section
17 1866(a)(2)(A).”.

18 (b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCE-
19 DURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C.
20 1395l(n)(1)(B)(i)(II)) is amended—

21 (1) by striking “of 80 percent”; and

22 (2) by striking the period at the end and insert-
23 ing the following: “, less the amount a provider may
24 charge as described in clause (ii) of section
25 1866(a)(2)(A).”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to services furnished during por-
3 tions of cost reporting periods occurring on or after Janu-
4 ary 1, 1996.

5 **SEC. 8223. ESTABLISHMENT OF PROSPECTIVE PAYMENT**
6 **SYSTEM FOR OUTPATIENT SERVICES.**

7 (a) IN GENERAL.—Section 1833(a)(2)(B) (42 U.S.C.
8 1395l(a)(2)(B)) is amended by striking “section 1886)—
9 ” and all that follows and inserting the following: “section
10 1886), an amount equal to a prospectively determined
11 payment rate established by the Secretary that provides
12 for payments for such items and services to be based upon
13 a national rate adjusted to take into account the relative
14 costs of furnishing such items and services in various geo-
15 graphic areas, except that for items and services furnished
16 during cost reporting periods (or portions thereof) in years
17 beginning with 1996, such amount shall be equal to 95
18 percent of the amount that would otherwise have been de-
19 termined;”.

20 (b) ESTABLISHMENT OF PROSPECTIVE PAYMENT
21 SYSTEM.—Not later than July 1, 1995, the Secretary of
22 Health and Human Services shall establish the prospective
23 payment system for hospital outpatient services necessary
24 to carry out section 1833(a)(2)(B) of the Social Security
25 Act (as amended by subsection (a)).

1 (c) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to items and services furnished
3 on or after January 1, 1997.

4 **SEC. 8224. REDUCTION IN MEDICARE PAYMENTS TO HOS-**
5 **PITALS FOR INPATIENT CAPITAL-RELATED**
6 **COSTS.**

7 (a) PPS HOSPITALS.—Section 1886(g)(1)(A) (42
8 U.S.C. 1395ww(g)(1)(A)) is amended by striking “1995”
9 and inserting “2002”.

10 (b) PPS-EXEMPT HOSPITALS.—Section 1861(v)(1)
11 (42 U.S.C. 1395x(v)(1)) is amended by adding at the end
12 the following:

13 “(T) Such regulations shall provide that,
14 in determining the amount of the payments
15 that may be made under this title with respect
16 to the capital-related costs of inpatient hospital
17 services furnished by a hospital that is not a
18 subsection (d) hospital (as defined in section
19 1886(d)(1)(B)) or a subsection (d) Puerto Rico
20 hospital (as defined in section 1886(d)(9)(A)),
21 the Secretary shall reduce the amounts of such
22 payments otherwise established under this title
23 by 10 percent for payments attributable to por-
24 tions of cost reporting periods occurring during
25 each of the fiscal year 1996 through 2002.”.

1 **SEC. 8225. MORATORIUM ON PPS EXEMPTION FOR LONG-**
2 **TERM CARE HOSPITALS.**

3 (a) IN GENERAL.—Section 1886(d)(1)(B)(iv) (42
4 U.S.C. 1395ww(d)(1)(B)(iv)) is amended by striking
5 “Secretary)” and inserting “Secretary on or before Sep-
6 tember 30, 1995)”.

7 (b) RECOMMENDATIONS ON APPROPRIATE STAND-
8 ARDS FOR LONG-TERM CARE HOSPITALS.—Not later
9 than 1 year after the date of the enactment of this Act,
10 the Secretary of Health and Human Services shall submit
11 to Congress recommendations for modifications to the
12 standards used by the Secretary to determine whether a
13 hospital (including a distinct part of another hospital) is
14 classified as a long-term care hospital for purposes of de-
15 termining the amount of payment to the hospital under
16 part A of the medicare program for the operating costs
17 of inpatient hospital services.

18 **PART 4—PROVISIONS AFFECTING OTHER**
19 **PROVIDERS**

20 **SEC. 8231. REVISION OF PAYMENT METHODOLOGY FOR**
21 **HOME HEALTH SERVICES.**

22 (a) ADDITIONS TO COST LIMITS.—Section
23 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by
24 adding at the end the following new clauses:

25 “(iv) For services furnished by home
26 health agencies for cost reporting periods

1 beginning on or after October 1, 1996, the
2 Secretary shall provide for an interim sys-
3 tem of limits. Payment shall be the lower
4 of—

5 “(I) costs determined under the
6 preceding provisions of this subpara-
7 graph, or

8 “(II) an agency-specific per bene-
9 ficiary annual limit calculated from
10 the agency’s 12-month cost reporting
11 period ending on or after January 1,
12 1994 and on or before December 31,
13 1994 based on reasonable costs (in-
14 cluding non-routine medical supplies),
15 updated by the home health market
16 basket index. The per beneficiary limi-
17 tation shall be multiplied by the agen-
18 cy’s unduplicated census count of
19 Medicare patients for the year subject
20 to the limitation. The limitation shall
21 represent total Medicare reasonable
22 costs divided by the unduplicated cen-
23 sus count of Medicare patients.

24 “(v) For services furnished by home
25 health agencies for cost reporting periods

1 beginning on or after October 1, 1996, the
2 following rules shall apply:

3 “(I) For new providers and those
4 providers without a 12-month cost re-
5 porting period ending in calendar year
6 1994, the per beneficiary limit shall
7 be equal to the mean of these limits
8 (or the Secretary’s best estimates
9 thereof) applied to home health agen-
10 cies as determined by the Secretary.
11 Home health agencies that have al-
12 tered their corporate structure or
13 name may not be considered new pro-
14 viders for payment purposes.

15 “(II) For beneficiaries who use
16 services furnished by more than one
17 home health agency, the per bene-
18 ficiary limitation shall be pro-rated
19 among agencies.

20 “(vi) Home health agencies whose cost
21 or utilization experience is below 125 per-
22 cent of the mean national or census region
23 aggregate per beneficiary cost or utilization
24 experience for 1994, or best estimates
25 thereof, and whose year-end reasonable

1 costs are below the agency-specific per ben-
2 eficiary limit, shall receive payment equal
3 to 50 percent of the difference between the
4 agency's reasonable costs and its limit for
5 fiscal years 1996, 1997, 1998, and 1999.
6 Such payments may not exceed 5 percent
7 of an agency's aggregate Medicare reason-
8 able cost in a year.

9 “(vii) Effective January 1, 1997, or
10 as soon as feasible, the Secretary shall
11 modify the agency specific per beneficiary
12 annual limit described in clause (iv) to pro-
13 vide for regional or national variations in
14 utilization. For purposes of determining
15 payment under clause (iv), the limit shall
16 be calculated through a blend of 75 per-
17 cent of the agency-specific cost or utiliza-
18 tion experience in 1994 with 25 percent of
19 the national or census region cost or utili-
20 zation experience in 1994, or the Sec-
21 retary's best estimates thereof.”.

22 (b) USE OF INTERIM FINAL REGULATIONS.—The
23 Secretary shall implement the payment limits described in
24 section 1861(v)(1)(L)(iv) of the Social Security Act by
25 publishing in the Federal Register a notice of interim final

1 payment limits by August 1, 1996 and allowing for a pe-
2 riod of public comments thereon. Payments subject to
3 these limits will be effective for cost reporting periods be-
4 ginning on or after October 1, 1996, without the necessity
5 for consideration of comments received, but the Secretary
6 shall, by Federal Register notice, affirm or modify the lim-
7 its after considering those comments.

8 (c) STUDIES.—The Secretary shall expand research
9 on a prospective payment system for home health agencies
10 that shall tie prospective payments to an episode of care,
11 including an intensive effort to develop a reliable case mix
12 adjuster that explains a significant amount of the
13 variances in costs. The Secretary shall develop such a sys-
14 tem for implementation in fiscal year 2000.

15 (d) PAYMENTS DETERMINED ON PROSPECTIVE
16 BASIS.—Title XVIII is amended by adding at the end the
17 following new section:

18 “PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES
19 “SEC. 1893. (a) Notwithstanding section 1861(v),
20 the Secretary shall, for cost reporting periods beginning
21 on or after fiscal year 2000, provide for payments for
22 home health services in accordance with a prospective pay-
23 ment system, which pays home health agencies on a per
24 episode basis, established by the Secretary.

25 “(b) Such a system shall include the following:

1 “(1) Per episode rates under the system shall
2 be 15 percent less than those that would otherwise
3 occur under fiscal year 2000 Medicare expenditures
4 for home health services.

5 “(2) All services covered and paid on a reason-
6 able cost basis under the Medicare home health ben-
7 efit as of the date of the enactment of the Medicare
8 Enhancement Act of 1995, including medical sup-
9 plies, shall be subject to the per episode amount. In
10 defining an episode of care, the Secretary shall con-
11 sider an appropriate length of time for an episode
12 the use of services and the number of visits provided
13 within an episode, potential changes in the mix of
14 services provided within an episode and their cost,
15 and a general system design that will provide for
16 continued access to quality services. The per episode
17 amount shall be based on the most current audited
18 cost report data available to the Secretary.

19 “(c) The Secretary shall employ an appropriate case
20 mix adjuster that explains a significant amount of the var-
21 iation in cost.

22 “(d) The episode payment amount shall be adjusted
23 annually by the home health market basket index. The
24 labor portion of the episode amount shall be adjusted for

1 geographic differences in labor-related costs based on the
2 most current hospital wage index.

3 “(e) The Secretary may designate a payment provi-
4 sion for outliers, recognizing the need to adjust payments
5 due to unusual variations in the type or amount of medi-
6 cally necessary care.

7 “(f) A home health agency shall be responsible for
8 coordinating all care for a beneficiary. If a beneficiary
9 elects to transfer to, or receive services from, another
10 home health agency within an episode period, the episode
11 payment shall be pro-rated between home health agen-
12 cies.”.

13 **SEC. 8232. LIMITATION OF HOME HEALTH COVERAGE**
14 **UNDER PART A.**

15 (a) IN GENERAL.—Section 1812(a)(3) (42 U.S.C.
16 1395d(a)(3)) is amended by striking the semicolon and in-
17 serting “for up to 150 days during any spell of illness;”.

18 (b) CONFORMING AMENDMENT.—Section 1812(b)
19 (42 U.S.C. 1395d(b)) is amended—

20 (1) by striking “or” at the end of paragraph

21 (2),

22 (2) by striking the period at the end of para-
23 graph (3) and inserting “; or”, and

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

1 “(4) home health services furnished to the indi-
2 vidual during such spell after such services have
3 been furnished to the individual for 150 days during
4 such spell.”.

5 (c) EXCLUSION OF ADDITIONAL PART B COSTS
6 FROM DETERMINATION OF PART B MONTHLY PRE-
7 MIUM.—Section 1839(a) (42 U.S.C. 1395r(a)) is amend-
8 ed—

9 (1) in the second sentence of paragraph (1), by
10 striking “enrollees.” and inserting “enrollees (except
11 as provided in paragraph (5)).”; and

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

14 “(5) In estimating the benefits and administrative
15 costs which will be payable from the Federal Supple-
16 mentary Medical Insurance Trust Fund for a year (begin-
17 ning with 1996), the Secretary shall exclude an estimate
18 of any benefits and costs attributable to home health serv-
19 ices for which payment would have been made under part
20 A during the year but for paragraph (4) of section
21 1812(b).”.

22 (d) EFFECTIVE DATE.—The amendments made by
23 this subsection shall apply to spells of illness beginning
24 on or after October 1, 1995.

1 **SEC. 8233. REDUCTION IN FEE SCHEDULE FOR DURABLE**
2 **MEDICAL EQUIPMENT.**

3 (a) IN GENERAL.—

4 (1) FREEZE IN UPDATE FOR COVERED
5 ITEMS.—Section 1834(a)(14) (42 U.S.C.
6 1395m(a)(14)) is amended—

7 (A) by striking “and” at the end of sub-
8 paragraph (A);

9 (B) in subparagraph (B)—

10 (i) by striking “a subsequent year”
11 and inserting “1993, 1994, and 1995”,
12 and

13 (ii) by striking the period at the end
14 and inserting “; and”; and

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

16 “(C) for each of the years 1996 through
17 2002, 0 percent; and

18 “(D) for a subsequent year, the percentage
19 increase in the consumer price index for all
20 urban consumers (U.S. urban average) for the
21 12-month period ending with June of the pre-
22 vious year.”.

23 (2) UPDATE FOR ORTHOTICS AND PROSTHET-
24 ICS.—Section 1834(h)(4)(A)(iii) (42 U.S.C.
25 1395m(h)(4)(A)(iii)) is amended by striking “1994

1 and 1995” and inserting “each of the years 1994
2 through 2002”.

3 (b) OXYGEN AND OXYGEN EQUIPMENT.—Section
4 1834(a)(9)(C) (42 U.S.C. 1395m(a)(9)(C)) is amended—

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

6 (2) in clause (iv)—

7 (A) by striking “a subsequent year” and
8 inserting “1993, 1994, and 1995”, and

9 (B) by striking the period at the end and
10 inserting “; and”; and

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

13 “(v) in 1996 and each subsequent
14 year, is 90 percent of the national limited
15 monthly payment rate computed under
16 subparagraph (B) for the item for the
17 year.”.

18 **SEC. 8234. NURSING HOME BILLING.**

19 (a) PAYMENTS FOR ROUTINE SERVICE COSTS.—

20 (1) CLARIFICATION OF DEFINITION OF ROU-
21 TINE SERVICE COSTS.—Section 1888 (42 U.S.C.
22 1395yy) is amended by adding at the end the follow-
23 ing new subsection:

24 “(e) For purposes of this section, the ‘routine service
25 costs’ of a skilled nursing facility are all costs which are

1 attributable to nursing services, room and board, adminis-
2 trative costs, other overhead costs, and all other ancillary
3 services (including supplies and equipment), excluding
4 costs attributable to covered non-routine services subject
5 to payment limits under section 1888A.”.

6 (2) CONFORMING AMENDMENT.—Section 1888
7 (42 U.S.C. 1395yy) is amended in the heading by
8 inserting “AND CERTAIN ANCILLARY” after “SERV-
9 ICE”.

10 (b) INCENTIVES FOR COST EFFECTIVE MANAGE-
11 MENT OF COVERED NONROUTINE SERVICES.—

12 (1) IN GENERAL.—Title XVIII is amended by
13 inserting after section 1888 the following new sec-
14 tion:

15 “INCENTIVES FOR COST-EFFECTIVE MANAGEMENT OF
16 COVERED NON-ROUTINE SERVICES OF SKILLED
17 NURSING FACILITIES

18 “SEC. 1888A. (a) DEFINITIONS.—For purposes of
19 this section:

20 “(1) COVERED NON-ROUTINE SERVICES.—The
21 term ‘covered non-routine services’ means post-hos-
22 pital extended care services consisting of any of the
23 following:

24 “(A) Physical or occupational therapy or
25 speech-language pathology services, or res-
26 piratory therapy.

1 “(B) Prescription drugs.

2 “(C) Complex medical equipment.

3 “(D) Intravenous therapy and solutions
4 (including enteral and parenteral nutrients,
5 supplies, and equipment).

6 “(E) Radiation therapy.

7 “(F) Diagnostic services, including labora-
8 tory, radiology (including computerized tomog-
9 raphy services and imaging services), and pul-
10 monary services.

11 “(2) SNF MARKET BASKET PERCENTAGE IN-
12 CREASE.—The term ‘SNF market basket percentage
13 increase’ for a fiscal year means a percentage equal
14 to the percentage increase in routine service cost
15 limits for the year under section 1888(a).

16 “(3) STAY.—The term ‘stay’ means, with re-
17 spect to an individual who is a resident of a skilled
18 nursing facility, a period of continuous days during
19 which the facility provides extended care services for
20 which payment may be made under this title to the
21 individual during the individual’s spell of illness.

22 “(b) NEW PAYMENT METHOD FOR COVERED NON-
23 ROUTINE SERVICES.—

24 “(1) IN GENERAL.—Subject to subsection (c), a
25 skilled nursing facility shall receive interim pay-

1 ments under this title for covered non-routine serv-
2 ices furnished to an individual during a cost report-
3 ing period beginning during a fiscal year (after fiscal
4 year 1996) in an amount equal to the reasonable
5 cost of providing such services in accordance with
6 section 1861(v). The Secretary may adjust such pay-
7 ments if the Secretary determines (on the basis of
8 such estimated information as the Secretary consid-
9 ers appropriate) that payments to the facility under
10 this paragraph for a cost reporting period would
11 substantially exceed the cost reporting period limit
12 determined under subsection (c)(1)(B).

13 “(2) RESPONSIBILITY OF SKILLED NURSING
14 FACILITY TO MANAGE BILLINGS.—

15 “(A) CLARIFICATION RELATING TO PART A
16 BILLING.—In the case of a covered non-routine
17 service furnished to an individual who (at the
18 time the service is furnished) is a resident of a
19 skilled nursing facility who is entitled to cov-
20 erage under section 1812(a)(2) for such service,
21 the skilled nursing facility shall submit a claim
22 for payment under this title for such service
23 under part A (without regard to whether or not
24 the item or service was furnished by the facility,
25 by others under arrangement with them made

1 by the facility, under any other contracting or
2 consulting arrangement, or otherwise).

3 “(B) PART B BILLING.—In the case of a
4 covered non-routine service furnished to an in-
5 dividual who (at the time the service is fur-
6 nished) is a resident of a skilled nursing facility
7 who is not entitled to coverage under section
8 1812(a)(2) for such service but is entitled to
9 coverage under part B for such service, the
10 skilled nursing facility shall submit a claim for
11 payment under this title for such service under
12 part B (without regard to whether or not the
13 item or service was furnished by the facility, by
14 others under arrangement with them made by
15 the facility, under any other contracting or con-
16 sulting arrangement, or otherwise).

17 “(C) MAINTAINING RECORDS ON SERVICES
18 FURNISHED TO RESIDENTS.—Each skilled nurs-
19 ing facility receiving payments for extended
20 care services under this title shall document on
21 the facility’s cost report all covered non-routine
22 services furnished to all residents of the facility
23 to whom the facility provided extended care
24 services for which payment was made under
25 part A during a fiscal year (beginning with fis-

1 cal year 1996) (without regard to whether or
2 not the services were furnished by the facility,
3 by others under arrangement with them made
4 by the facility, under any other contracting or
5 consulting arrangement, or otherwise).

6 “(c) RECONCILIATION OF AMOUNTS.—

7 “(1) LIMIT BASED ON PER STAY LIMIT AND
8 NUMBER OF STAYS.—

9 “(A) IN GENERAL.—If a skilled nursing fa-
10 cility has received aggregate payments under
11 subsection (b) for covered non-routine services
12 during a cost reporting period beginning during
13 a fiscal year in excess of an amount equal to
14 the cost reporting period limit determined
15 under subparagraph (B), the Secretary shall re-
16 duce the payments made to the facility with re-
17 spect to such services for cost reporting periods
18 beginning during the following fiscal year in an
19 amount equal to such excess. The Secretary
20 shall reduce payments under this subparagraph
21 at such times and in such manner during a fis-
22 cal year as the Secretary finds necessary to
23 meet the requirement of this subparagraph.

24 “(B) COST REPORTING PERIOD LIMIT.—

25 The cost reporting period limit determined

1 under this subparagraph is an amount equal to
2 the product of—

3 “(i) the per stay limit applicable to
4 the facility under subsection (d) for the pe-
5 riod; and

6 “(ii) the number of stays beginning
7 during the period for which payment was
8 made to the facility for such services.

9 “(C) PROSPECTIVE REDUCTION IN PAY-
10 MENTS.—In addition to the process for reduc-
11 ing payments described in subparagraph (A),
12 the Secretary may reduce payments made to a
13 facility under this section during a cost report-
14 ing period if the Secretary determines (on the
15 basis of such estimated information as the Sec-
16 retary considers appropriate) that payments to
17 the facility under this section for the period will
18 substantially exceed the cost reporting period
19 limit for the period determined under this para-
20 graph.

21 “(2) INCENTIVE PAYMENTS.—

22 “(A) IN GENERAL.—If a skilled nursing fa-
23 cility has received aggregate payments under
24 subsection (b) for covered non-routine services
25 during a cost reporting period beginning during

1 a fiscal year in an amount that is less than the
2 amount determined under paragraph (1)(B),
3 the Secretary shall pay the skilled nursing facil-
4 ity in the following fiscal year an incentive pay-
5 ment equal to 50 percent of the difference be-
6 tween such amounts, except that the incentive
7 payment may not exceed 5 percent of the aggre-
8 gate payments made to the facility under sub-
9 section (b) for the previous fiscal year (without
10 regard to subparagraph (B)).

11 “(B) INSTALLMENT INCENTIVE PAY-
12 MENTS.—The Secretary may make installment
13 payments during a fiscal year to a skilled nurs-
14 ing facility based on the estimated incentive
15 payment that the facility would be eligible to re-
16 ceive with respect to such fiscal year.

17 “(d) DETERMINATION OF FACILITY PER STAY
18 LIMIT.—

19 “(1) LIMIT FOR FISCAL YEAR 1997.—

20 “(A) IN GENERAL.—Except as provided in
21 subparagraph (B), the Secretary shall establish
22 separate per stay limits for hospital-based and
23 freestanding skilled nursing facilities for the 12-
24 month cost reporting period beginning during
25 fiscal year 1997 that are equal to the sum of—

1 “(i) 50 percent of the facility-specific
2 stay amount for the facility (as determined
3 under subsection (e)) for the last 12-month
4 cost reporting period ending on or before
5 September 30, 1994, increased (in a
6 compounded manner) by the SNF market
7 basket percentage increase for fiscal years
8 1995 through 1997; and

9 “(ii) 50 percent of the average of all
10 facility-specific stay amounts for all hos-
11 pital-based facilities or all freestanding fa-
12 cilities (whichever is applicable) during the
13 cost reporting period described in clause
14 (i), increased (in a compounded manner)
15 by the SNF market basket percentage in-
16 crease for fiscal years 1995 through 1997.

17 “(B) FACILITIES NOT HAVING 1994 COST
18 REPORTING PERIOD.—In the case of a skilled
19 nursing facility for which payments were not
20 made under this title for covered non-routine
21 services for the last 12-month cost reporting pe-
22 riod ending on or before September 30, 1994,
23 the per stay limit for the 12-month cost report-
24 ing period beginning during fiscal year 1997

1 shall be twice the amount determined under
2 subparagraph (A)(ii).

3 “(2) LIMIT FOR SUBSEQUENT FISCAL YEARS.—

4 The per stay limit for a skilled nursing facility for
5 a 12-month cost reporting period beginning during
6 a fiscal year after fiscal year 1997 is equal to the
7 per stay limit established under this subsection for
8 the 12-month cost reporting period beginning during
9 the previous fiscal year, increased by the SNF mar-
10 ket basket percentage increase for such subsequent
11 fiscal year minus 2 percentage points.

12 “(3) REBASING OF AMOUNTS.—

13 “(A) IN GENERAL.—The Secretary shall
14 provide for an update to the facility-specific
15 amounts used to determine the per stay limits
16 under this subsection for cost reporting periods
17 beginning on or after October 1, 1999, and
18 every 2 years thereafter.

19 “(B) TREATMENT OF FACILITIES NOT
20 HAVING REBASED COST REPORTING PERIODS.—

21 Paragraph (1)(B) shall apply with respect to a
22 skilled nursing facility for which payments were
23 not made under this title for covered non-rou-
24 tine services for the 12-month cost reporting
25 period used by the Secretary to update facility-

1 specific amounts under subparagraph (A) in the
2 same manner as such paragraph applies with
3 respect to a facility for which payments were
4 not made under this title for covered non-rou-
5 tine services for the last 12-month cost report-
6 ing period ending on or before September 30,
7 1994.

8 “(e) DETERMINATION OF FACILITY-SPECIFIC STAY
9 AMOUNTS.—The ‘facility-specific stay amount’ for a
10 skilled nursing facility for a cost reporting period is the
11 sum of—

12 “(1) the average amount of payments made to
13 the facility under part A during the period which are
14 attributable to covered non-routine services fur-
15 nished during a stay (as determined on a per diem
16 basis); and

17 “(2) the Secretary’s best estimate of the aver-
18 age amount of payments made under part B during
19 the period for covered non-routine services furnished
20 to all residents of the facility to whom the facility
21 provided extended care services for which payment
22 was made under part A during the period (without
23 regard to whether or not the services were furnished
24 by the facility, by others under arrangement with
25 them made by the facility, under any other contract-

1 ing or consulting arrangement, or otherwise), as es-
2 timated by the Secretary.

3 “(f) INTENSIVE NURSING OR THERAPY NEEDS.—

4 “(1) IN GENERAL.—In applying subsection (b)
5 to covered non-routine services furnished during a
6 stay beginning during a cost reporting period begin-
7 ning during a fiscal year (beginning with fiscal years
8 after fiscal year 1997) to a resident of a skilled
9 nursing facility who requires intensive nursing or
10 therapy services, the per stay limit for such resident
11 shall be the per stay limit developed under para-
12 graph (2) instead of the per stay limit determined
13 under subsection (d)(1)(A).

14 “(2) PER STAY LIMIT FOR INTENSIVE NEED
15 RESIDENTS.—Not later than June 30, 1997, the
16 Secretary, after consultation with the Medicare Pay-
17 ment Review Commission and skilled nursing facility
18 experts, shall develop and publish a per stay limit
19 for residents of a skilled nursing facility who require
20 intensive nursing or therapy services.

21 “(3) BUDGET NEUTRALITY.—The Secretary
22 shall adjust payments under subsection (b) in a
23 manner that ensures that total payments for covered
24 non-routine services under this section are not great-
25 er or less than total payments for such services

1 would have been but for the application of para-
2 graph (1).

3 “(g) SPECIAL TREATMENT FOR SMALL SKILLED
4 NURSING FACILITIES.—This section shall not apply with
5 respect to a skilled nursing facility for which payment is
6 made for routine service costs during a cost reporting pe-
7 riod on the basis of prospective payments under section
8 1888(d).

9 “(h) EXCEPTIONS AND ADJUSTMENTS TO LIMITS.—

10 “(1) IN GENERAL.—The Secretary may make
11 exceptions and adjustments to the cost reporting
12 limits applicable to a skilled nursing facility under
13 subsection (c)(1)(B) for a cost reporting period, ex-
14 cept that the total amount of any additional pay-
15 ments made under this section for covered non-rou-
16 tine services during the cost reporting period as a
17 result of such exceptions and adjustments may not
18 exceed 5 percent of the aggregate payments made to
19 all skilled nursing facilities for covered non-routine
20 services during the cost reporting period (determined
21 without regard to this paragraph).

22 “(2) BUDGET NEUTRALITY.—The Secretary
23 shall adjust payments under subsection (b) in a
24 manner that ensures that total payments for covered
25 non-routine services under this section are not great-

1 er or less than total payments for such services
2 would have been but for the application of para-
3 graph (1).

4 “(i) SPECIAL RULE FOR X-RAY SERVICES.—Before
5 furnishing a covered non-routine service consisting of an
6 X-ray service for which payment may be made under part
7 A or part B to a resident, a skilled nursing facility shall
8 consider whether furnishing the service through a provider
9 of portable X-ray service services would be appropriate,
10 taking into account the cost effectiveness of the service
11 and the convenience to the resident.”.

12 (2) CONFORMING AMENDMENT.—Section
13 1814(b) (42 U.S.C. 1395f(b)) is amended in the
14 matter preceding paragraph (1) by striking “1813
15 and 1886” and inserting “1813, 1886, 1888, and
16 1888A”.

17 **SEC. 8235. FREEZE IN PAYMENTS FOR CLINICAL DIAG-**
18 **NOSTIC LABORATORY TESTS.**

19 Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C.
20 1395l(h)(2)(A)(ii)(IV)) is amended by striking “1994 and
21 1995” and inserting “1994 through 2002”.

1 **PART 5—GRADUATE MEDICAL EDUCATION AND**
2 **TEACHING HOSPITALS**

3 **SEC. 8241. TEACHING HOSPITAL AND GRADUATE MEDICAL**
4 **EDUCATION TRUST FUND.**

5 (a) TEACHING HOSPITAL AND GRADUATE MEDICAL
6 EDUCATION TRUST FUND.—The Social Security Act (42
7 U.S.C. 300 et seq.) is amended by adding at the end the
8 following title:

9 “TITLE XXI—TEACHING HOSPITAL AND
10 GRADUATE MEDICAL EDUCATION TRUST FUND

11 “PART A—ESTABLISHMENT OF FUND

12 **“SEC. 2101. ESTABLISHMENT OF FUND.**

13 “(a) IN GENERAL.—There is established in the
14 Treasury of the United States a fund to be known as the
15 Teaching Hospital and Graduate Medical Education Trust
16 Fund (in this title referred to as the ‘Fund’), consisting
17 of amounts transferred to the Fund under subsection (c),
18 amounts appropriated to the Fund pursuant to sub-
19 sections (d) and (e)(3), and such gifts and bequests as
20 may be deposited in the Fund pursuant to subsection (f).
21 Amounts in the Fund are available until expended.

22 “(b) EXPENDITURES FROM FUND.—Amounts in the
23 Fund are available to the Secretary for making payments
24 under section 2111.

25 “(c) TRANSFERS TO FUND.—

1 “(1) IN GENERAL.—From the Federal Hospital
2 Insurance Trust Fund and the Federal Supple-
3 mentary Medical Insurance Trust Fund, the Sec-
4 retary shall, for fiscal year 1996 and each subse-
5 quent fiscal year, transfer to the Fund an amount
6 determined by the Secretary for the fiscal year in-
7 volved in accordance with paragraph (2).

8 “(2) DETERMINATION OF AMOUNTS.—For pur-
9 poses of paragraph (1), the amount determined
10 under this paragraph for a fiscal year is an estimate
11 by the Secretary of an amount equal to 75 percent
12 of the difference between—

13 “(A) the nationwide total of the amounts
14 that would have been paid under sections 1855
15 and 1876 during the year but for the operation
16 of section 1855(b)(2)(B)(ii); and

17 “(B) the nationwide total of the amounts
18 paid under such sections during the year.

19 “(3) ALLOCATION BETWEEN MEDICARE TRUST
20 FUNDS.—In providing for a transfer under para-
21 graph (1) for a fiscal year, the Secretary shall pro-
22 vide for an allocation of the amounts involved be-
23 tween part A and part B of title XVIII (and the
24 trust funds established under the respective parts)
25 as reasonably reflects the proportion of payments for

1 the indirect costs of medical education and direct
2 graduate medical education costs of hospitals associ-
3 ated with the provision of services under each re-
4 spective part.

5 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated to the Fund such sums
7 as may be necessary for each of the fiscal years 1996
8 through 2002.

9 “(e) INVESTMENT.—

10 “(1) IN GENERAL.—The Secretary of the
11 Treasury shall invest such amounts of the Fund as
12 such Secretary determines are not required to meet
13 current withdrawals from the Fund. Such invest-
14 ments may be made only in interest-bearing obliga-
15 tions of the United States. For such purpose, such
16 obligations may be acquired on original issue at the
17 issue price, or by purchase of outstanding obliga-
18 tions at the market price.

19 “(2) SALE OF OBLIGATIONS.—Any obligation
20 acquired by the Fund may be sold by the Secretary
21 of the Treasury at the market price.

22 “(3) AVAILABILITY OF INCOME.—Any interest
23 derived from obligations acquired by the Fund, and
24 proceeds from any sale or redemption of such obliga-
25 tions, are hereby appropriated to the Fund.

1 “(f) ACCEPTANCE OF GIFTS AND BEQUESTS.—The
2 Fund may accept on behalf of the United States money
3 gifts and bequests made unconditionally to the Fund for
4 the benefit of the Fund or any activity financed through
5 the Fund.

6 “PART B—PAYMENTS TO TEACHING HOSPITALS
7 **“SEC. 2111. FORMULA PAYMENTS TO TEACHING HOS-**
8 **PITALS.**

9 “(a) IN GENERAL.—In the case of each teaching hos-
10 pital that in accordance with subsection (b) submits to the
11 Secretary a payment document for fiscal year 1996 or any
12 subsequent fiscal year, the Secretary shall make payments
13 for the year to the teaching hospital for the direct and
14 indirect costs of operating approved medical residency
15 training programs. Such payments shall be made from the
16 Fund, and shall be made in accordance with a formula
17 established by the Secretary.

18 “(b) PAYMENT DOCUMENT.—For purposes of sub-
19 section (a), a payment document is a document containing
20 such information as may be necessary for the Secretary
21 to make payments under such subsection to a teaching
22 hospital for a fiscal year. The document is submitted in
23 accordance with this subsection if the document is submit-
24 ted not later than the date specified by the Secretary, and
25 the document is in such form and is made in such manner

1 as the Secretary may require. The Secretary may require
2 that information under this subsection be submitted to the
3 Secretary in periodic reports.”.

4 (b) NATIONAL ADVISORY COUNCIL ON POST-
5 GRADUATE MEDICAL EDUCATION.—

6 (1) IN GENERAL.—There is established within
7 the Department of Health and Human Services an
8 advisory council to be known as the National Advi-
9 sory Council on Postgraduate Medical Education (in
10 this title referred to as the “Council”).

11 (2) DUTIES.—The council shall provide advice
12 to the Secretary on appropriate policies for making
13 payments for the support of postgraduate medical
14 education in order to assure an adequate supply of
15 physicians trained in various specialities, consistent
16 with the health care needs of the United States.

17 (3) COMPOSITION.—

18 (A) IN GENERAL.—The Secretary shall ap-
19 point to the Council 15 individuals who are not
20 officers or employees of the United States. Such
21 individuals shall include not less than 1 individ-
22 ual from each of the following categories of in-
23 dividuals or entities:

24 (i) Organizations representing con-
25 sumers of health care services.

1 (ii) Physicians who are faculty mem-
2 bers of medical schools, or who supervise
3 approved physician training programs.

4 (iii) Physicians in private practice who
5 are not physicians described in clause (ii).

6 (iv) Practitioners in public health.

7 (v) Advanced-practice nurses.

8 (vi) Other health professionals who
9 are not physicians.

10 (vii) Medical schools.

11 (viii) Teaching hospitals.

12 (ix) The Accreditation Council on
13 Graduate Medical Education.

14 (x) The American Board of Medical
15 Specialities.

16 (xi) The Council on Postdoctoral
17 Training of the American Osteopathic As-
18 sociation.

19 (xii) The Council on Podiatric Medical
20 Education of the American Podiatric Medi-
21 cal Association.

22 (B) REQUIREMENTS REGARDING REP-
23 RESENTATIVE MEMBERSHIP.—To the greatest
24 extent feasible, the membership of the Council
25 shall represent the various geographic regions

1 of the United States, shall reflect the racial,
2 ethnic, and gender composition of the popu-
3 lation of the United States, and shall be broadly
4 representative of medical schools and teaching
5 hospitals in the United States.

6 (C) EX OFFICIO MEMBERS; OTHER FED-
7 ERAL OFFICERS OR EMPLOYEES.—The member-
8 ship of the Council shall include individuals des-
9 ignated by the Secretary to serve as members
10 of the Council from among Federal officers or
11 employees who are appointed by the President,
12 or by the Secretary (or by other Federal offi-
13 cers who are appointed by the President with
14 the advice and consent of the Senate). Individ-
15 uals designated under the preceding sentence
16 shall include each of the following officials (or
17 a designee of the official):

18 (i) The Secretary of Health and
19 Human Services.

20 (ii) The Secretary of Veterans Affairs.

21 (iii) The Secretary of Defense.

22 (4) CHAIR.—The Secretary shall, from among
23 members of the council appointed under paragraph
24 (3)(A), designate an individual to serve as the chair
25 of the council.

1 (5) TERMINATION.—The Council terminates
2 December 31, 1999.

3 (c) REMOVE MEDICAL EDUCATION AND DISPROPOR-
4 TIONATE SHARE HOSPITAL PAYMENTS FROM CALCULA-
5 TION OF ADJUSTED AVERAGE PER CAPITA COST.—For
6 provision removing medical education and disproportio-
7 ate share hospital payments from calculation of payment
8 amounts for organizations paid on a capitated basis, see
9 section 1855(b)(2)(B)(ii).

10 (2) PAYMENTS TO HOSPITALS OF AMOUNTS AT-
11 TRIBUTABLE TO DSH.—Section 1886 (42 U.S.C.
12 1395ww) is amended by adding at the end the fol-
13 lowing new subsection:

14 “(j)(1) In addition to amounts paid under subsection
15 (d)(5)(F), the Secretary is authorized to pay hospitals
16 which are eligible for such payments for a fiscal year sup-
17 plemental amounts that do not exceed the limit provided
18 for in paragraph (2).

19 “(2) The sum of the aggregate amounts paid pursu-
20 ant to paragraph (1) for a fiscal year shall not exceed the
21 Secretary’s estimate of 75 percent of the amount of reduc-
22 tions in payments under section 1855 that are attributable
23 to the operation of subsection (b)(2)(B)(ii) of such sec-
24 tion.”.

1 **SEC. 8242. REDUCTION IN PAYMENT ADJUSTMENTS FOR IN-**
2 **DIRECT MEDICAL EDUCATION.**

3 (a) MODIFICATION REGARDING 6.8 PERCENT.—Sec-
4 tion 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is
5 amended—

6 (1) by striking “on or after October 1, 1988,”
7 and inserting “on or after October 1, 1999,”; and

8 (2) by striking “1.89” and inserting “1.68”.

9 (b) SPECIAL RULE REGARDING FISCAL YEARS 1996
10 THROUGH 1998; MODIFICATION REGARDING 6 PER-
11 CENT.—Section 1886(d)(5)(B)(ii), as amended by para-
12 graph (1), is amended by adding at the end the following:
13 “In the case of discharges occurring on or after October
14 1, 1995, and before October 1, 1999, the preceding sen-
15 tence applies to the same extent and in the same manner
16 as the sentence applies to discharges occurring on or after
17 October 1, 1999, except that the term ‘1.68’ is deemed
18 to be 1.48.”.

19 **Subtitle D—Provisions Relating to**
20 **Medicare Beneficiaries**

21 **SEC. 8301. PART B PREMIUM.**

22 (a) FREEZE IN PREMIUM FOR 1996.—Section
23 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

24 (1) in subparagraph (A), by striking “December
25 1995” and inserting “December 1996”; and

1 (2) in subparagraph (B)(v), by striking “1995”
2 and inserting “1995 and 1996”.

3 (b) ESTABLISHING PREMIUM AT 25 PERCENT OF
4 PROGRAM COSTS THROUGH 2002.—Section
5 1839(e)(1)(A) (42 U.S.C. 1395r(e)(1)(A)) is amended by
6 striking “January 1999” and inserting “January 2003”.

7 **SEC. 8302. FULL COST OF MEDICARE PART B COVERAGE**
8 **PAYABLE BY HIGH-INCOME INDIVIDUALS.**

9 (a) IN GENERAL.—Subchapter A of chapter 1 of the
10 Internal Revenue Code of 1986 is amended by adding at
11 the end thereof the following new part:

12 **“PART VIII—SUPPLEMENTAL MEDICARE PART B**
13 **PREMIUMS FOR HIGH-INCOME INDIVIDUALS**

“Sec. 59B. Supplemental Medicare part B premium.

14 **“SEC. 59B. SUPPLEMENTAL MEDICARE PART B PREMIUM.**

15 “(a) REQUIREMENT TO PAY PREMIUM.—In the case
16 of an individual to whom this section applies for the tax-
17 able year, there is hereby imposed (in addition to any
18 other amount imposed by this subtitle) an amount equal
19 to the aggregate of the supplemental Medicare part B pre-
20 miums (if any) for months during such year that such in-
21 dividual is covered under Medicare part B.

22 “(b) INDIVIDUALS TO WHOM SECTION APPLIES.—
23 This section shall apply to any individual for any taxable
24 year if—

1 “(1) such individual is covered under Medicare
2 part B for any month during such year, and

3 “(2) the modified adjusted gross income of the
4 taxpayer for such taxable year exceeds the threshold
5 amount.

6 “(c) SUPPLEMENTAL MEDICARE PART B PRE-
7 MIUM.—

8 “(1) IN GENERAL.—For purposes of subsection
9 (a), the supplemental Medicare part B premium for
10 any month is an amount equal to the excess of—

11 “(A) subject to adjustment under para-
12 graph (2), 200 percent of the monthly actuarial
13 rate for enrollees age 65 and over determined
14 under subsection 1839(a)(1) of the Social Secu-
15 rity Act for such month, over

16 “(B) the total monthly premium under sec-
17 tion 1839 of the Social Security Act (deter-
18 mined without regard to subsections (b) and (f)
19 of section 1839 of such Act).

20 “(2) ADJUSTING MONTHLY ACTUARIAL RATE
21 BY GEOGRAPHIC AREA.—

22 “(A) IN GENERAL.—In determining the
23 amount described in paragraph (1)(A) for an
24 individual residing in a premium area, the Sec-
25 retary shall adjust such amount for a year by

1 a geographic adjustment factor established by
2 the Secretary which reflects the relative benefits
3 and administrative costs payable from the Fed-
4 eral Supplementary Medical Insurance Trust
5 Fund for services performed and related admin-
6 istrative costs incurred in the year with respect
7 to enrollees residing in such area compared to
8 the national average of such benefits and costs.

9 “(B) PREMIUM AREA.—In this paragraph,
10 a ‘premium area’ means a metropolitan statis-
11 tical area or the portion of a State outside of
12 any metropolitan statistical area.

13 “(d) PHASEIN.—

14 “(1) IN GENERAL.—If the modified adjusted
15 gross income of the taxpayer for any taxable year
16 exceeds the threshold amount by less than \$50,000,
17 the amount imposed by this section for such taxable
18 year shall be an amount which bears the same ratio
19 to the amount which would (but for this subsection)
20 be imposed by this section for such taxable year as
21 such excess bears to \$50,000. The preceding sen-
22 tence shall not apply to any individual whose thresh-
23 old amount is zero.

1 “(2) PHASEIN RANGE FOR JOINT RETURNS.—
2 In the case of a joint return, paragraph (1) shall be
3 applied by substituting ‘\$75,000’ for ‘\$50,000’.

4 “(e) OTHER DEFINITIONS AND SPECIAL RULES.—
5 For purposes of this section—

6 “(1) THRESHOLD AMOUNT.—The term ‘thresh-
7 old amount’ means—

8 “(A) except as otherwise provided in this
9 paragraph, \$50,000,

10 “(B) \$75,000 in the case of a joint return,
11 and

12 “(C) zero in the case of a taxpayer who—

13 “(i) is married at the close of the tax-
14 able year but does not file a joint return
15 for such year, and

16 “(ii) does not live apart from his
17 spouse at all times during the taxable year.

18 “(2) MODIFIED ADJUSTED GROSS INCOME.—
19 The term ‘modified adjusted gross income’ means
20 adjusted gross income—

21 “(A) determined without regard to sections
22 135, 911, 931, and 933, and

23 “(B) increased by the amount of interest
24 received or accrued by the taxpayer during the
25 taxable year which is exempt from tax.

1 “(3) JOINT RETURNS.—In the case of a joint
2 return—

3 “(A) the amount imposed by subsection (a)
4 shall be the sum of the amounts so imposed de-
5 termined separately for each spouse, and

6 “(B) subsections (a) and (d) shall be ap-
7 plied by taking into account the combined modi-
8 fied adjusted gross income of the spouses.

9 “(4) MEDICARE PART B COVERAGE.—An indi-
10 vidual shall be treated as covered under Medicare
11 part B for any month if a premium is paid under
12 part B of title XVIII of the Social Security Act for
13 the coverage of the individual under such part for
14 the month.

15 “(5) MARRIED INDIVIDUAL.—The determina-
16 tion of whether an individual is married shall be
17 made in accordance with section 7703.

18 “(f) COORDINATION WITH OTHER PROVISIONS.—

19 “(1) TREATMENT AS MEDICAL EXPENSE.—For
20 purposes of section 213, the supplemental Medicare
21 part B premium imposed by this section shall be
22 treated as an amount paid for insurance covering
23 medical care (as defined in section 213(d)).

24 “(2) TREATMENT UNDER SUBTITLE F.—For
25 purposes of subtitle F (other than section 6654), the

1 supplemental Medicare part B premium imposed by
2 this section shall be treated as if it were a tax im-
3 posed by section 1.

4 “(3) NOT TREATED AS TAX FOR CERTAIN PUR-
5 POSES.—The supplemental Medicare part B pre-
6 mium imposed by this section shall not be treated as
7 a tax imposed by this chapter for purposes of deter-
8 mining—

9 “(A) the amount of any credit allowable
10 under this chapter, or

11 “(B) the amount of the minimum tax im-
12 posed by section 55.”

13 (b) TRANSFERS TO SUPPLEMENTAL MEDICAL IN-
14 SURANCE TRUST FUND.—

15 (1) IN GENERAL.—There are hereby appro-
16 priated to the Supplemental Medical Insurance
17 Trust Fund amounts equivalent to the aggregate in-
18 crease in liabilities under chapter 1 of the Internal
19 Revenue Code of 1986 which is attributable to the
20 application of section 59B of such Code, as added by
21 this section.

22 (2) TRANSFERS.—The amounts appropriated
23 by paragraph (1) to the Supplemental Medical In-
24 surance Trust Fund shall be transferred from time
25 to time (but not less frequently than quarterly) from

1 the general fund of the Treasury on the basis of es-
2 timates made by the Secretary of the Treasury of
3 the amounts referred to in paragraph (1). Any quar-
4 terly payment shall be made on the first day of such
5 quarter and shall take into account the portion of
6 the supplemental Medicare part B premium (as de-
7 fined in such section 59B) which is attributable to
8 months during such quarter. Proper adjustments
9 shall be made in the amounts subsequently trans-
10 ferred to the extent prior estimates were in excess
11 of or less than the amounts required to be trans-
12 ferred.

13 (c) REPORTING REQUIREMENTS.—

14 (1) Paragraph (1) of section 6050F(a) (relating
15 to returns relating to social security benefits) is
16 amended by striking “and” at the end of subpara-
17 graph (B) and by inserting after subparagraph (C)
18 the following new subparagraph:

19 “(D) the number of months during the cal-
20 endar year for which a premium was paid under
21 part B of title XVIII of the Social Security Act
22 for the coverage of such individual under such
23 part, and”.

24 (2) Paragraph (2) of section 6050F(b) is
25 amended to read as follows:

1 “(2) the information required to be shown on
2 such return with respect to such individual.”

3 (3) Paragraph (1) of section 6050F(c) is
4 amended by striking “and” at the end of subpara-
5 graph (A), by striking the period at the end of sub-
6 paragraph (B) and inserting “, and”, and by adding
7 at the end the following new subparagraph:

8 “(C) the Secretary of Health and Human
9 Services in the case of the information specified
10 in subsection (a)(1)(D).”

11 (4) The heading for section 6050F is amended
12 by inserting “**AND MEDICARE PART B COV-**
13 **ERAGE**” before the period.

14 (5) The item relating to section 6050F in the
15 table of sections for subpart B of part III of sub-
16 chapter A of chapter 61 is amended by inserting
17 “and Medicare part B coverage” before the period.

18 (d) CLERICAL AMENDMENT.—The table of parts for
19 subchapter A of chapter 1 is amended by adding at the
20 end thereof the following new item:

 “Part VIII. Supplemental Medicare part B premiums for high-in-
 come individuals.”

21 (e) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to months after December 1995
23 in taxable years ending after December 31, 1995.

1 **SEC. 8303. EXPANDED COVERAGE OF PREVENTIVE BENE-**
2 **FITS.**

3 (a) PROVIDING ANNUAL SCREENING MAMMOGRAPHY
4 FOR WOMEN OVER AGE 49.—Section 1834(c)(2)(A) (42
5 U.S.C. 1395m(c)(2)(A)) is amended—

6 (1) in clause (iv), by striking “but under 65
7 years of age,”; and

8 (2) by striking clause (v).

9 (b) COVERAGE OF SCREENING PAP SMEAR AND PEL-
10 VIC EXAMS.—

11 (1) COVERAGE OF PELVIC EXAM; INCREASING
12 FREQUENCY OF COVERAGE OF PAP SMEAR.—Section
13 1861(nn) (42 U.S.C. 1395x(nn)) is amended—

14 (A) in the heading, by striking “Smear”
15 and inserting “Smear; Screening Pelvic Exam”;

16 (B) by striking “(nn)” and inserting
17 “(nn)(1)”;

18 (C) by striking “3 years” and all that fol-
19 lows and inserting “3 years, or during the pre-
20 ceding year in the case of a woman described
21 in paragraph (3).”; and

22 (D) by adding at the end the following new
23 paragraphs:

24 “(2) The term ‘screening pelvic exam’ means an pel-
25 vic examination provided to a woman if the woman in-
26 volved has not had such an examination during the preced-

1 ing 3 years, or during the preceding year in the case of
2 a woman described in paragraph (3), and includes a clini-
3 cal breast examination.

4 “(3) A woman described in this paragraph is a
5 woman who—

6 “(A) is of childbearing age and has not had a
7 test described in this subsection during each of the
8 preceding 3 years that did not indicate the presence
9 of cervical cancer; or

10 “(B) is at high risk of developing cervical can-
11 cer (as determined pursuant to factors identified by
12 the Secretary).”.

13 (2) WAIVER OF DEDUCTIBLE.—The first sen-
14 tence of section 1833(b) (42 U.S.C. 1395l(b)), as
15 amended by subsection (a)(2), is amended—

16 (A) by striking “and (5)” and inserting
17 “(5)”; and

18 (B) by striking the period at the end and
19 inserting the following: “, and (6) such deduct-
20 ible shall not apply with respect to screening
21 pap smear and screening pelvic exam (as de-
22 scribed in section 1861(nn)).”.

23 (3) CONFORMING AMENDMENTS.—(A) Section
24 1861(s)(14) (42 U.S.C. 1395x(s)(14)) is amended

1 by inserting “and screening pelvic exam” after
2 “screening pap smear”.

3 (B) Section 1862(a)(1)(F) (42 U.S.C.
4 1395y(a)(1)(F)) is amended by inserting “and
5 screening pelvic exam” after “screening pap smear”.

6 (c) COVERAGE OF COLORECTAL SCREENING.—

7 (1) IN GENERAL.—Section 1834 (42 U.S.C.
8 1395m) is amended by inserting after subsection (c)
9 the following new subsection:

10 “(d) FREQUENCY AND PAYMENT LIMITS FOR
11 SCREENING FECAL-OCCULT BLOOD TESTS, SCREENING
12 FLEXIBLE SIGMOIDOSCOPIES, AND SCREENING
13 COLONOSCOPY.—

14 “(1) FREQUENCY LIMITS FOR SCREENING
15 FECAL-OCCULT BLOOD TESTS.—Subject to revision
16 by the Secretary under paragraph (4), no payment
17 may be made under this part for a screening fecal-
18 occult blood test provided to an individual for the
19 purpose of early detection of colon cancer if the test
20 is performed—

21 “(A) in the case of an individual under 65
22 years of age, more frequently than is provided
23 in a periodicity schedule established by the Sec-
24 retary for purposes of this subparagraph; or

1 “(B) in the case of any other individual,
2 within the 11 months following the month in
3 which a previous screening fecal-occult blood
4 test was performed.

5 “(2) SCREENING FLEXIBLE SIGMOID-
6 OSCOPIES.—

7 “(A) PAYMENT AMOUNT.—The Secretary
8 shall establish a payment amount under section
9 1848 with respect to screening flexible
10 sigmoidoscopies provided for the purpose of
11 early detection of colon cancer that is consistent
12 with payment amounts under such section for
13 similar or related services, except that such
14 payment amount shall be established without
15 regard to subsection (a)(2)(A) of such section.

16 “(B) FREQUENCY LIMITS.—Subject to re-
17 vision by the Secretary under paragraph (4), no
18 payment may be made under this part for a
19 screening flexible sigmoidoscopy provided to an
20 individual for the purpose of early detection of
21 colon cancer if the procedure is performed—

22 “(i) in the case of an individual under
23 65 years of age, more frequently than is
24 provided in a periodicity schedule estab-

1 lished by the Secretary for purposes of this
2 subparagraph; or

3 “(ii) in the case of any other individ-
4 ual, within the 59 months following the
5 month in which a previous screening flexi-
6 ble sigmoidoscopy was performed.

7 “(3) SCREENING COLONOSCOPY FOR INDIVID-
8 UALS AT HIGH RISK FOR COLORECTAL CANCER.—

9 “(A) PAYMENT AMOUNT.—The Secretary
10 shall establish a payment amount under section
11 1848 with respect to screening colonoscopy for
12 individuals at high risk for colorectal cancer (as
13 determined in accordance with criteria estab-
14 lished by the Secretary) provided for the pur-
15 pose of early detection of colon cancer that is
16 consistent with payment amounts under such
17 section for similar or related services, except
18 that such payment amount shall be established
19 without regard to subsection (a)(2)(A) of such
20 section.

21 “(B) FREQUENCY LIMIT.—Subject to revi-
22 sion by the Secretary under paragraph (4), no
23 payment may be made under this part for a
24 screening colonoscopy for individuals at high
25 risk for colorectal cancer provided to an individ-

1 ual for the purpose of early detection of colon
2 cancer if the procedure is performed within the
3 47 months following the month in which a pre-
4 vious screening colonoscopy was performed.

5 “(C) FACTORS CONSIDERED IN ESTAB-
6 LISHING CRITERIA FOR DETERMINING INDIVID-
7 UALS AT HIGH RISK.—In establishing criteria
8 for determining whether an individual is at high
9 risk for colorectal cancer for purposes of this
10 paragraph, the Secretary shall take into consid-
11 eration family history, prior experience of can-
12 cer, a history of chronic digestive disease condi-
13 tion, and the presence of any appropriate recog-
14 nized gene markers for colorectal cancer.

15 “(4) REVISION OF FREQUENCY.—

16 “(A) REVIEW.—The Secretary shall review
17 periodically the appropriate frequency for per-
18 forming screening fecal-occult blood tests,
19 screening flexible sigmoidoscopies, and screen-
20 ing colonoscopy based on age and such other
21 factors as the Secretary believes to be pertinent.

22 “(B) REVISION OF FREQUENCY.—The Sec-
23 retary, taking into consideration the review
24 made under clause (i), may revise from time to
25 time the frequency with which such tests and

1 procedures may be paid for under this sub-
2 section.”.

3 (2) CONFORMING AMENDMENTS.—(A) Para-
4 graphs (1)(D) and (2)(D) of section 1833(a) (42
5 U.S.C. 1395l(a)) are each amended by striking
6 “subsection (h)(1),” and inserting “subsection (h)(1)
7 or section 1834(d)(1),”.

8 (B) Clauses (i) and (ii) of section
9 1848(a)(2)(A) (42 U.S.C. 1395w-4(a)(2)(A)) are
10 each amended by striking “a service” and inserting
11 “a service (other than a screening flexible
12 sigmoidoscopy provided to an individual for the pur-
13 pose of early detection of colon cancer or a screening
14 colonoscopy provided to an individual at high risk
15 for colorectal cancer for the purpose of early detec-
16 tion of colon cancer)”.

17 (C) Section 1862(a) (42 U.S.C. 1395y(a)) is
18 amended—

19 (i) in paragraph (1)—

20 (I) in subparagraph (E), by striking
21 “and” at the end;

22 (II) in subparagraph (F), by striking
23 the semicolon at the end and inserting “,
24 and”; and

1 (III) by adding at the end the follow-
2 ing new subparagraph:

3 “(G) in the case of screening fecal-occult blood
4 tests, screening flexible sigmoidoscopies, and screen-
5 ing colonoscopy provided for the purpose of early de-
6 tection of colon cancer, which are performed more
7 frequently than is covered under section 1834(d);”;
8 and

9 (ii) in paragraph (7), by striking “para-
10 graph (1)(B) or under paragraph (1)(F)” and
11 inserting “subparagraphs (B), (F), or (G) of
12 paragraph (1)”.

13 (d) PROSTATE CANCER SCREENING TESTS.—

14 (1) IN GENERAL.—Section 1861(s)(2) (42
15 U.S.C. 1395x(s)(2)) is amended—

16 (A) by striking “and” at the end of sub-
17 paragraph (N) and subparagraph (O); and

18 (B) by inserting after subparagraph (O)
19 the following new subparagraph:

20 “(P) prostate cancer screening tests (as defined
21 in subsection (oo)); and”.

22 (2) TESTS DESCRIBED.—Section 1861 (42
23 U.S.C. 1395x) is amended by adding at the end the
24 following new subsection:

1 “Prostate Cancer Screening Tests

2 “(oo) The term ‘prostate cancer screening test’
3 means a test that consists of a digital rectal examination
4 or a prostate-specific antigen blood test (or both) provided
5 for the purpose of early detection of prostate cancer to
6 a man over 40 years of age who has not had such a test
7 during the preceding year.”.

8 (3) PAYMENT FOR PROSTATE-SPECIFIC ANTI-
9 GEN BLOOD TEST UNDER CLINICAL DIAGNOSTIC
10 LABORATORY TEST FEE SCHEDULES.—Section
11 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amend-
12 ed by inserting after “laboratory tests” the follow-
13 ing: “(including prostate cancer screening tests
14 under section 1861(oo) consisting of prostate-spe-
15 cific antigen blood tests)”.

16 (4) CONFORMING AMENDMENT.—Section
17 1862(a) (42 U.S.C. 1395y(a)), as amended by sub-
18 section (c)(3)(C), is amended—

19 (A) in paragraph (1)—

20 (i) in subparagraph (F), by striking
21 “and” at the end,

22 (ii) in subparagraph (G), by striking
23 the semicolon at the end and inserting “,
24 and”, and

1 (iii) by adding at the end the follow-
2 ing new subparagraph:

3 “(H) in the case of prostate cancer screening
4 test (as defined in section 1861(o)) provided for the
5 purpose of early detection of prostate cancer, which
6 are performed more frequently than is covered under
7 such section;”; and

8 (B) in paragraph (7), by striking “or (G)”
9 and inserting “(G), or (H)”.

10 (e) DIABETES SCREENING BENEFITS.—

11 (1) DIABETES OUTPATIENT SELF-MANAGEMENT
12 TRAINING SERVICES.—

13 (A) IN GENERAL.—Section 1861(s)(2) (42
14 U.S.C. 1395x(s)(2)), as amended by subsection
15 (d)(1), is amended—

16 (i) by striking “and” at the end of
17 subparagraph (N);

18 (ii) by striking “and” at the end of
19 subparagraph (O); and

20 (iii) by inserting after subparagraph
21 (O) the following new subparagraph:

22 “(P) diabetes outpatient self-management train-
23 ing services (as defined in subsection (pp)); and”.

24 (B) DEFINITION.—Section 1861 (42
25 U.S.C. 1395x), as amended by subsection

1 (d)(2), is amended by adding at the end the fol-
2 lowing new subsection:

3 “DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING
4 SERVICES

5 “(pp)(1) The term ‘diabetes outpatient self-manage-
6 ment training services’ means educational and training
7 services furnished to an individual with diabetes by or
8 under arrangements with a certified provider (as described
9 in paragraph (2)(A)) in an outpatient setting by an indi-
10 vidual or entity who meets the quality standards described
11 in paragraph (2)(B), but only if the physician who is man-
12 aging the individual’s diabetic condition certifies that such
13 services are needed under a comprehensive plan of care
14 related to the individual’s diabetic condition to provide the
15 individual with necessary skills and knowledge (including
16 skills related to the self-administration of injectable drugs)
17 to participate in the management of the individual’s condi-
18 tion.

19 “(2) In paragraph (1)—

20 “(A) a ‘certified provider’ is an individual or
21 entity that, in addition to providing diabetes out-
22 patient self-management training services, provides
23 other items or services for which payment may be
24 made under this title; and

25 “(B) an individual or entity meets the quality
26 standards described in this paragraph if the individ-

1 ual or entity meets quality standards established by
2 the Secretary, except that the individual or entity
3 shall be deemed to have met such standards if the
4 individual or entity meets applicable standards origi-
5 nally established by the National Diabetes Advisory
6 Board and subsequently revised by organizations
7 who participated in the establishment of standards
8 by such Board, or is recognized by the American Di-
9 abetes Association as meeting standards for furnish-
10 ing the services.”.

11 (C) CONSULTATION WITH ORGANIZATIONS
12 IN ESTABLISHING PAYMENT AMOUNTS FOR
13 SERVICES PROVIDED BY PHYSICIANS.—In es-
14 tablishing payment amounts under section
15 1848(a) of the Social Security Act for physi-
16 cians’ services consisting of diabetes outpatient
17 self-management training services, the Sec-
18 retary of Health and Human Services shall con-
19 sult with appropriate organizations, including
20 the American Diabetes Association, in deter-
21 mining the relative value for such services
22 under section 1848(c)(2) of such Act.

23 (2) BLOOD-TESTING STRIPS FOR INDIVIDUALS
24 WITH DIABETES.—

1 (A) INCLUDING STRIPS AS DURABLE MEDI-
2 CAL EQUIPMENT.—Section 1861(n) (42 U.S.C.
3 1395x(n)) is amended by striking the semicolon
4 in the first sentence and inserting the following:
5 “, and includes blood-testing strips for individ-
6 uals with diabetes without regard to whether
7 the individual has Type I or Type II diabetes
8 (as determined under standards established by
9 the Secretary in consultation with the American
10 Diabetes Association);”.

11 (2) PAYMENT FOR STRIPS BASED ON METH-
12 ODOLOGY FOR INEXPENSIVE AND ROUTINELY PUR-
13 CHASED EQUIPMENT.—Section 1834(a)(2)(A) (42
14 U.S.C. 1395m(a)(2)(A)) is amended—

15 (A) by striking “or” at the end of clause
16 (ii);

17 (B) by adding “or” at the end of clause
18 (iii); and

19 (C) by inserting after clause (iii) the fol-
20 lowing new clause:

21 “(iv) which is a blood-testing strip for
22 an individual with diabetes,”.

23 (e) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to items and services furnished on
25 or after January 1, 2001.

1 **Subtitle E—Medicare Fraud**
2 **Reduction**

3 **SEC. 8401. INCREASING BENEFICIARY AWARENESS OF**
4 **FRAUD AND ABUSE.**

5 (a) **BENEFICIARY OUTREACH EFFORTS.**—The Sec-
6 retary of Health and Human Services (acting through the
7 Administrator of the Health Care Financing Administra-
8 tion and the Inspector General of the Department of
9 Health and Human Services) shall make ongoing efforts
10 (through public service announcements, publications, and
11 other appropriate methods) to alert individuals entitled to
12 benefits under the medicare program of the existence of
13 fraud and abuse committed against the program and the
14 costs to the program of such fraud and abuse, and of the
15 existence of the toll-free telephone line operated by the
16 Secretary to receive information on fraud and abuse com-
17 mitted against the program.

18 (b) **CLARIFICATION OF REQUIREMENT TO PROVIDE**
19 **EXPLANATION OF MEDICARE BENEFITS.**—The Secretary
20 shall provide an explanation of benefits under the medi-
21 care program with respect to each item or service for
22 which payment may be made under the program which
23 is furnished to an individual, without regard to whether
24 or not a deductible or coinsurance may be imposed against
25 the individual with respect to the item or service.

1 (c) PROVIDER OUTREACH EFFORTS; PUBLICATION
2 OF FRAUD ALERTS.—

3 (1) SPECIAL FRAUD ALERTS.—

4 (A) IN GENERAL.—

5 (i) REQUEST FOR SPECIAL FRAUD
6 ALERTS.—Any person may present, at any
7 time, a request to the Secretary to issue
8 and publish a special fraud alert.

9 (ii) SPECIAL FRAUD ALERT DE-
10 FINED.—In this section, a “special fraud
11 alert” is a notice which informs the public
12 of practices which the Secretary considers
13 to be suspect or of particular concern
14 under the medicare program or a State
15 health care program (as defined in section
16 1128(h) of the Social Security Act).

17 (B) ISSUANCE AND PUBLICATION OF SPE-
18 CIAL FRAUD ALERTS.—

19 (i) INVESTIGATION.—Upon receipt of
20 a request for a special fraud alert under
21 subparagraph (A), the Secretary shall in-
22 vestigate the subject matter of the request
23 to determine whether a special fraud alert
24 should be issued. If appropriate, the Sec-
25 retary (in consultation with the Attorney

1 General) shall issue a special fraud alert in
2 response to the request. All special fraud
3 alerts issued pursuant to this subpara-
4 graph shall be published in the Federal
5 Register.

6 (ii) CRITERIA FOR ISSUANCE.—In de-
7 termining whether to issue a special fraud
8 alert upon a request under subparagraph
9 (A), the Secretary may consider—

10 (I) whether and to what extent
11 the practices that would be identified
12 in the special fraud alert may result
13 in any of the consequences described
14 in subparagraph (C); and

15 (II) the extent and frequency of
16 the conduct that would be identified
17 in the special fraud alert.

18 (C) CONSEQUENCES DESCRIBED.—The
19 consequences described in this subparagraph
20 are as follows:

21 (i) An increase or decrease in access
22 to health care services.

23 (ii) An increase or decrease in the
24 quality of health care services.

1 (iii) An increase or decrease in patient
2 freedom of choice among health care pro-
3 viders.

4 (iv) An increase or decrease in com-
5 petition among health care providers.

6 (v) An increase or decrease in the cost
7 to health care programs of the Federal
8 Government.

9 (vi) An increase or decrease in the po-
10 tential overutilization of health care serv-
11 ices.

12 (viii) Any other factors the Secretary
13 deems appropriate in the interest of pre-
14 venting fraud and abuse in health care
15 programs of the Federal Government.

16 (2) PUBLICATION OF ALL HCFA FRAUD ALERTS
17 IN FEDERAL REGISTER.—Each notice issued by the
18 Health Care Financing Administration which in-
19 forms the public of practices which the Secretary
20 considers to be suspect or of particular concern
21 under the medicare program or a State health care
22 program (as defined in section 1128(h) of the Social
23 Security Act) shall be published in the Federal Reg-
24 ister, without regard to whether or not the notice is

1 issued by a regional office of the Health Care Fi-
2 nancing Administration.

3 **SEC. 8402. BENEFICIARY INCENTIVES TO REPORT FRAUD**
4 **AND ABUSE.**

5 (a) PROGRAM TO COLLECT INFORMATION ON FRAUD
6 AND ABUSE.—

7 (1) ESTABLISHMENT OF PROGRAM.—Not later
8 than 3 months after the date of the enactment of
9 this Act, the Secretary shall establish a program
10 under which the Secretary shall encourage individ-
11 uals to report to the Secretary information on indi-
12 viduals and entities who are engaging or who have
13 engaged in acts or omissions which constitute
14 grounds for the imposition of a sanction under sec-
15 tion 1128, section 1128A, or section 1128B of the
16 Social Security Act, or who have otherwise engaged
17 in fraud and abuse against the medicare program.

18 (2) PAYMENT OF PORTION OF AMOUNTS COL-
19 LECTED.—If an individual reports information to
20 the Secretary under the program established under
21 paragraph (1) which serves as the basis for the col-
22 lection by the Secretary or the Attorney General of
23 any amount of at least \$100 (other than any
24 amount paid as a penalty under section 1128B of
25 the Social Security Act), the Secretary may pay a

1 portion of the amount collected to the individual
2 (under procedures similar to those applicable under
3 section 7623 of the Internal Revenue Code of 1986
4 to payments to individuals providing information on
5 violations of such Code).

6 (b) PROGRAM TO COLLECT INFORMATION ON PRO-
7 GRAM EFFICIENCY.—

8 (1) ESTABLISHMENT OF PROGRAM.—Not later
9 than 3 months after the date of the enactment of
10 this Act, the Secretary shall establish a program
11 under which the Secretary shall encourage individ-
12 uals to submit to the Secretary suggestions on meth-
13 ods to improve the efficiency of the medicare pro-
14 gram.

15 (2) PAYMENT OF PORTION OF PROGRAM SAV-
16 INGS.—If an individual submits a suggestion to the
17 Secretary under the program established under
18 paragraph (1) which is adopted by the Secretary and
19 which results in savings to the program, the Sec-
20 retary may make a payment to the individual of
21 such amount as the Secretary considers appropriate.

22 **SEC. 8403. ELIMINATION OF HOME HEALTH OVERPAY-**
23 **MENTS.**

24 (a) REQUIRING BILLING AND PAYMENT TO BE
25 BASED ON SITE WHERE SERVICE FURNISHED.—Section

1 1891 (42 U.S.C. 1395bbb) is amended by adding at the
2 end the following new subsection:

3 “(g) A home health agency shall submit claims for
4 payment for home health services under this title only on
5 the basis of the geographic location at which the service
6 is furnished.”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall apply to services furnished during cost
9 reporting periods beginning on or after October 1, 1995.

10 **SEC. 8404. SKILLED NURSING FACILITIES.**

11 (a) CLARIFICATION OF TREATMENT OF HOSPITAL
12 TRANSFERS.—

13 (1) IN GENERAL.—Section 1886(d)(5)(I) (42
14 U.S.C. 1395ww(d)(5)(I)) is amended by adding at
15 the end the following new clause:

16 “(iii) In making adjustments under clause (i) for
17 transfer cases, the Secretary shall treat as a transfer any
18 transfer to a hospital (without regard to whether or not
19 the hospital is a subsection (d) hospital), a unit thereof,
20 or a skilled nursing facility.”.

21 (2) EFFECTIVE DATE.—The amendment made
22 by paragraph (1) shall apply to discharges occurring
23 on or after October 1, 1995.

24 (b) REQUIRING BILLING AND PAYMENT TO BE
25 BASED ON SITE WHERE SERVICE FURNISHED.—Section

1 1819(b) (42 U.S.C. 1395i@3(b)) is amended by adding
2 at the end the following new paragraph:

3 “(8) SPECIAL RULE FOR BILLING AND PAY-
4 MENT.—A skilled nursing facility shall submit
5 claims for payment for services under this title
6 (whether such services are billed under part A or
7 part B) only on the basis of the geographic location
8 at which the service is furnished.”.

9 **SEC. 8405. DIRECT SPENDING FOR ANTI-FRAUD ACTIVITIES**
10 **UNDER MEDICARE.**

11 (a) ESTABLISHMENT OF MEDICARE INTEGRITY PRO-
12 GRAM.—Title XVIII, as amended by section 8231(d), is
13 further amended by adding at the end the following new
14 section:

15 “MEDICARE INTEGRITY PROGRAM
16 “SEC. 1894. (a) ESTABLISHMENT OF PROGRAM.—
17 There is hereby established the Medicare Integrity Pro-
18 gram (hereafter in this section referred to as the ‘Pro-
19 gram’) under which the Secretary shall promote the integ-
20 rity of the medicare program by entering into contracts
21 in accordance with this section with eligible private entities
22 to carry out the activities described in subsection (b).

23 “(b) ACTIVITIES DESCRIBED.—The activities de-
24 scribed in this subsection are as follows:

25 “(1) Review of activities of providers of services
26 or other individuals and entities furnishing items

1 and services for which payment may be made under
2 this title (including skilled nursing facilities and
3 home health agencies), including medical and utiliza-
4 tion review and fraud review (employing similar
5 standards, processes, and technologies used by pri-
6 vate health plans, including equipment and software
7 technologies which surpass the capability of the
8 equipment and technologies used in the review of
9 claims under this title as of the date of the enact-
10 ment of this section).

11 “(2) Audit of cost reports.

12 “(3) Determinations as to whether payment
13 should not be, or should not have been, made under
14 this title by reason of section 1862(b), and recovery
15 of payments that should not have been made.

16 “(4) Education of providers of services, bene-
17 ficiaries, and other persons with respect to payment
18 integrity and benefit quality assurance issues.

19 “(c) ELIGIBILITY OF ENTITIES.—An entity is eligible
20 to enter into a contract under the Program to carry out
21 any of the activities described in subsection (b) if—

22 “(1) the entity has demonstrated capability to
23 carry out such activities;

24 “(2) in carrying out such activities, the entity
25 agrees to cooperate with the Inspector General of

1 the Department of Health and Human Services, the
2 Attorney General of the United States, and other
3 law enforcement agencies, as appropriate, in the in-
4 vestigation and deterrence of fraud and abuse in re-
5 lation to this title and in other cases arising out of
6 such activities;

7 “(3) the entity’s financial holdings, interests, or
8 relationships will not interfere with its ability to per-
9 form the functions to be required by the contract in
10 an effective and impartial manner; and

11 “(4) the entity meets such other requirements
12 as the Secretary may impose.

13 “(d) PROCESS FOR ENTERING INTO CONTRACTS.—
14 The Secretary shall enter into contracts under the Pro-
15 gram in accordance with such procedures as the Secretary
16 may by regulation establish, except that such procedures
17 shall include the following:

18 “(1) The Secretary shall determine the appro-
19 priate number of separate contracts which are nec-
20 essary to carry out the Program and the appropriate
21 times at which the Secretary shall enter into such
22 contracts.

23 “(2) The provisions of section 1153(e)(1) shall
24 apply to contracts and contracting authority under
25 this section, except that competitive procedures must

1 be used when entering into new contracts under this
2 section, or at any other time considered appropriate
3 by the Secretary.

4 “(3) A contract under this section may be re-
5 newed without regard to any provision of law requir-
6 ing competition if the contractor has met or ex-
7 ceeded the performance requirements established in
8 the current contract.

9 “(e) LIMITATION ON CONTRACTOR LIABILITY.—The
10 Secretary shall by regulation provide for the limitation of
11 a contractor’s liability for actions taken to carry out a con-
12 tract under the Program, and such regulation shall, to the
13 extent the Secretary finds appropriate, employ the same
14 or comparable standards and other substantive and proce-
15 dural provisions as are contained in section 1157.

16 “(f) TRANSFER OF AMOUNTS TO MEDICARE ANTI-
17 FRAUD AND ABUSE TRUST FUND.—For each fiscal year,
18 the Secretary shall transfer from the Federal Hospital In-
19 surance Trust Fund and the Federal Supplementary Med-
20 ical Insurance Trust Fund to the Medicare Anti-Fraud
21 and Abuse Trust Fund under subsection (g) such amounts
22 as are necessary to carry out the activities described in
23 subsection (b). Such transfer shall be in an allocation as
24 reasonably reflects the proportion of such expenditures as-
25 sociated with part A and part B.

1 “(g) MEDICARE ANTI-FRAUD AND ABUSE TRUST
2 FUND.—

3 “(1) ESTABLISHMENT.—

4 “(A) IN GENERAL.—There is hereby estab-
5 lished in the Treasury of the United States the
6 Anti-Fraud and Abuse Trust Fund (hereafter
7 in this subsection referred to as the ‘Trust
8 Fund’). The Trust Fund shall consist of such
9 gifts and bequests as may be made as provided
10 in subparagraph (B) and such amounts as may
11 be deposited in the Trust Fund as provided in
12 subsection (f), paragraph (3), and title XI.

13 “(B) AUTHORIZATION TO ACCEPT GIFTS
14 AND BEQUESTS.—The Trust Fund is author-
15 ized to accept on behalf of the United States
16 money gifts and bequests made unconditionally
17 to the Trust Fund, for the benefit of the Trust
18 Fund or any activity financed through the
19 Trust Fund.

20 “(2) INVESTMENT.—

21 “(A) IN GENERAL.—The Secretary of the
22 Treasury shall invest such amounts of the Fund
23 as such Secretary determines are not required
24 to meet current withdrawals from the Fund in
25 government account serial securities.

1 “(B) USE OF INCOME.—Any interest de-
2 rived from investments under subparagraph (A)
3 shall be credited to the Fund.

4 “(3) AMOUNTS DEPOSITED INTO TRUST
5 FUND.—In addition to amounts transferred under
6 subsection (f), there shall be deposited in the Trust
7 Fund—

8 “(A) that portion of amounts recovered in
9 relation to section 1128A arising out of a claim
10 under title XVIII as remains after application
11 of subsection (f)(2) (relating to repayment of
12 the Federal Hospital Insurance Trust Fund or
13 the Federal Supplementary Medical Insurance
14 Trust Fund) of that section, as may be applica-
15 ble,

16 “(B) fines imposed under section 1128B
17 arising out of a claim under this title, and

18 “(C) penalties and damages imposed (other
19 than funds awarded to a relator or for restitu-
20 tion) under sections 3729 through 3732 of title
21 31, United States Code (pertaining to false
22 claims) in cases involving claims relating to pro-
23 grams under title XVIII, XIX, or XXI.

24 “(4) DIRECT APPROPRIATION OF FUNDS TO
25 CARRY OUT PROGRAM.—

1 “(A) IN GENERAL.—There are appro-
2 priated from the Trust Fund for each fiscal
3 year such amounts as are necessary to carry
4 out the Medicare Integrity Program under this
5 section, subject to subparagraph (B).

6 “(B) AMOUNTS SPECIFIED.—The amount
7 appropriated under subparagraph (A) for a fis-
8 cal year is as follows:

9 “(i) For fiscal year 1996, such
10 amount shall be not less than
11 \$430,000,000 and not more than
12 \$440,000,000.

13 “(ii) For fiscal year 1997, such
14 amount shall be not less than
15 \$490,000,000 and not more than
16 \$500,000,000.

17 “(iii) For fiscal year 1998, such
18 amount shall be not less than
19 \$550,000,000 and not more than
20 \$560,000,000.

21 “(iv) For fiscal year 1999, such
22 amount shall be not less than
23 \$620,000,000 and not more than
24 \$630,000,000.

1 “(v) For fiscal year 2000, such
2 amount shall be not less than
3 \$670,000,000 and not more than
4 \$680,000,000.

5 “(vi) For fiscal year 2001, such
6 amount shall be not less than
7 \$690,000,000 and not more than
8 \$700,000,000.

9 “(vii) For fiscal year 2002, such
10 amount shall be not less than
11 \$710,000,000 and not more than
12 \$720,000,000.

13 “(5) ANNUAL REPORT.—The Secretary shall
14 submit an annual report to Congress on the amount
15 of revenue which is generated and disbursed by the
16 Trust Fund in each fiscal year.”.

17 (b) ELIMINATION OF FI AND CARRIER RESPONSIBIL-
18 ITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PRO-
19 GRAM.—

20 (1) RESPONSIBILITIES OF FISCAL
21 INTERMEDIARIES UNDER PART A.—Section 1816
22 (42 U.S.C. 1395h) is amended by adding at the end
23 the following new subsection:

24 “(l) No agency or organization may carry out (or re-
25 ceive payment for carrying out) any activity pursuant to

1 an agreement under this section to the extent that the ac-
2 tivity is carried out pursuant to a contract under the Med-
3 icare Integrity Program under section 1894.”.

4 (2) RESPONSIBILITIES OF CARRIERS UNDER
5 PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is
6 amended by adding at the end the following new
7 paragraph:

8 “(6) No carrier may carry out (or receive payment
9 for carrying out) any activity pursuant to a contract under
10 this subsection to the extent that the activity is carried
11 out pursuant to a contract under the Medicare Integrity
12 Program under section 1894.”.

13 (c) CONFORMING AMENDMENT.—Section
14 1128A(f)(3) (42 U.S.C. 1320a-7a(f)(3)) is amended by
15 striking “as miscellaneous receipts of the Treasury of the
16 United States” and inserting “in the Anti-Fraud and
17 Abuse Trust Fund established under section 1895(g)”.

18 (d) DIRECT SPENDING FOR MEDICARE-RELATED AC-
19 TIVITIES OF INSPECTOR GENERAL.—Section 1894, as
20 added by subsection (a), is amended by adding at the end
21 the following new subsection:

22 “(h) DIRECT SPENDING FOR MEDICARE-RELATED
23 ACTIVITIES OF INSPECTOR GENERAL.—

24 “(1) IN GENERAL.—There are appropriated
25 from the Federal Hospital Insurance Trust Fund

1 and the Federal Supplementary Medical Insurance
2 Trust Fund to the Inspector General of the Depart-
3 ment of Health and Human Services for each fiscal
4 year such amounts as are necessary to enable the
5 Inspector General to carry out activities relating to
6 the medicare program (as described in paragraph
7 (2)), subject to paragraph (3).

8 “(2) ACTIVITIES DESCRIBED.—The activities
9 described in this paragraph are as follows:

10 “(A) Prosecuting medicare-related matters
11 through criminal, civil, and administrative pro-
12 ceedings.

13 “(B) Conducting investigations relating to
14 the medicare program.

15 “(C) Performing financial and performance
16 audits of programs and operations relating to
17 the medicare program.

18 “(D) Performing inspections and other
19 evaluations relating to the medicare program.

20 “(E) Conducting provider and consumer
21 education activities regarding the requirements
22 of this title.

23 “(3) AMOUNTS SPECIFIED.—The amount ap-
24 propriated under paragraph (1) for a fiscal year is
25 as follows:

1 “(A) For fiscal year 1996, such amount
2 shall be \$130,000,000.

3 “(B) For fiscal year 1997, such amount
4 shall be \$181,000,000.

5 “(C) For fiscal year 1998, such amount
6 shall be \$204,000,000.

7 “(D) For each subsequent fiscal year, the
8 amount appropriated for the previous fiscal
9 year, increased by the percentage increase in
10 aggregate expenditures under this title for the
11 fiscal year involved over the previous fiscal year.

12 “(4) ALLOCATION OF PAYMENTS AMONG TRUST
13 FUNDS.—The appropriations made under paragraph
14 (1) shall be in an allocation as reasonably reflects
15 the proportion of such expenditures associated with
16 part A and part B.”.

17 **SEC. 8406. FRAUD REDUCTION DEMONSTRATION PROJECT.**

18 (a) IN GENERAL.—Not later than July 1, 1996, the
19 Secretary of Health and Human Services (in this section
20 referred to as the “Secretary”) shall establish not less
21 than three demonstration projects under which organiza-
22 tions with a contract under section 1816 or section 1842
23 of the Social Security Act—

24 (1) identify practitioners and providers whose
25 patterns of providing care to beneficiaries enrolled

1 under title XVIII of the Social Security Act are con-
2 sistently outside the norm for other practitioners or
3 providers of the same category, class, or type, and

4 (2) experiment with ways of identifying fraudu-
5 lent claims submitted to the program established
6 under such title before they are paid.

7 (b) DURATION OF PROJECTS.—Each project estab-
8 lished under subsection (a) shall last for at least 18
9 months and shall focus on those categories, classes, or
10 types of providers and practitioners that have been identi-
11 fied by the Inspector General of the Department of Health
12 and Human Services as having a high incidence of fraud
13 and abuse.

14 (c) REPORT.—Not later than July 1, 1997, the Sec-
15 retary shall report to the Congress on the demonstration
16 projects established under subsection (a), and shall include
17 in the report an assessment of the effectiveness of, and
18 any recommended legislative changes based on, the
19 projects.

20 **SEC. 8407. REPORT ON COMPETITIVE PRICING.**

21 Not later than 1 year after the date of the enactment
22 of this Act, the Secretary of Health and Human Services
23 (acting through the Administrator of the Health Care Fi-
24 nancing Administration) shall submit to Congress a report
25 recommending legislative changes to the medicare pro-

1 gram to enable the prices paid for items and services
2 under the medicare program to be established on a more
3 competitive basis.

4 **Subtitle F—Improving Access to**
5 **Health Care**

6 **PART 1—ASSISTANCE FOR RURAL PROVIDERS**

7 **Subpart A—Rural Hospitals**

8 **SEC. 8501. SOLE COMMUNITY HOSPITALS.**

9 (a) UPDATE.—Section 1886(b)(3)(B)(iv) (42 U.S.C.
10 1395ww(b)(3)(B)(iv)) is amended—

11 (A) in subclause (III), by striking “and” at
12 the end; and

13 (B) by striking subclause (IV) and insert-
14 ing the following:

15 “(IV) for each of the fiscal years 1996 through
16 2000, the market basket percentage increase minus
17 1 percentage points, and

18 “(V) for fiscal year 2001 and each subsequent
19 fiscal year, the applicable percentage increase under
20 clause (i).”.

21 (b) STUDY OF IMPACT OF SOLE COMMUNITY HOS-
22 PITAL DESIGNATIONS.—

23 (1) STUDY.—The Medicare Payment Review
24 Commission shall conduct a study of the impact of
25 the designation of hospitals as sole community hos-

1 pitals under the medicare program on the delivery of
2 health care services to individuals in rural areas, and
3 shall include in the study an analysis of the charac-
4 teristics of the hospitals designated as such sole
5 community hospitals under the program.

6 (2) REPORT.—Not later than 12 months after
7 the date a majority of the members of the Commis-
8 sion are first appointed, the Commission shall sub-
9 mit to Congress a report on the study conducted
10 under paragraph (1).

11 **SEC. 8502. CLARIFICATION OF TREATMENT OF EAC AND**
12 **RPC HOSPITALS.**

13 Paragraphs (1)(A) and (2)(A) of section 1820(i) (42
14 U.S.C. 1395i@4(i)) are each amended by striking the
15 semicolon at the end and inserting the following: “, or in
16 a State which the Secretary finds would receive a grant
17 under such subsection during a fiscal year if funds were
18 appropriated for grants under such subsection for the fis-
19 cal year;”.

20 **SEC. 8503. ESTABLISHMENT OF RURAL EMERGENCY AC-**
21 **CESS CARE HOSPITALS.**

22 (a) ESTABLISHMENT.—

23 (1) IN GENERAL.—Section 1861 (42 U.S.C.
24 1395x) is amended by adding at the end the follow-
25 ing new subsection:

1 “Rural Emergency Access Care Hospital; Rural
2 Emergency Access Care Hospital Services

3 “(oo)(1) The term ‘rural emergency access care hos-
4 pital’ means, for a fiscal year, a facility with respect to
5 which the Secretary finds the following:

6 “(A) The facility is located in a rural area (as
7 defined in section 1886(d)(2)(D)).

8 “(B) The facility was a hospital under this title
9 at any time during the 5-year period that ends on
10 the date of the enactment of this subsection.

11 “(C) The facility is in danger of closing due to
12 low inpatient utilization rates and operating losses,
13 and the closure of the facility would limit the access
14 to emergency services of individuals residing in the
15 facility’s service area.

16 “(D) The facility has entered into (or plans to
17 enter into) an agreement with a hospital with a par-
18 ticipation agreement in effect under section 1866(a),
19 and under such agreement the hospital shall accept
20 patients transferred to the hospital from the facility
21 and receive data from and transmit data to the facil-
22 ity.

23 “(E) There is a practitioner who is qualified to
24 provide advanced cardiac life support services (as de-

1 terminated by the State in which the facility is lo-
2 cated) on-site at the facility on a 24-hour basis.

3 “(F) A physician is available on-call to provide
4 emergency medical services on a 24-hour basis.

5 “(G) The facility meets such staffing require-
6 ments as would apply under section 1861(e) to a
7 hospital located in a rural area, except that—

8 “(i) the facility need not meet hospital
9 standards relating to the number of hours dur-
10 ing a day, or days during a week, in which the
11 facility must be open, except insofar as the fa-
12 cility is required to provide emergency care on
13 a 24-hour basis under subparagraphs (E) and
14 (F); and

15 “(ii) the facility may provide any services
16 otherwise required to be provided by a full-time,
17 on-site dietitian, pharmacist, laboratory techni-
18 cian, medical technologist, or radiological tech-
19 nologist on a part-time, off-site basis.

20 “(H) The facility meets the requirements appli-
21 cable to clinics and facilities under subparagraphs
22 (C) through (J) of paragraph (2) of section
23 1861(aa) and of clauses (ii) and (iv) of the second
24 sentence of such paragraph (or, in the case of the
25 requirements of subparagraph (E), (F), or (J) of

1 such paragraph, would meet the requirements if any
2 reference in such subparagraph to a ‘nurse practi-
3 tioner’ or to ‘nurse practitioners’ were deemed to be
4 a reference to a ‘nurse practitioner or nurse’ or to
5 ‘nurse practitioners or nurses’); except that in deter-
6 mining whether a facility meets the requirements of
7 this subparagraph, subparagraphs (E) and (F) of
8 that paragraph shall be applied as if any reference
9 to a ‘physician’ is a reference to a physician as de-
10 fined in section 1861(r)(1).

11 “(2) The term ‘rural emergency access care hospital
12 services’ means the following services provided by a rural
13 emergency access care hospital and furnished to an indi-
14 vidual over a continuous period not to exceed 24 hours
15 (except that such services may be furnished over a longer
16 period in the case of an individual who is unable to leave
17 the hospital because of inclement weather):

18 “(A) An appropriate medical screening exam-
19 ination (as described in section 1867(a)).

20 “(B) Necessary stabilizing examination and
21 treatment services for an emergency medical condi-
22 tion and labor (as described in section 1867(b)).”.

23 (2) REQUIRING RURAL EMERGENCY ACCESS
24 CARE HOSPITALS TO MEET HOSPITAL ANTI-DUMPING
25 REQUIREMENTS.—Section 1867(e)(5) (42 U.S.C.

1 1395dd(e)(5)) is amended by striking
2 “1861(mm)(1))” and inserting “1861(mm)(1) and
3 a rural emergency access care hospital (as defined in
4 section 1861(oo)(1))”.

5 (b) COVERAGE AND PAYMENT UNDER PART B.—

6 (1) COVERAGE UNDER PART B.—Section
7 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended—

8 (A) by striking “and” at the end of sub-
9 paragraph (I);

10 (B) by striking the period at the end of
11 subparagraph (J) and inserting “; and”; and

12 (C) by adding at the end the following new
13 subparagraph:

14 “(K) rural emergency access care hospital
15 services (as defined in section 1861(oo)(2)).”.

16 (2) PAYMENT BASED ON PAYMENT FOR OUT-
17 PATIENT RURAL PRIMARY CARE HOSPITAL SERV-
18 ICES.—

19 (A) IN GENERAL.—Section 1833(a)(6) (42
20 U.S.C. 1395l(a)(6)) is amended by striking
21 “services,” and inserting “services and rural
22 emergency access care hospital services,”.

23 (B) PAYMENT METHODOLOGY DE-
24 SCRIBED.—Section 1834(g) (42 U.S.C.
25 1395m(g)) is amended—

1 (i) in the heading, by striking “SERV-
2 ICES” and inserting “SERVICES AND
3 RURAL EMERGENCY ACCESS CARE HOS-
4 PITAL SERVICES”; and

5 (ii) by adding at the end the following
6 new sentence: “The amount of payment for
7 rural emergency access care hospital serv-
8 ices provided during a year shall be deter-
9 mined using the applicable method pro-
10 vided under this subsection for determining
11 payment for outpatient rural primary care
12 hospital services during the year.”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to fiscal years beginning on or
15 after October 1, 1995.

16 **SEC. 8504. CLASSIFICATION OF RURAL REFERRAL CEN-**
17 **TERS.**

18 (a) PROHIBITING DENIAL OF REQUEST FOR RECLAS-
19 SIFICATION ON BASIS OF COMPARABILITY OF WAGES.—

20 (1) IN GENERAL.—Section 1886(d)(10)(D) (42
21 U.S.C. 1395ww(d)(10)(D)) is amended—

22 (A) by redesignating clause (iii) as clause
23 (iv); and

24 (B) by inserting after clause (ii) the follow-
25 ing new clause:

1 “(iii) Under the guidelines published by the Secretary
2 under clause (i), in the case of a hospital which is classi-
3 fied by the Secretary as a rural referral center under para-
4 graph (5)(C), the Board may not reject the application
5 of the hospital under this paragraph on the basis of any
6 comparison between the average hourly wage of the hos-
7 pital and the average hourly wage of hospitals in the area
8 in which it is located.”.

9 (2) EFFECTIVE DATE.—Notwithstanding sec-
10 tion 1886(d)(10)(C)(ii) of the Social Security Act, a
11 hospital may submit an application to the Medicare
12 Geographic Classification Review Board during the
13 30-day period beginning on the date of the enact-
14 ment of this Act requesting a change in its classi-
15 fication for purposes of determining the area wage
16 index applicable to the hospital under section
17 1886(d)(3)(D) of such Act for fiscal year 1997, if
18 the hospital would be eligible for such a change in
19 its classification under the standards described in
20 section 1886(d)(10)(D) (as amended by paragraph
21 (1)) but for its failure to meet the deadline for appli-
22 cations under section 1886(d)(10)(C)(ii).

23 (b) CONTINUING TREATMENT OF PREVIOUSLY DES-
24 IGNATED CENTERS.—Any hospital classified as a rural re-
25 ferral center by the Secretary of Health and Human Serv-

1 ices under section 1886(d)(5)(C) of the Social Security
2 Act for fiscal year 1994 shall be classified as such a rural
3 referral center for fiscal year 1996 and each subsequent
4 fiscal year.

5 **SEC. 8505. FLOOR ON AREA WAGE INDEX.**

6 (a) IN GENERAL.—For purposes of section
7 1886(d)(3)(E) of the Social Security Act for discharges
8 occurring on or after October 1, 1995, the area wage index
9 applicable under such section to any hospital which is not
10 located in a rural area (as defined in section
11 1886(d)(2)(D) of such Act) may not be less than the aver-
12 age of the area wage indices applicable under such section
13 to hospitals located in rural areas in the State in which
14 the hospital is located.

15 (b) BUDGET-NEUTRALITY IN IMPLEMENTATION.—
16 The Secretary of Health and Human Services shall make
17 any adjustments required under subsection (a) in a man-
18 ner which assures that the aggregate payments made
19 under section 1886(d) of the Social Security Act in a fiscal
20 year for the operating costs of inpatient hospital services
21 are not greater or less than those which would have been
22 made in the year without such adjustments.

23 **SEC. 8506. MEDICAL EDUCATION.**

24 (a) STATE AND CONSORTIUM DEMONSTRATION
25 PROJECTS.—

1 (1) IN GENERAL.—

2 (A) PARTICIPATION OF STATES AND CON-
3 SORTIA.—The Secretary shall establish and
4 conduct a demonstration project to increase the
5 number and percentage of medical students en-
6 tering primary care practice relative to those
7 entering nonprimary care practice under which
8 the Secretary shall make payments in accord-
9 ance with paragraph (4)—

10 (i) to not more than 10 States for the
11 purpose of testing and evaluating mecha-
12 nisms to meet the goals described in sub-
13 section (b); and

14 (ii) to not more than 10 health care
15 training consortia for the purpose of test-
16 ing and evaluating mechanisms to meet
17 such goals.

18 (B) EXCLUSION OF CONSORTIA IN PAR-
19 TICIPATING STATES.—A consortia may not re-
20 ceive payments under the demonstration project
21 under subparagraph (A)(ii) if any of its mem-
22 bers is located in a State receiving payments
23 under the project under subparagraph (A)(i).

24 (2) APPLICATIONS.—

1 (A) IN GENERAL.—Each State and consor-
2 tium desiring to conduct a demonstration
3 project under this subsection shall prepare and
4 submit to the Secretary an application, at such
5 time, in such manner, and containing such in-
6 formation as the Secretary may require to as-
7 sure that the State or consortium will meet the
8 goals described in subsection (b). In the case of
9 an application of a State, the application shall
10 include—

11 (i) information demonstrating that the
12 State has consulted with interested parties
13 with respect to the project, including State
14 medical associations, State hospital asso-
15 ciations, and medical schools located in the
16 State;

17 (ii) an assurance that no hospital con-
18 ducting an approved medical residency
19 training program in the State will lose
20 more than 10 percent of such hospital's
21 approved medical residency positions in
22 any year as a result of the project; and

23 (iii) an explanation of a plan for eval-
24 uating the impact of the project in the
25 State.

1 (B) APPROVAL OF APPLICATIONS.—A
2 State or consortium that submits an application
3 under subparagraph (A) may begin a dem-
4 onstration project under this subsection—

5 (i) upon approval of such application
6 by the Secretary; or

7 (ii) at the end of the 60-day period
8 beginning on the date such application is
9 submitted, unless the Secretary denies the
10 application during such period.

11 (C) NOTICE AND COMMENT.—A State or
12 consortium shall issue a public notice on the
13 date it submits an application under subpara-
14 graph (A) which contains a general description
15 of the proposed demonstration project. Any in-
16 terested party may comment on the proposed
17 demonstration project to the State or consor-
18 tium or the Secretary during the 30-day period
19 beginning on the date the public notice is is-
20 sued.

21 (3) SPECIFIC REQUIREMENTS FOR PARTICI-
22 PANTS.—

23 (A) REQUIREMENTS FOR STATES.—Each
24 State participating in the demonstration project
25 under this section shall use the payments pro-

1 vided under paragraph (4) to test and evaluate
2 either of the following mechanisms to increase
3 the number and percentage of medical students
4 entering primary care practice relative to those
5 entering nonprimary care practice:

6 (i) USE OF ALTERNATIVE WEIGHTING
7 FACTORS.—

8 (I) IN GENERAL.—The State
9 may make payments to hospitals in
10 the State for direct graduate medical
11 education costs in amounts deter-
12 mined under the methodology pro-
13 vided under section 1886(h) of the
14 Social Security Act, except that the
15 State shall apply weighting factors
16 that are different than the weighting
17 factors otherwise set forth in section
18 1886(h)(4)(C) of the Social Security
19 Act.

20 (II) USE OF PAYMENTS FOR PRI-
21 MARY CARE RESIDENTS.—In applying
22 different weighting factors under
23 subclause (I), the State shall ensure
24 that the amount of payment made to
25 hospitals for costs attributable to pri-

1 mary care residents shall be greater
2 than the amount that would have been
3 paid to hospitals for costs attributable
4 to such residents if the State had ap-
5 plied the weighting factors otherwise
6 set forth in section 1886(h)(4)(C) of
7 the Social Security Act.

8 (ii) PAYMENTS FOR MEDICAL EDU-
9 CATION THROUGH CONSORTIUM.—The
10 State may make payments for graduate
11 medical education costs through payments
12 to a health care training consortium (or
13 through any entity identified by such a
14 consortium as appropriate for receiving
15 payments on behalf of the consortium) that
16 is established in the State but that is not
17 otherwise participating in the demonstra-
18 tion project.

19 (B) REQUIREMENTS FOR CONSORTIUM.—

20 (i) IN GENERAL.—In the case of a
21 consortium participating in the demonstra-
22 tion project under this section, the Sec-
23 retary shall make payments for graduate
24 medical education costs through a health
25 care training consortium whose members

1 provide medical residency training (or
2 through any entity identified by such a
3 consortium as appropriate for receiving
4 payments on behalf of the consortium).

5 (ii) USE OF PAYMENTS.—

6 (I) IN GENERAL.—Each consor-
7 tium receiving payments under clause
8 (i) shall use such funds to conduct ac-
9 tivities which test and evaluate mech-
10 anisms to increase the number and
11 percentage of medical students enter-
12 ing primary care practice relative to
13 those entering nonprimary care prac-
14 tice, and may use such funds for the
15 operation of the consortium.

16 (II) PAYMENTS TO PARTICIPAT-
17 ING PROGRAMS.—The consortium
18 shall ensure that the majority of the
19 payments received under clause (i) are
20 directed to consortium members for
21 primary care residency programs, and
22 shall designate for each resident as-
23 signed to the consortium a hospital
24 operating an approved medical resi-
25 dency training program for purposes

1 of enabling the Secretary to calculate
2 the consortium's payment amount
3 under the project. Such hospital shall
4 be the hospital where the resident re-
5 ceives the majority of the resident's
6 hospital-based, nonambulatory train-
7 ing experience.

8 (4) ALLOCATION OF PORTION OF MEDICARE
9 GME PAYMENTS FOR ACTIVITIES UNDER PROJECT.—
10 Notwithstanding any provision of title XVIII of the
11 Social Security Act, the following rules apply with
12 respect to each State and each health care training
13 consortium participating in the demonstration
14 project established under this subsection during a
15 year:

16 (A) In the case of a State—

17 (i) the Secretary shall reduce the
18 amount of each payment made to hospitals
19 in the State during the year for direct
20 graduate medical education costs under
21 section 1886(h) of the Social Security Act
22 by 3 percent; and

23 (ii) the Secretary shall pay the State
24 an amount equal to the Secretary's esti-
25 mate of the sum of the reductions made

1 during the year under clause (i) (as ad-
2 justed by the Secretary in subsequent
3 years for over- or under-estimations in the
4 amount estimated under this subparagraph
5 in previous years).

6 (B) In the case of a consortium—

7 (i) the Secretary shall reduce the
8 amount of each payment made to hospitals
9 who are members of the consortium during
10 the year for direct graduate medical edu-
11 cation costs under section 1886(h) of the
12 Social Security Act by 3 percent; and

13 (ii) the Secretary shall pay the consor-
14 tium an amount equal to the Secretary's
15 estimate of the sum of the reductions made
16 during the year under clause (i) (as ad-
17 justed by the Secretary in subsequent
18 years for over- or under-estimations in the
19 amount estimated under this subparagraph
20 in previous years).

21 (5) DURATION.—A demonstration project under
22 this subsection shall be conducted for a period not
23 to exceed 5 years. The Secretary may terminate a
24 project if the Secretary determines that the State or
25 consortium conducting the project is not in substan-

1 tial compliance with the terms of the application ap-
2 proved by the Secretary.

3 (6) EVALUATIONS AND REPORTS.—

4 (A) EVALUATIONS.—Each State or consor-
5 tium participating in the demonstration project
6 shall submit to the Secretary a final evaluation
7 within 360 days of the termination of the State
8 or consortium's participation and such interim
9 evaluations as the Secretary may require.

10 (B) REPORTS TO CONGRESS.—Not later
11 than 360 days after the first demonstration
12 project under this section begins, and annually
13 thereafter for each year in which such a project
14 is conducted, the Secretary shall submit a re-
15 port to Congress which evaluates the effective-
16 ness of the State and consortium activities con-
17 ducted under such projects and includes any
18 legislative recommendations determined appro-
19 priate by the Secretary.

20 (7) MAINTENANCE OF EFFORT.—Any funds
21 available for the activities covered by a demonstra-
22 tion project under this section shall supplement, and
23 shall not supplant, funds that are expended for simi-
24 lar purposes under any State, regional, or local pro-
25 gram.

1 (b) GOALS FOR PROJECTS.—The goals referred to in
2 this subsection for a State or consortium participating in
3 the demonstration project under this section are as fol-
4 lows:

5 (1) The training of an equal number of physi-
6 cian and nonphysician primary care providers.

7 (2) The recruiting of residents for graduate
8 medical education training programs who received a
9 portion of undergraduate training in a rural area.

10 (3) The allocation of not less than 50 percent
11 of the training spent in a graduate medical residency
12 training program at sites at which acute care inpa-
13 tient hospital services are not furnished.

14 (4) The rotation of residents in approved medi-
15 cal residency training programs among practices
16 that serve residents of rural areas.

17 (5) The development of a plan under which,
18 after a 5-year transition period, not less than 50
19 percent of the residents who begin an initial resi-
20 dency period in an approved medical residency train-
21 ing program shall be primary care residents.

22 (c) DEFINITIONS.—In this section:

23 (1) APPROVED MEDICAL RESIDENCY TRAINING
24 PROGRAM.—The term “approved medical residency

1 training program” has the meaning given such term
2 in section 1886(h)(5)(A) of the Social Security Act.

3 (2) HEALTH CARE TRAINING CONSORTIUM.—

4 The term “health care training consortium” means
5 a State, regional, or local entity consisting of at
6 least one of each of the following:

7 (A) A hospital operating an approved med-
8 ical residency training program at which resi-
9 dents receive training at ambulatory training
10 sites located in rural areas.

11 (B) A school of medicine or osteopathic
12 medicine.

13 (C) A school of allied health or a program
14 for the training of physician assistants (as such
15 terms are defined in section 799 of the Public
16 Health Service Act).

17 (D) A school of nursing (as defined in sec-
18 tion 853 of the Public Health Service Act).

19 (3) PRIMARY CARE.—The term “primary care”
20 means family practice, general internal medicine,
21 general pediatrics, and obstetrics and gynecology.

22 (4) RESIDENT.—The term “resident” has the
23 meaning given such term in section 1886(h)(5)(H)
24 of the Social Security Act.

1 (5) RURAL AREA.—The term “rural area” has
2 the meaning given such term in section
3 1886(d)(2)(D) of the Social Security Act.

4 **Subpart B—Rural Physicians and Other Providers**

5 **SEC. 8511. PROVIDER INCENTIVES.**

6 (a) ADDITIONAL PAYMENTS UNDER MEDICARE FOR
7 PHYSICIANS’ SERVICES FURNISHED IN SHORTAGE
8 AREAS.—

9 (1) INCREASE IN AMOUNT OF ADDITIONAL PAY-
10 MENT.—Section 1833(m) (42 U.S.C. 1395l(m)) is
11 amended by striking “10 percent” and inserting “20
12 percent”.

13 (2) RESTRICTION TO PRIMARY CARE SERV-
14 ICES.—Section 1833(m) (42 U.S.C. 1395l(m)) is
15 amended by inserting after “physicians’ services”
16 the following: “consisting of primary care services
17 (as defined in section 1842(i)(4))”.

18 (3) EXTENSION OF PAYMENT FOR FORMER
19 SHORTAGE AREAS.—

20 (A) IN GENERAL.—Section 1833(m) (42
21 U.S.C. 1395l(m)) is amended by striking
22 “area,” and inserting “area (or, in the case of
23 an area for which the designation as a health
24 professional shortage area under such section is
25 withdrawn, in the case of physicians’ services

1 furnished to such an individual during the 3-
2 year period beginning on the effective date of
3 the withdrawal of such designation),”.

4 (B) EFFECTIVE DATE.—The amendment
5 made by subparagraph (A) shall apply to physi-
6 cians’ services furnished in an area for which
7 the designation as a health professional short-
8 age area under section 332(a)(1)(A) of the
9 Public Health Service Act is withdrawn on or
10 after January 1, 1996.

11 (4) REQUIRING CARRIERS TO REPORT ON SERV-
12 ICES PROVIDED.—Section 1842(b)(3) (42 U.S.C.
13 1395u(b)(3)) is amended—

14 (A) by striking “and” at the end of sub-
15 paragraph (I); and

16 (B) by inserting after subparagraph (I) the
17 following new subparagraph:

18 “(J) will provide information to the Secretary
19 not later than 30 days after the end of the contract
20 year on the types of providers to whom the carrier
21 made additional payments during the year for cer-
22 tain physicians’ services pursuant to section
23 1833(m), together with a description of the services
24 furnished by such providers during the year; and”.

25 (5) STUDY.—

1 (A) IN GENERAL.—The Secretary of
2 Health and Human Services shall conduct a
3 study analyzing the effectiveness of the provi-
4 sion of additional payments under part B of the
5 medicare program for physicians' services pro-
6 vided in health professional shortage areas in
7 recruiting and retaining physicians to provide
8 services in such areas.

9 (B) REPORT.—Not later than 1 year after
10 the date of the enactment of this Act, the Sec-
11 retary shall submit to Congress a report on the
12 study conducted under subparagraph (A), and
13 shall include in the report such recommenda-
14 tions as the Secretary considers appropriate.

15 (6) EFFECTIVE DATE.—The amendments made
16 by paragraphs (1), (2), and (4) shall apply to physi-
17 cians' services furnished on or after January 1,
18 1996.

19 (b) DEVELOPMENT OF MODEL STATE SCOPE OF
20 PRACTICE LAW.—

21 (1) IN GENERAL.—The Secretary of Health and
22 Human Services shall develop and publish a model
23 law that may be adopted by States to increase the
24 access of individuals residing in underserved rural
25 areas to health care services by expanding the serv-

1 ices which non-physician health care professionals
2 may provide in such areas.

3 (2) DEADLINE.—The Secretary shall publish
4 the model law developed under paragraph (1) not
5 later than 1 year after the date of the enactment of
6 this Act.

7 **SEC. 8512. NATIONAL HEALTH SERVICE CORPS LOAN RE-**
8 **PAYMENTS EXCLUDED FROM GROSS INCOME.**

9 (a) IN GENERAL.—Part III of subchapter B of chap-
10 ter 1 of the Internal Revenue Code of 1986 (relating to
11 items specifically excluded from gross income) is amended
12 by redesignating section 137 as section 138 and by insert-
13 ing after section 136 the following new section:

14 **“SEC. 137. NATIONAL HEALTH SERVICE CORPS LOAN RE-**
15 **PAYMENTS.**

16 “(a) GENERAL RULE.—Gross income shall not in-
17 clude any qualified loan repayment.

18 “(b) QUALIFIED LOAN REPAYMENT.—For purposes
19 of this section, the term ‘qualified loan repayment’ means
20 any payment made on behalf of the taxpayer by the Na-
21 tional Health Service Corps Loan Repayment Program
22 under section 338B(g) of the Public Health Service Act.”.

23 (b) CONFORMING AMENDMENT.—Paragraph (3) of
24 section 338B(g) of the Public Health Service Act is

1 amended by striking “Federal, State, or local” and insert-
2 ing “State or local”.

3 (c) CLERICAL AMENDMENT.—The table of sections
4 for part III of subchapter B of chapter 1 of the Internal
5 Revenue Code of 1986 is amended by striking the item
6 relating to section 137 and inserting the following:

“Sec. 137. National Health Service Corps loan repayments.
“Sec. 138. Cross references to other Acts.”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to payments made under section
9 338B(g) of the Public Health Service Act after the date
10 of the enactment of this Act.

11 **SEC. 8513. TELEMEDICINE PAYMENT METHODOLOGY.**

12 The Secretary of Health and Human Services shall
13 establish a methodology for making payments under part
14 B of the medicare program for telemedicine services fur-
15 nished on an emergency basis to individuals residing in
16 an area designated as a health professional shortage area
17 (under section 332(a) of the Public Health Service Act).

18 **SEC. 8514. DEMONSTRATION PROJECT TO INCREASE**
19 **CHOICE IN RURAL AREAS.**

20 The Secretary of Health and Human Services (acting
21 through the Administrator of the Health Care Financing
22 Administration) shall conduct a demonstration project to
23 assess the advantages and disadvantages of requiring
24 Medicare Choice organizations under part C of title XVIII

1 of the Social Security Act (as added by section 8002(a))
2 to market Medicare Choice products in certain under-
3 served areas which are near the standard service area for
4 such products.

5 **PART 2—MEDICARE SUBVENTION**

6 **SEC. 8521. MEDICARE PROGRAM PAYMENTS FOR HEALTH**
7 **CARE SERVICES PROVIDED IN THE MILITARY**
8 **HEALTH SERVICES SYSTEM.**

9 (a) PAYMENTS UNDER MEDICARE RISK CONTRACTS
10 PROGRAM.—

11 (1) CURRENT PROGRAM.—Section 1876 (42
12 U.S.C. 1395mm) is amended by adding at the end
13 the following new subsection:

14 “(k) Notwithstanding any other provision of this sec-
15 tion, a managed health care plan established by the Sec-
16 retary of Defense under chapter 55 of title 10, United
17 States Code, shall be considered an eligible organization
18 under this section, and the Secretary shall make payments
19 to such a managed health care plan during a year on be-
20 half of any individuals entitled to benefits under this title
21 who are enrolled in such a managed health care plan dur-
22 ing the year. Such payments shall be equal to 30 percent
23 of the amount otherwise paid to other eligible organiza-
24 tions under this section, and shall be made under similar
25 terms and conditions under which the Secretary makes

1 payments to other eligible organizations with risk sharing
2 contracts under this section.”.

3 (2) MEDICARE CHOICE PROGRAM.—Section
4 1855, as inserted by section 8002(a), by adding at
5 the end the following new subsection:

6 “(h) PAYMENTS TO MILITARY PROGRAM.—Notwith-
7 standing any other provision of this section, a managed
8 health care plan established by the Secretary of Defense
9 under chapter 55 of title 10, United States Code, shall
10 be considered a Medicare Choice organization under this
11 part, and the Secretary shall make payments to such a
12 managed health care plan during a year on behalf of any
13 individuals entitled to benefits under this title who are en-
14 rolled in such a managed health care plan during the year.
15 Such payments shall be equal to 30 percent of the amount
16 otherwise paid to other Medicare Choice organizations
17 under this section, and shall be made under similar terms
18 and conditions under which the Secretary makes payments
19 to other Medicare Choice organizations with contracts in
20 effect under this part.”.

21 (b) TEMPORARY PROVISION FOR WAIVER OF PART
22 B PREMIUM PENALTY.—Section 1839 (42 U.S.C. 1395r)
23 is amended by adding at the end the following new sub-
24 section:

1 “(h) The premium increase required by subsection
2 (b) shall not apply with respect to a person who is enrolled
3 with a managed care plan that is established by the Sec-
4 retary of Defense under chapter 55 of title 10, United
5 States Code, and is recognized as an eligible organization
6 pursuant to section 1855(h) or section 1876(k), if such
7 person first enrolled in such plan prior to January 1,
8 1998.”.

9 (c) PAYMENTS UNDER PART A OF MEDICARE.—Sec-
10 tion 1814(c) (42 U.S.C. 1395f(c)) is amended—

11 (1) by redesignating the current matter as
12 paragraph (1); and

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

15 “(2) Paragraph (1) shall not apply to services
16 provided by facilities of the uniformed services pur-
17 suant to chapter 55 of title 10, United States Code,
18 and subject to the provisions of section 1095 of such
19 title. With respect to such services, payments under
20 this title shall be made without regard to whether
21 the beneficiary under this title has paid the deduct-
22 ible and copayments amounts generally required by
23 this title.”.

24 (d) PAYMENTS UNDER PART B OF MEDICARE.—Sec-
25 tion 1835(d) (42 U.S.C. 1395n(d)) is amended—

1 (1) by redesignating the current matter as
2 paragraph (1); and

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

5 “(2) Paragraph (1) shall not apply to services pro-
6 vided by facilities of the uniformed services pursuant to
7 chapter 55 of title 10, United States Code, and subject
8 to the provisions of section 1095 of such title. With respect
9 to such services, payments under this title shall be made
10 without regard to whether the beneficiary under this title
11 has paid the deductible and copayments amounts generally
12 required by this title.”.

13 (e) CONFORMING AMENDMENTS TO THE THIRD
14 PARTY COLLECTION PROGRAM FOR MILITARY MEDICAL
15 FACILITIES.—(1) Section 1095(d) of title 10, United
16 States Code, is amended—

17 (A) by striking “XVIII or”; and

18 (B) by striking “1395” and inserting “1396”.

19 (2) Section 1095(h)(2) of such title is amended by
20 inserting after “includes” the following: “plans adminis-
21 tered under title XVIII of the Social Security Act (42
22 U.S.C. 1395 et seq.),”.

23 (f) EFFECTIVE DATE.—The amendments made by
24 this section shall take effect at the end of the 30-day pe-
25 riod beginning on the date of the enactment of this Act.

1 **Subtitle G—Other Provisions**

2 **SEC. 8601. EXTENSION AND EXPANSION OF EXISTING SEC-**
3 **ONDARY PAYER REQUIREMENTS.**

4 (a) DATA MATCH.—

5 (1) Section 1862(b)(5)(C) (42 U.S.C.
6 1395y(b)(5)(C)) is amended by striking clause (iii).

7 (2) Section 6103(l)(12) of the Internal Revenue
8 Code of 1986 is amended by striking subparagraph
9 (F).

10 (b) APPLICATION TO DISABLED INDIVIDUALS IN
11 LARGE GROUP HEALTH PLANS.—

12 (1) IN GENERAL.—Section 1862(b)(1)(B) (42
13 U.S.C. 1395y(b)(1)(B)) is amended—

14 (A) in clause (i), by striking “clause (iv)”
15 and inserting “clause (iii)”,

16 (B) by striking clause (iii), and

17 (C) by redesignating clause (iv) as clause
18 (iii).

19 (2) CONFORMING AMENDMENTS.—Paragraphs
20 (1) through (3) of section 1837(i) (42 U.S.C.
21 1395p(i)) and the second sentence of section
22 1839(b) (42 U.S.C. 1395r(b)) are each amended by
23 striking “1862(b)(1)(B)(iv)” each place it appears
24 and inserting “1862(b)(1)(B)(iii)”.

1 (c) EXPANSION OF PERIOD OF APPLICATION TO IN-
2 DIVIDUALS WITH END STAGE RENAL DISEASE.—Section
3 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

4 (1) in the first sentence, by striking “12-
5 month” each place it appears and inserting “24-
6 month”, and

7 (2) by striking the second sentence.

8 **SEC. 8602. REPEAL OF MEDICARE AND MEDICAID COV-**
9 **ERAGE DATA BANK.**

10 (a) IN GENERAL.—Section 1144 (42 U.S.C. 1320b-
11 14) is repealed.

12 (b) CONFORMING AMENDMENTS.—

13 (1) MEDICARE.—Section 1862(b)(5) (42 U.S.C.
14 1395y(b)(5)) is amended—

15 (A) in subparagraph (B), by striking
16 “under—” and all that follows through the end
17 and inserting “subparagraph (A) for purposes
18 of carrying out this subsection.”, and

19 (B) in subparagraph (C)(i), by striking
20 “subparagraph (B)(i)” and inserting “subpara-
21 graph (B)”.

22 (2) MEDICAID.—Section 1902(a)(25)(A)(i) (42
23 U.S.C. 1396a(a)(25)(A)(i)) is amended by striking
24 “including the use of” and all that follows through
25 “any additional measures”.

1 (3) ERISA.—Section 101(f) of the Employee
2 Retirement Income Security Act of 1974 (29 U.S.C.
3 1021(f)) is repealed.

4 (4) DATA MATCHES.—Section 552a(a)(8)(B) of
5 title 5, United States Code, is amended—

6 (A) by adding “; or” at the end of clause
7 (v),

8 (B) by striking “or” at the end of clause
9 (vi), and

10 (C) by striking clause (vii).

11 **SEC. 8603. CLARIFICATION OF MEDICARE COVERAGE OF**
12 **ITEMS AND SERVICES ASSOCIATED WITH**
13 **CERTAIN MEDICAL DEVICES APPROVED FOR**
14 **INVESTIGATIONAL USE.**

15 (a) COVERAGE.—Nothing in title XVIII of the Social
16 Security Act may be construed to prohibit coverage under
17 part A or part B of the medicare program of items and
18 services associated with the use of a medical device in the
19 furnishing of inpatient hospital services (as defined for
20 purposes of part A of the medicare program) solely on the
21 grounds that the device is not an approved device, if—

22 (1) the device is an investigational device; and

23 (2) the device is used instead of an approved
24 device.

1 (b) CLARIFICATION OF PAYMENT AMOUNT.—Not-
2 withstanding any other provision of title XVIII of the So-
3 cial Security Act, the amount of payment made under the
4 medicare program for any item or service associated with
5 the use of an investigational device in the furnishing of
6 inpatient hospital services (as defined for purposes of part
7 A of the medicare program) may not exceed the amount
8 of the payment which would have been made under the
9 program for the item or service if the item or service were
10 associated with the use of an approved device.

11 (c) DEFINITIONS.—In this section—

12 (1) the term “approved device” means a medi-
13 cal device which has been approved for marketing
14 under pre-market approval under the Federal Food,
15 Drug, and Cosmetic Act or cleared for marketing
16 under a 510(k) notice under such Act; and

17 (2) the term “investigational device” means a
18 medical device (other than a device described in
19 paragraph (1)) which is approved for investigational
20 use under section 520(g) of the Federal Food, Drug,
21 and Cosmetic Act.

22 **SEC. 8604. ADDITIONAL EXCLUSION FROM COVERAGE.**

23 (a) IN GENERAL.—Section 1862(a) (42 U.S.C.
24 1395y(a)) is amended—

1 (1) by striking “or” at the end of paragraph
2 (14),

3 (2) by striking the period at the end of para-
4 graph (15) and inserting “; or”, and

5 (3) by inserting after paragraph (15) the fol-
6 lowing new paragraph:

7 “(16) where such expenses are for items or
8 services, or to assist in the purchase, in whole or in
9 part, of health benefit coverage that includes items
10 or services, for the purpose of causing, or assisting
11 in causing, the death, suicide, euthanasia, or mercy
12 killing of a person.”.

13 (b) EFFECTIVE DATE.—The amendments made by
14 subsection (a) shall apply to payment for items and serv-
15 ices furnished on or after the date of the enactment of
16 this Act.

17 **SEC. 8605. EXTENDING MEDICARE COVERAGE OF, AND AP-**
18 **PLICATION OF HOSPITAL INSURANCE TAX**
19 **TO, ALL STATE AND LOCAL GOVERNMENT**
20 **EMPLOYEES.**

21 (a) IN GENERAL.—

22 (1) APPLICATION OF HOSPITAL INSURANCE
23 TAX.—Section 3121(u)(2) of the Internal Revenue
24 Code of 1986 is amended by striking subparagraphs
25 (C) and (D).

1 (2) COVERAGE UNDER MEDICARE.—Section
2 210(p) of the Social Security Act (42 U.S.C. 410(p))
3 is amended by striking paragraphs (3) and (4).

4 (3) EFFECTIVE DATE.—The amendments made
5 by this subsection shall apply to services performed
6 after December 31, 1996.

7 (b) TRANSITION IN BENEFITS FOR STATE AND
8 LOCAL GOVERNMENT EMPLOYEES AND FORMER EM-
9 PLOYEES.—

10 (1) IN GENERAL.—

11 (A) EMPLOYEES NEWLY SUBJECT TO
12 TAX.—For purposes of sections 226, 226A, and
13 1811 of the Social Security Act, in the case of
14 any individual who performs services during the
15 calendar quarter beginning January 1, 1997,
16 the wages for which are subject to the tax im-
17 posed by section 3101(b) of the Internal Reve-
18 nue Code of 1986 only because of the amend-
19 ment made by subsection (a), the individual's
20 medicare qualified State or local government
21 employment (as defined in subparagraph (B))
22 performed before January 1, 1997, shall be
23 considered to be “employment” (as defined for
24 purposes of title II of such Act), but only for
25 purposes of providing the individual (or another

1 person) with entitlement to hospital insurance
2 benefits under part A of title XVIII of such Act
3 for months beginning with January 1997.

4 (B) MEDICARE QUALIFIED STATE OR
5 LOCAL GOVERNMENT EMPLOYMENT DE-
6 FINED.—In this paragraph, the term “medicare
7 qualified State or local government employ-
8 ment” means medicare qualified government
9 employment described in section 210(p)(1)(B)
10 of the Social Security Act (determined without
11 regard to section 210(p)(3) of such Act, as in
12 effect before its repeal under subsection (a)(2)).

13 (2) AUTHORIZATION OF APPROPRIATIONS.—

14 There are authorized to be appropriated to the Fed-
15 eral Hospital Insurance Trust Fund from time to
16 time such sums as the Secretary of Health and
17 Human Services deems necessary for any fiscal year
18 on account of—

19 (A) payments made or to be made during
20 such fiscal year from such Trust Fund with re-
21 spect to individuals who are entitled to benefits
22 under title XVIII of the Social Security Act
23 solely by reason of paragraph (1),

24 (B) the additional administrative expenses
25 resulting or expected to result therefrom, and

1 (C) any loss in interest to such Trust
2 Fund resulting from the payment of those
3 amounts, in order to place such Trust Fund in
4 the same position at the end of such fiscal year
5 as it would have been in if this subsection had
6 not been enacted.

7 (3) INFORMATION TO INDIVIDUALS WHO ARE
8 PROSPECTIVE MEDICARE BENEFICIARIES BASED ON
9 STATE AND LOCAL GOVERNMENT EMPLOYMENT.—
10 Section 226(g) of the Social Security Act (42 U.S.C.
11 426(g)) is amended—

12 (A) by redesignating paragraphs (1)
13 through (3) as subparagraphs (A) through (C),
14 respectively,

15 (B) by inserting “(1)” after “(g)”, and

16 (C) by adding at the end the following new
17 paragraph:

18 “(2) The Secretary, in consultation with State and
19 local governments, shall provide procedures designed to
20 assure that individuals who perform medicare qualified
21 government employment by virtue of service described in
22 section 210(a)(7) are fully informed with respect to (A)
23 their eligibility or potential eligibility for hospital insur-
24 ance benefits (based on such employment) under part A
25 of title XVIII, (B) the requirements for, and conditions

1 of, such eligibility, and (C) the necessity of timely applica-
2 tion as a condition of becoming entitled under subsection
3 (b)(2)(C), giving particular attention to individuals who
4 apply for an annuity or retirement benefit and whose eligi-
5 bility for such annuity or retirement benefit is based on
6 a disability.”

7 (c) TECHNICAL AMENDMENTS.—

8 (1) Subparagraph (A) of section 3121(u)(2) of
9 the Internal Revenue Code of 1986 is amended by
10 striking “subparagraphs (B) and (C),” and inserting
11 “subparagraph (B),”.

12 (2) Subparagraph (B) of section 210(p)(1) of
13 the Social Security Act (42 U.S.C. 410(p)(1)) is
14 amended by striking “paragraphs (2) and (3).” and
15 inserting “paragraph (2).”

16 (3) Section 218 of the Social Security Act (42
17 U.S.C. 418) is amended by striking subsection (n).

18 (4) The amendments made by this subsection
19 shall apply after December 31, 1996.

1 **Subtitle H—Monitoring Achieve-**
2 **ment of Medicare Reform Goals**

3 **SEC. 8701. ESTABLISHMENT OF BUDGETARY AND PROGRAM**
4 **GOALS.**

5 (a) IN GENERAL.—The Secretary shall establish pro-
6 gram budgetary and program goals for the medicare pro-
7 gram consistent with this section.

8 (b) BUDGETARY GOALS.—The budgetary goal is to
9 restrict total outlays under the medicare program as fol-
10 lows:

11 (1) For fiscal year 1996, \$173,500,000,000.

12 (2) For fiscal year 1997, \$187,300,000,000.

13 (3) For fiscal year 1998, \$200,800,000,000.

14 (4) For fiscal year 1999, \$215,200,000,000.

15 (5) For fiscal year 2000, \$220,500,000,000.

16 (6) For fiscal year 2001, \$248,000,000,000.

17 (7) For fiscal year 2002, \$267,100,000,000.

18 (c) PROGRAM GOALS.—The program goals shall be
19 consistent with the following:

20 (1) There should be an equitable distribution of
21 funds between per beneficiary spending on payments
22 to Medicare Choice organizations under part C of
23 the medicare program and on payments to providers
24 on a fee-for-service basis under parts A and B of the
25 program.

1 (2) Payments to Medicare Choice organizations
2 should be established in a manner that promotes the
3 availability of Medicare Choice products in all re-
4 gions of the country and that permits such organiza-
5 tions to offer adequate coverage.

6 **SEC. 8702. MEDICARE REFORM COMMISSION.**

7 (a) ESTABLISHMENT.—There is established a com-
8 mission to be known as the Medicare Reform Commission
9 (in this section referred to as the “Commission”).

10 (b) DUTIES.—

11 (1) IN GENERAL.—The Commission shall exam-
12 ine how the medicare program has met the budg-
13 etary and program goals established under section
14 8701.

15 (2) PERIODIC REPORTS.—

16 (A) IN GENERAL.—The Commission shall
17 issue a report on April 1, 1998, and on March
18 1 of every third subsequent year, on the status
19 of the medicare program in relation to the
20 budgetary and program goals specified in sec-
21 tion 8601.

22 (B) CONTENTS.—Each report shall include
23 the following information about the medicare
24 program in the most recent fiscal year and
25 projects for the succeeding 3 fiscal years:

1 (i) The actuarial value of the tradi-
2 tional medicare benefit package.

3 (ii) The projected rate of growth of
4 outlays under the traditional medicare pro-
5 gram.

6 (iii) The ability of Medicare Choice or-
7 ganizations to offer an adequate benefit
8 package under part C of the medicare pro-
9 gram.

10 (iv) The extent of Medicare Choice
11 products made available to medicare bene-
12 ficiaries in the different regions of the
13 country.

14 (3) RECOMMENDATIONS.—

15 (A) IN GENERAL.—If a report under para-
16 graph (2) finds that any of the following prob-
17 lems exists, the Commission shall include rec-
18 ommendations to respond to the problem:

19 (i) The actuarial value of the tradi-
20 tional medicare benefit package exceeds
21 the payment rate under the Medicare
22 Choice program.

23 (ii) The rate of growth of the tradi-
24 tional medicare program under parts A
25 and B is projected to result in medicare

1 outlays exceeding the outlay targets speci-
2 fied in section 8701.

3 (iii) The payments under the Medi-
4 care Choice program are not sufficient to
5 allow contractors to provide an adequate
6 benefit package.

7 (iv) The selection of Medicare Choice
8 products are limited or not available in
9 parts of the country.

10 (B) TYPES OF RECOMMENDATIONS.—The
11 recommendations provided under subparagraph
12 (A) may include—

13 (i) in response to the problem de-
14 scribed in subparagraph (A)(ii), reduction
15 in payments to providers under parts A
16 and B or an increase in cost sharing by
17 beneficiaries; and

18 (ii) in response to the problems de-
19 scribed in subparagraphs (A)(iii) and
20 (A)(iv), an adjustment to payment rates to
21 Medicare Choice organizations.

22 Such recommendations may not include any
23 change that is inconsistent with attaining the
24 outlay targets specified under section 8701.

1 (4) PRESIDENTIAL RESPONSE.—If the Commis-
2 sion reports under this subsection that the goals es-
3 tablished in section 8701 are not met (or projects
4 that such goals will not be met during a 3-year pe-
5 riod), the President shall submit to Congress, within
6 90 days after the date of submission of the report,
7 specific legislative recommendations to correct the
8 problem. Such recommendations may include those
9 described in paragraph (3)(B) and may not include
10 any change that is inconsistent with attaining the
11 outlay targets specified under section 8701.

12 (5) CONGRESSIONAL CONSIDERATION.—

13 (A) IN GENERAL.—The President's rec-
14 ommendations submitted under paragraph (4)
15 shall not apply unless a joint resolution (de-
16 scribed in subparagraph (B)) approving such
17 recommendations is enacted, in accordance with
18 the provisions of subparagraph (C), before the
19 end of the 60-day period beginning on the date
20 on which a report containing such recommenda-
21 tions is submitted by the President under para-
22 graph (4). For purposes of applying the preced-
23 ing sentence and subparagraphs (B) and (C),
24 the days on which either House of Congress is
25 not in session because of an adjournment of

1 more than three days to a day certain shall be
2 excluded in the computation of a period.

3 (B) JOINT RESOLUTION OF APPROVAL.—A
4 joint resolution described in this subparagraph
5 means only a joint resolution which is intro-
6 duced within the 10-day period beginning on
7 the date on which the report described in sub-
8 paragraph (A) is submitted and—

9 (i) which does not have a preamble;

10 (ii) the matter after the resolving
11 clause of which is as follows: “That Con-
12 gress approves the recommendations of the
13 President under section 8702(b)(4) of the
14 Medicare Preservation Act, as submitted
15 by the President on _____.”,
16 the blank space being filled in with the ap-
17 propriate date; and

18 (iii) the title of which is as follows:
19 “Joint resolution approving Presidential
20 recommendations submitted under section
21 8702(b)(4) of the Medicare Preservation
22 Act, as submitted by the President on
23 _____.”, the blank space being
24 filled in with the appropriate date.

1 (C) PROCEDURES FOR CONSIDERATION OF
2 RESOLUTION OF APPROVAL.—Subject to sub-
3 paragraph (D), the provisions of section 2908
4 (other than subsection (a)) of the Defense Base
5 Closure and Realignment Act of 1990 shall
6 apply to the consideration of a joint resolution
7 described in subparagraph (B) in the same
8 manner as such provisions apply to a joint reso-
9 lution described in section 2908(a) of such Act.

10 (D) SPECIAL RULES.—For purposes of ap-
11 plying subparagraph (C) with respect to such
12 provisions—

13 (i) any reference to the Committee on
14 Armed Services of the House of Represent-
15 atives shall be deemed a reference to the
16 Committee on Ways and Means and any
17 reference to the Committee on Armed
18 Services of the Senate shall be deemed a
19 reference to the Committee on Finance of
20 the Senate; and

21 (ii) any reference to the date on which
22 the President transmits a report shall be
23 deemed a reference to the date on which
24 the President submits the recommenda-
25 tions under paragraph (4).

1 (c) MEMBERSHIP.—

2 (1) APPOINTMENT.—The Commission shall be
3 composed of 5 members appointed by the President,
4 of which 4 of whom are appointed from a list (of at
5 least 5 nominees) submitted by each of the following:

6 (A) The Speaker of the House of Rep-
7 resentatives.

8 (B) The Minority Leader of the House of
9 Representatives.

10 (C) The Majority Leader of the Senate.

11 (D) The Minority Leader of the Senate.

12 (2) TERM OF SERVICE.—Each member of the
13 Commission shall serve for a term of 3 years. Mem-
14 bers may be reappointed for additional terms.

15 (3) CHAIRMAN AND VICE CHAIRMAN.—The
16 Commission shall elect a Chairman and Vice Chair-
17 man from among its members.

18 (4) VACANCIES.—Any vacancy in the member-
19 ship of the Commission shall be filled in the manner
20 in which the original appointment was made and
21 shall not affect the power of the remaining members
22 to execute the duties of the Commission.

23 (5) QUORUM.—A quorum shall consist of 3
24 members of the Commission, except that 2 members
25 may conduct a hearing under subsection (e).

1 (6) MEETINGS.—The Commission shall meet at
2 the call of its Chairman or a majority of its mem-
3 bers.

4 (7) COMPENSATION AND REIMBURSEMENT OF
5 EXPENSES.—Members of the Commission are not
6 entitled to receive compensation for service on the
7 Commission. Members may be reimbursed for travel,
8 subsistence, and other necessary expenses incurred
9 in carrying out the duties of the Commission.

10 (d) STAFF AND CONSULTANTS.—

11 (1) STAFF.—The Commission may appoint and
12 determine the compensation of such staff as may be
13 necessary to carry out the duties of the Commission.
14 Such appointments and compensation may be made
15 without regard to the provisions of title 5, United
16 States Code, that govern appointments in the com-
17 petitive services, and the provisions of chapter 51
18 and subchapter III of chapter 53 of such title that
19 relate to classifications and the General Schedule
20 pay rates.

21 (2) CONSULTANTS.—The Commission may pro-
22 cure such temporary and intermittent services of
23 consultants under section 3109(b) of title 5, United
24 States Code, as the Commission determines to be
25 necessary to carry out the duties of the Commission.

1 (e) POWERS.—

2 (1) HEARINGS AND OTHER ACTIVITIES.—For
3 the purpose of carrying out its duties, the Commis-
4 sion may hold such hearings and undertake such
5 other activities as the Commission determines to be
6 necessary to carry out its duties.

7 (2) STUDIES BY GAO.—Upon the request of the
8 Commission, the Comptroller General shall conduct
9 such studies or investigations as the Commission de-
10 termines to be necessary to carry out its duties.

11 (3) COST ESTIMATES BY CONGRESSIONAL
12 BUDGET OFFICE.—

13 (A) Upon the request of the Commission,
14 the Director of the Congressional Budget Office
15 shall provide to the Commission such cost esti-
16 mates as the Commission determines to be nec-
17 essary to carry out its duties.

18 (B) The Commission shall reimburse the
19 Director of the Congressional Budget Office for
20 expenses relating to the employment in the of-
21 fice of the Director of such additional staff as
22 may be necessary for the Director to comply
23 with requests by the Commission under sub-
24 paragraph (A).

1 (4) **DETAIL OF FEDERAL EMPLOYEES.**—Upon
2 the request of the Commission, the head of any Fed-
3 eral agency is authorized to detail, without reim-
4 bursement, any of the personnel of such agency to
5 the Commission to assist the Commission in carry-
6 ing out its duties. Any such detail shall not interrupt
7 or otherwise affect the civil service status or privi-
8 leges of the Federal employee.

9 (5) **TECHNICAL ASSISTANCE.**—Upon the re-
10 quest of the Commission, the head of a Federal
11 agency shall provide such technical assistance to the
12 Commission as the Commission determines to be
13 necessary to carry out its duties.

14 (6) **USE OF MAILS.**—The Commission may use
15 the United States mails in the same manner and
16 under the same conditions as Federal agencies and
17 shall, for purposes of the frank, be considered a
18 commission of Congress as described in section 3215
19 of title 39, United States Code.

20 (7) **OBTAINING INFORMATION.**—The Commis-
21 sion may secure directly from any Federal agency
22 information necessary to enable it to carry out its
23 duties, if the information may be disclosed under
24 section 552 of title 5, United States Code. Upon re-
25 quest of the Chairman of the Commission, the head

1 of such agency shall furnish such information to the
2 Commission. In particular, the Administrator of the
3 Health Care Financing Administration and the Di-
4 rector of the Office of Management and Budget
5 shall provide the Commission with access to data for
6 the conduct of its work.

7 (8) ADMINISTRATIVE SUPPORT SERVICES.—
8 Upon the request of the Commission, the Adminis-
9 trator of General Services shall provide to the Com-
10 mission on a reimbursable basis such administrative
11 support services as the Commission may request.

12 (9) ACCEPTANCE OF DONATIONS.—The Com-
13 mission may accept, use, and dispose of gifts or do-
14 nations of services or property.

15 (10) PRINTING.—For purposes of costs relating
16 to printing and binding, including the cost of per-
17 sonnel detailed from the Government Printing Of-
18 fice, the Commission shall be deemed to be a com-
19 mittee of the Congress.

20 (f) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated such sums as may be
22 necessary to carry out this section. Amounts appropriated
23 to carry out this section shall remain available until ex-
24 pended.

1 **Subtitle I—Lock-Box Provisions for**
2 **Medicare Part B Savings from**
3 **Growth Reductions**

4 **SEC. 8801. ESTABLISHMENT OF MEDICARE GROWTH RE-**
5 **DUCTION TRUST FUND FOR PART B SAVINGS.**

6 Part B of title XVIII is amended by inserting after
7 section 1841 the following new section:

8 “MEDICARE GROWTH REDUCTION TRUST FUND

9 “SEC. 1841A. (a)(1) There is hereby created on the
10 books of the Treasury of the United States a trust fund
11 to be known as the ‘Federal Medicare Growth Reduction
12 Trust Fund’ (in this section referred to as the ‘Trust
13 Fund’). The Trust Fund shall consist of such gifts and
14 bequests as may be made as provided in section 201(i)(1)
15 and amounts appropriated under paragraph (2).

16 “(2) There are hereby appropriated to the Trust
17 Fund amounts equivalent to 100 percent of the Sec-
18 retary’s estimate of the reductions in expenditures under
19 this part that are attributable to the Medicare Preserva-
20 tion Act of 1995. The amounts appropriated by the pre-
21 ceding sentence shall be transferred from time to time (not
22 less frequently than monthly) from the general fund in the
23 Treasury to the Trust Fund.

24 “(3)(A) Subject to subparagraph (B), with respect to
25 monies transferred to the Trust Fund, no transfers, au-

1 thorizations of appropriations, or appropriations are per-
2 mitted.

3 “(B) Beginning with fiscal year 2003, the Secretary
4 may expend funds in the Trust Fund to carry out this
5 title, but only to the extent provided by Congress in ad-
6 vance through a specific amendment to this section.

7 “(b) The provisions of subsections (b) through (e) of
8 section 1841 shall apply to the Trust Fund in the same
9 manner as they apply to the Federal Supplementary Medi-
10 cal Insurance Trust Fund, except that the Board of Trust-
11 ees and Managing Trustee of the Trust Fund shall be
12 composed of the members of the Board of Trustees and
13 the Managing Trustee, respectively, of the Federal Supple-
14 mentary Medical Insurance Trust Fund.”.

15 **Subtitle J—Clinical Laboratories**

16 **SEC. 8901. EXEMPTION OF PHYSICIAN OFFICE LABORA-** 17 **TORIES.**

18 Section 353(d) of the Public Health Service Act (42
19 U.S.C. 263a(d)) is amended—

20 (1) by redesignating paragraphs (2), (3), and
21 (4) as paragraphs (3), (4), and (5) and by adding
22 after paragraph (1) the following:

23 “(2) EXEMPTION OF PHYSICIAN OFFICE LAB-
24 ORATORIES.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), a clinical laboratory in a
3 physician’s office (including an office of a group
4 of physicians) which is directed by a physician
5 and in which examinations and procedures are
6 either performed by a physician or by individ-
7 uals supervised by a physician solely as an ad-
8 junct to other services provided by the physi-
9 cian’s office is exempt from this section.

10 “(B) EXCEPTION.—A clinical laboratory
11 described in subparagraph (A) is not exempt
12 from this section when it performs a pap smear
13 (Papanicolaou Smear) analysis.

14 “(C) DEFINITION.—For purposes of sub-
15 paragraph (A), the term ‘physician’ has the
16 same meaning as is prescribed for such term by
17 section 1861(r) of the Social Security Act (42
18 U.S.C. 1395x(r)).”;

19 (2) in paragraph (3) (as so redesignated) by
20 striking “(3)” and inserting “(4)”; and

21 (3) in paragraphs (4) and (5) (as so redesi-
22 gnated) by striking “(2)” and inserting “(3)”.

1 **TITLE IX—WELFARE REFORM**

2 **SEC. 9000. AMENDMENT OF THE SOCIAL SECURITY ACT.**

3 Except as otherwise expressly provided, wherever in
4 this title an amendment or repeal is expressed in terms
5 of an amendment to, or repeal of, a section or other provi-
6 sion, the reference shall be considered to be made to a
7 section or other provision of the Social Security Act.

8 **Subtitle A—Temporary**
9 **Employment Assistance**

10 **SEC. 9101. STATE PLAN.**

11 (a) IN GENERAL.—Title IV (42 U.S.C. 601 et seq.)
12 is amended by striking part A and inserting the following:

13 **“PART A—TEMPORARY EMPLOYMENT**

14 **ASSISTANCE**

15 **“SEC. 400. APPROPRIATION.**

16 “For the purpose of providing assistance to families
17 with needy children and assisting parents of children in
18 such families to obtain and retain private sector work to
19 the extent possible, and public sector or volunteer work
20 if necessary, through the Work First Employment Block
21 Grant program (hereafter in this title referred to as the
22 ‘Work First program’), there is hereby authorized to be
23 appropriated, and is hereby appropriated, for each fiscal
24 year a sum sufficient to carry out the purposes of this
25 part. The sums made available under this section shall be

1 used for making payments to States which have approved
2 State plans for temporary employment assistance.

3 **“Subpart 1—State Plans for Temporary Employment**
4 **Assistance**

5 **“SEC. 401. ELEMENTS OF STATE PLANS.**

6 “A State plan for temporary employment assistance
7 shall provide a description of the State program which car-
8 ries out the purpose described in section 400 and shall
9 meet the requirements of the following sections of this
10 subpart.

11 **“SEC. 402. FAMILY ELIGIBILITY FOR TEMPORARY EMPLOY-**
12 **MENT ASSISTANCE.**

13 “(a) IN GENERAL.—The State plan shall provide that
14 any family—

15 “(1) with 1 or more children (or any expectant
16 family, at the option of the State), defined as needy
17 by the State; and

18 “(2) which fulfills the conditions set forth in
19 subsection (b),

20 shall be eligible for cash assistance under the plan, except
21 as otherwise provided under this part.

22 “(b) INDIVIDUAL RESPONSIBILITY PLAN.—The
23 State plan shall provide that not later than 30 days after
24 the approval of the application for temporary employment
25 assistance, a parent qualifying for assistance shall execute

1 an individual responsibility plan as described in section
2 403. If a child otherwise eligible for assistance under this
3 part is residing with a relative other than a parent, the
4 State plan may require the relative to execute such a plan
5 as a condition of the family receiving such assistance.

6 “(c) LIMITATIONS ON ELIGIBILITY.—

7 “(1) LENGTH OF TIME.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraphs (B), (C), (D), and (E), the
10 State plan shall provide that the family of an
11 individual who, after attaining age 18 years (or
12 age 19 years, at the option of the State), has
13 received assistance under the plan for 60
14 months, shall no longer be eligible for cash as-
15 sistance under the plan.

16 “(B) HARDSHIP EXCEPTION.—With re-
17 spect to any family, the State plan shall not in-
18 clude in the determination of the 60-month pe-
19 riod under subparagraph (A) any month in
20 which—

21 “(i) at the option of the State, the
22 family includes an individual working 20
23 hours per week (or more, at the option of
24 the State);

1 “(ii) the family resides in an area
2 with an unemployment rate exceeding 8
3 percent; or

4 “(iii) the family is experiencing other
5 special hardship circumstances which make
6 it appropriate for the State to provide an
7 exemption for such month, except that the
8 total number of exemptions under this
9 clause for any month shall not exceed 15
10 percent of the number of families to which
11 the State is providing assistance under the
12 plan.

13 “(C) EXCEPTION FOR TEEN PARENTS.—
14 With respect to any family, the State plan shall
15 not include in the determination of the 60-
16 month period under subparagraph (A) any
17 month in which the parent—

18 “(i) is under age 18 (or age 19, at the
19 option of the State); and

20 “(ii) is making satisfactory progress
21 while attending high school or an alter-
22 native technical preparation school.

23 “(D) EXCEPTION FOR INDIVIDUALS EX-
24 EMPT FROM WORK REQUIREMENTS.—With re-
25 spect to any family, the State plan shall not in-

1 clude in the determination of the 60-month pe-
2 riod under subparagraph (A) any month in
3 which 1 or each of the parents—

4 “(i) is seriously ill, incapacitated, or
5 of advanced age;

6 “(ii)(I) except for a child described in
7 subclause (II), is responsible for a child
8 under age 1 year (or age 6 months, at the
9 option of the State), or

10 “(II) in the case of a 2nd or subse-
11 quent child born during such period, is re-
12 sponsible for a child under age 3 months;

13 “(iii) is pregnant in the 3rd trimester;
14 or

15 “(iv) is caring for a family member
16 who is ill or incapacitated.

17 “(E) EXCEPTION FOR CHILD-ONLY
18 CASES.—With respect to any child who has not
19 attained age 18 (or age 19, at the option of the
20 State) and who is eligible for assistance under
21 this part, but not as a member of a family oth-
22 erwise eligible for assistance under this part
23 (determined without regard to this paragraph),
24 the State plan shall not include in the deter-
25 mination of the 60-month period under sub-

1 paragraph (A) any month in which such child
2 has not attained such age.

3 “(F) OTHER PROGRAM ELIGIBILITY.—The
4 State plan shall provide that if a family is no
5 longer eligible for cash assistance under the
6 plan due to the imposition of the 60-month pe-
7 riod under subparagraph (A) or due to the im-
8 position of a penalty under subparagraph
9 (A)(ii) or (B)(ii) of section 403(e)(1)—

10 “(i) for purposes of determining eligi-
11 bility for any other Federal or federally as-
12 sisted program based on need, such family
13 shall continue to be considered eligible for
14 such cash assistance;

15 “(ii) for purposes of determining the
16 amount of assistance under any other Fed-
17 eral or federally assisted program based on
18 need, such family shall continue to be con-
19 sidered receiving such cash assistance; and

20 “(iii) the State may, at the option of
21 the State, after having assessed the needs
22 of the child or children of the family, pro-
23 vide for such needs with a voucher for such
24 family—

1 “(I) determined on the same
2 basis as the State would provide as-
3 sistance under the State plan to such
4 a family with 1 less individual,

5 “(II) designed appropriately to
6 pay third parties for shelter, goods,
7 and services received by the child or
8 children, and

9 “(III) payable directly to such
10 third parties.

11 “(2) TREATMENT OF INTERSTATE MIGRANTS.—
12 The State plan may apply to a category of families
13 the rules for such category under a plan of another
14 State approved under this part, if a family in such
15 category has moved to the State from the other
16 State and has resided in the State for less than 12
17 months.

18 “(3) INDIVIDUALS ON OLD-AGE ASSISTANCE OR
19 SSI INELIGIBLE FOR TEMPORARY EMPLOYMENT AS-
20 SISTANCE.—The State plan shall provide that no as-
21 sistance shall be furnished any individual under the
22 plan with respect to any period with respect to which
23 such individual is receiving old-age assistance under
24 the State plan approved under section 102 of title
25 I or supplemental security income under title XVI.

1 “(4) CHILDREN FOR WHOM FEDERAL, STATE,
2 OR LOCAL FOSTER CARE MAINTENANCE OR ADOP-
3 TION ASSISTANCE PAYMENTS ARE MADE.—A child
4 with respect to whom foster care maintenance pay-
5 ments or adoption assistance payments are made
6 under part E or under State or local law shall not,
7 for the period for which such payments are made, be
8 regarded as a needy child under this part, and such
9 child’s income and resources shall be disregarded in
10 determining the eligibility of the family of such child
11 for temporary employment assistance.

12 “(5) DENIAL OF ASSISTANCE FOR 10 YEARS TO
13 A PERSON FOUND TO HAVE FRAUDULENTLY MIS-
14 REPRESENTED RESIDENCE IN ORDER TO OBTAIN AS-
15 SISTANCE IN 2 OR MORE STATES.—The State plan
16 shall provide that no assistance will be furnished any
17 individual under the plan during the 10-year period
18 that begins on the date the individual is convicted in
19 Federal or State court of having made, a fraudulent
20 statement or representation with respect to the place
21 of residence of the individual in order to receive ben-
22 efits or services simultaneously from 2 or more
23 States under programs that are funded under this
24 part, title XIX, or the Food Stamp Act of 1977, or

1 benefits in 2 or more States under the supplemental
2 security income program under title XVI.

3 “(6) DENIAL OF ASSISTANCE FOR FUGITIVE
4 FELONS AND PROBATION AND PAROLE VIOLA-
5 TORS.—

6 “(A) IN GENERAL.—The State plan shall
7 provide that no assistance will be furnished any
8 individual under the plan for any period if dur-
9 ing such period the State agency has knowledge
10 that such individual is—

11 “(i) fleeing to avoid prosecution, or
12 custody or confinement after conviction,
13 under the laws of the place from which the
14 individual flees, for a crime, or an attempt
15 to commit a crime, which is a felony under
16 the laws of the place from which the indi-
17 vidual flees, or which, in the case of the
18 State of New Jersey, is a high mis-
19 demeanor under the laws of such State; or

20 “(ii) violating a condition of probation
21 or parole imposed under Federal or State
22 law.

23 “(B) EXCHANGE OF INFORMATION WITH
24 LAW ENFORCEMENT AGENCIES.—Notwithstand-
25 ing any other provision of law, the State plan

1 shall provide that the State shall furnish any
2 Federal, State, or local law enforcement officer,
3 upon the request of the officer, with the current
4 address of any recipient of assistance under the
5 plan, if the officer furnishes the agency with the
6 name of the recipient and notifies the agency
7 that—

8 “(i) such recipient—

9 “(I) is described in clause (i) or
10 (ii) of subparagraph (A); or

11 “(II) has information that is nec-
12 essary for the officer to conduct the
13 officer’s official duties; and

14 “(ii) the location or apprehension of
15 the recipient is within such officer’s official
16 duties.

17 “(d) DETERMINATION OF ELIGIBILITY.—

18 “(1) DETERMINATION OF NEED.—The State
19 plan shall provide that the State agency take into
20 consideration any income and resources of any indi-
21 vidual the State determines should be considered in
22 determining the need of the child or relative claim-
23 ing temporary employment assistance, subject to sec-
24 tion 407.

1 “(2) RESOURCE AND INCOME DETERMINA-
2 TION.—In determining the total resources and in-
3 come of the family of any needy child, the State plan
4 shall provide the following:

5 “(A) RESOURCES.—The State’s resource
6 limit, including a description of the policy deter-
7 mined by the State regarding any exclusion al-
8 lowed for vehicles owned by family members, re-
9 sources set aside for future needs of a child, in-
10 dividual development accounts, or other policies
11 established by the State to encourage savings.

12 “(B) FAMILY INCOME.—The extent to
13 which earned or unearned income is disregarded
14 in determining eligibility for, and amount of,
15 assistance.

16 “(C) CHILD SUPPORT.—The State’s policy,
17 if any, for determining the extent to which child
18 support received in excess of \$50 per month on
19 behalf of a member of the family is disregarded
20 in determining eligibility for, and the amount
21 of, assistance.

22 “(D) CHILD’S EARNINGS.—The treatment
23 of earnings of a child living in the home.

24 “(E) EARNED INCOME TAX CREDIT.—The
25 State agency shall disregard any refund of Fed-

1 eral income taxes made to a family receiving
2 temporary employment assistance by reason of
3 section 32 of the Internal Revenue Code of
4 1986 (relating to earned income tax credit) and
5 any payment made to such a family by an em-
6 ployer under section 3507 of such Code (relat-
7 ing to advance payment of earned income cred-
8 it).

9 “(3) VERIFICATION SYSTEM.—The State plan
10 shall provide that information is requested and ex-
11 changed for purposes of income and eligibility ver-
12 ification in accordance with a State system which
13 meets the requirements of section 1137.

14 **“SEC. 403. INDIVIDUAL RESPONSIBILITY PLAN.**

15 “(a) ASSESSMENT.—The State agency responsible
16 for administering the State plan shall make an initial as-
17 sessment of the skills, prior work experience, and employ-
18 ability of each applicant for, or recipient of, assistance
19 under the State plan who—

20 “(1) has attained 18 years of age; or

21 “(2) has not completed high school or obtained
22 a certificate of high school equivalency, and is not
23 attending secondary school.

24 “(b) INDIVIDUAL RESPONSIBILITY PLANS.—

1 “(1) IN GENERAL.—On the basis of the assess-
2 ment made under subsection (a) with respect to an
3 individual, the State agency, in consultation with the
4 individual, shall develop an individual responsibility
5 plan for the individual, which—

6 “(A) shall provide that participation by the
7 individual in job search activities shall be a con-
8 dition of eligibility for assistance under the
9 State plan approved under part A, except dur-
10 ing any period for which the individual is em-
11 ployed full-time in an unsubsidized job in the
12 private sector;

13 “(B) sets forth an employment goal for the
14 individual and a plan for moving the individual
15 immediately into private sector employment;

16 “(C) sets forth the obligations of the indi-
17 vidual, which may include a requirement that
18 the individual attend school, maintain certain
19 grades and attendance, keep school age children
20 of the individual in school, immunize children,
21 attend parenting and money management class-
22 es, or do other things that will help the individ-
23 ual become and remain employed in the private
24 sector;

1 “(D) may require that the individual enter
2 the State program established under part F, if
3 the caseworker determines that the individual
4 will need education, training, job placement as-
5 sistance, wage enhancement, or other services
6 to become employed in the private sector;

7 “(E) shall provide that the individual
8 must—

9 “(i) assign to the State any rights to
10 support from any other person the individ-
11 ual may have in such individual’s own be-
12 half or in behalf of any other family mem-
13 ber for whom the individual is applying for
14 or receiving assistance; and

15 “(ii) cooperate with the State—

16 “(I) in establishing the paternity
17 of a child born out of wedlock with re-
18 spect to whom assistance is claimed,
19 and

20 “(II) in obtaining support pay-
21 ments for the individual and for a
22 child with respect to whom such as-
23 sistance is claimed, or in obtaining
24 any other payments or property due
25 the individual or the child,

1 unless (in either case) the individual is found to
2 have good cause for refusing to cooperate as de-
3 termined by the State agency in accordance
4 with standards prescribed by the Secretary,
5 which standards shall take into consideration
6 the best interests of the child on whose behalf
7 assistance is claimed.

8 “(F) to the greatest extent possible shall
9 be designed to move the individual into what-
10 ever private sector employment the individual is
11 capable of handling as quickly as possible, and
12 to increase the responsibility and amount of
13 work the individual is to handle over time;

14 “(G) shall describe what services the State
15 will provide the individual so that the individual
16 will be able to obtain and keep employment in
17 the private sector, and describe the job counsel-
18 ing and other services that will be provided by
19 the State; and

20 “(H) at the option of the State, may re-
21 quire the individual to undergo appropriate sub-
22 stance abuse treatment.

23 “(2) TIMING.—The State agency shall comply
24 with paragraph (1) with respect to an individual—

1 “(A) within 90 days (or, at the option of
2 the State, 180 days) after the effective date of
3 this part, in the case of an individual who, as
4 of such effective date, is a recipient of assist-
5 ance under the State plan approved under this
6 part; or

7 “(B) within 30 days (or, at the option of
8 the State, 90 days) after the individual is deter-
9 mined to be eligible for such assistance, in the
10 case of any other individual.

11 “(c) PROVISION OF PROGRAM AND EMPLOYMENT IN-
12 FORMATION.—The State shall inform all applicants for
13 and recipients of assistance under the State plan approved
14 under this part of all available services under the State
15 plan for which they are eligible.

16 “(d) REQUIREMENT THAT RECIPIENTS ENTER THE
17 WORK FIRST PROGRAM.—

18 “(1) IN GENERAL.—Beginning with fiscal year
19 2004, the State shall place recipients of assistance
20 under the State plan approved under this part, who
21 have not become employed in the private sector with-
22 in 1 year after signing an individual responsibility
23 plan, in the first available slot in the State program
24 established under part F, except as provided in
25 paragraph (2).

1 “(2) EXCEPTIONS.—A state may not be re-
2 quired to place a recipient of such assistance in the
3 State program established under part F if the recipi-
4 ent—

5 “(A) is ill, incapacitated, or of advanced
6 age;

7 “(B) has not attained 18 years of age;

8 “(C) is caring for a child or parent who is
9 ill or incapacitated; or

10 “(D) is enrolled in school or in educational
11 or training programs that will lead to private
12 sector employment.

13 “(e) PENALTIES.—

14 “(1) STATE NOT OPERATING A WORK FIRST OR
15 WORKFARE PROGRAM.—In the case of a State that
16 is not operating a program under part F or G:

17 “(A) FAILURE TO COMPLY WITH INDIVID-
18 UAL RESPONSIBILITY PLAN OR AGREEMENT OF
19 MUTUAL RESPONSIBILITY.—

20 “(i) PROGRESSIVE REDUCTIONS IN
21 ASSISTANCE FOR 1ST AND 2ND FAIL-
22 URES.—The amount of assistance other-
23 wise to be provided under the State plan
24 approved under this part to a family that
25 includes an individual who fails without

1 good cause to comply with an individual
2 responsibility plan (or, if the State has es-
3 tablished a program under subpart 1 of
4 part F and the individual is required to
5 participate in the program, an agreement
6 of mutual responsibility) signed by the in-
7 dividual (other than by reason of conduct
8 described in paragraph (2)) shall be re-
9 duced by—

10 “(I) 33 percent for the 1st such
11 act of noncompliance; or

12 “(II) 66 percent for the 2nd such
13 act of noncompliance.

14 “(ii) DENIAL OF ASSISTANCE FOR 3RD
15 FAILURE.—In the case of the 3rd such act
16 of noncompliance, the family of which the
17 individual is a member shall not thereafter
18 be eligible for assistance under the State
19 plan approved under this part.

20 “(iii) ACTS OF NONCOMPLIANCE.—
21 For purposes of this paragraph, a 1st act
22 of noncompliance by an individual contin-
23 ues for more than 1 calendar month shall
24 be considered a 2nd act of noncompliance,
25 and a 2nd act of noncompliance that con-

1 tinues for more than 3 calendar months
2 shall be considered a 3rd act of noncompli-
3 ance.

4 “(B) DENIAL OF ASSISTANCE TO ADULTS
5 REFUSING TO WORK, LOOK FOR WORK, OR AC-
6 CEPT A BONA FIDE OFFER OF EMPLOYMENT.—

7 “(i) REFUSAL TO WORK OR LOOK FOR
8 WORK.—If an unemployed individual who
9 has attained 18 years of age refuses to
10 work or look for work—

11 “(I) in the case of the 1st such
12 refusal, assistance under the State
13 plan approved under this part shall
14 not be payable with respect to the in-
15 dividual until the later of—

16 “(aa) a period of not less
17 than 6 months after the date of
18 the first such refusal; or

19 “(bb) the first date the indi-
20 vidual agrees to work or look for
21 work; or

22 “(II) in the case of the 2nd such
23 refusal, the family of which the indi-
24 vidual is a member shall not there-
25 after be eligible for assistance under

1 the State plan approved under this
2 part.

3 “(ii) REFUSAL TO ACCEPT A BONA
4 FIDE OFFER OF EMPLOYMENT.—If an un-
5 employed individual who has attained 18
6 years of age refuses to accept a bona fide
7 offer of employment, the family of which
8 the individual is a member shall not there-
9 after be eligible for assistance under the
10 State plan approved under this part.

11 “(2) OTHER STATES.—In the case of any other
12 State, the State shall reduce, by such amount as the
13 State considers appropriate, the amount of assist-
14 ance otherwise payable under the State plan ap-
15 proved under this part to a family that includes an
16 individual who fails without good cause to comply
17 with an individual responsibility plan signed by the
18 individual.

19 **“SEC. 404. PAYMENT OF ASSISTANCE.**

20 “(a) STANDARDS OF ASSISTANCE.—The State plan
21 shall specify standards of assistance, including—

22 “(1) the composition of the unit for which as-
23 sistance will be provided;

1 “(2) a standard, expressed in money amounts,
2 to be used in determining the need of applicants and
3 recipients;

4 “(3) a standard, expressed in money amounts,
5 to be used in determining the amount of the assist-
6 ance payment; and

7 “(4) the methodology to be used in determining
8 the payment amount received by assistance units.

9 “(b) LEVEL OF ASSISTANCE.—Except as otherwise
10 provided in this title, the State plan shall provide that—

11 “(1) the determination of need and the amount
12 of assistance for all applicants and recipients shall
13 be made on an objective and equitable basis; and

14 “(2) families of similar composition with similar
15 needs and circumstances shall be treated similarly.

16 “(c) CORRECTION OF PAYMENTS.—The State plan
17 shall provide that the State agency will promptly take all
18 necessary steps to correct any overpayment or
19 underpayment of assistance under such plan, including the
20 request for Federal tax refund intercepts as provided
21 under section 416.

22 “(d) OPTIONAL VOLUNTARY DIVERSION PRO-
23 GRAM.—The State plan shall, at the option of the State,
24 and in such part or parts of the State as the State may
25 select, provide that—

1 “(1) upon the recommendation of the case-
2 worker who is handling the case of a family eligible
3 for assistance under the State plan, the State shall,
4 in lieu of any other assistance under the State plan
5 to the family during a time period of not more than
6 3 months, make a lump-sum payment to the family
7 for the time period in an amount not to exceed—

8 “(A) the value of the monthly benefits that
9 would otherwise be provided to the family under
10 the State plan; multiplied by

11 “(B) the number of months in the time pe-
12 riod;

13 “(2) a lump-sum payment pursuant to subpara-
14 graph (A) shall not be made more than once to any
15 family; and

16 “(3) if, during a time period for which the
17 State has made a lump-sum payment to a family
18 pursuant to subparagraph (A), the family applies for
19 and (but for the lump-sum payment) would be eligi-
20 ble under the State plan for a monthly benefit that
21 is greater than the value of the monthly benefit
22 which would have been provided to the family under
23 the State plan at the time of the calculation of the
24 lump sum payment, then, notwithstanding subpara-
25 graph (A), the State shall, for that part of the time

1 period that remains after the family becomes eligible
2 for the greater monthly benefit, provide monthly
3 benefits to the family in an amount not to exceed—

4 “(A) the amount by which the value of the
5 greater monthly benefit exceeds the value of the
6 former monthly benefit, multiplied by the num-
7 ber of months in the time period; divided by

8 “(B) the whole number of months remain-
9 ing in the time period.”.

10 **“SEC. 405. OTHER PROGRAMS.**

11 “(a) WORK FIRST PROGRAM; WORKFARE OR JOB
12 PLACEMENT VOUCHER PROGRAM.—The State plan shall
13 provide that the State has in effect and operation—

14 “(1) a work first program that meets the re-
15 quirements of part F; and

16 “(2) a workfare program that meets the re-
17 quirements of part G, or a job placement voucher
18 program that meets the requirements of part H, but
19 not both.

20 “(b) PROVISION OF POSITIONS AND VOUCHERS.—
21 The State plan shall provide that the State shall provide
22 a position in the workfare program established by the
23 State under part G, or a job placement voucher under the
24 job placement voucher program established by the State
25 under part H to any individual who, by reason of section

1 487(b), is prohibited from participating in the work first
2 program operated by the State, and shall not provide such
3 a position or such a voucher to any other individual.

4 “(c) PROVISION OF CASE MANAGEMENT SERV-
5 ICES.—The State plan shall provide that the State shall
6 provide to participants in such programs such case man-
7 agement services as are necessary to ensure the integrated
8 provision of benefits and services under such programs.

9 “(d) STATE CHILD SUPPORT AGENCY.—The State
10 plan shall—

11 “(1) provide that the State has in effect a plan
12 approved under part D and operates a child support
13 program in substantial compliance with such plan;

14 “(2) provide that the State agency administer-
15 ing the plan approved under this part shall be re-
16 sponsible for assuring that—

17 “(A) the benefits and services provided
18 under plans approved under this part and part
19 D are furnished in an integrated manner, in-
20 cluding coordination of intake procedures with
21 the agency administering the plan approved
22 under part D;

23 “(B) all applicants for, and recipients of,
24 temporary employment assistance are encour-
25 aged, assisted, and required (as provided under

1 section 403(b)(1)(E)(ii)) to cooperate in the es-
2 tablishment and enforcement of paternity and
3 child support obligations and are notified about
4 the services available under the State plan ap-
5 proved under part D; and

6 “(C) procedures require referral of pater-
7 nity and child support enforcement cases to the
8 agency administering the plan approved under
9 part D not later than 10 days after the applica-
10 tion for temporary employment assistance; and

11 “(3) provide for prompt notice (including the
12 transmittal of all relevant information) to the State
13 child support collection agency established pursuant
14 to part D of the furnishing of temporary employ-
15 ment assistance with respect to a child who has been
16 deserted or abandoned by a parent (including a child
17 born out-of-wedlock without regard to whether the
18 paternity of such child has been established).

19 “(e) CHILD WELFARE SERVICES AND FOSTER CARE
20 AND ADOPTION ASSISTANCE.—The State plan shall pro-
21 vide that the State has in effect—

22 “(1) a State plan for child welfare services ap-
23 proved under part B; and

24 “(2) a State plan for foster care and adoption
25 assistance approved under part E,

1 and operates such plans in substantial compliance with the
2 requirements of such parts.

3 “(f) REPORT OF CHILD ABUSE, ETC.—The State
4 plan shall provide that the State agency will—

5 “(1) report to an appropriate agency or official,
6 known or suspected instances of physical or mental
7 injury, sexual abuse or exploitation, or negligent
8 treatment or maltreatment of a child receiving as-
9 sistance under the State plan under circumstances
10 which indicate that the child’s health or welfare is
11 threatened thereby; and

12 “(2) provide such information with respect to a
13 situation described in paragraph (1) as the State
14 agency may have.

15 “(g) AVAILABILITY OF ASSISTANCE IN RURAL AREAS
16 OF STATE.—The State plan shall consider and address the
17 needs of rural areas in the State to ensure that families
18 in such areas receive assistance to become self-sufficient.

19 “(h) FAMILY PRESERVATION.—

20 “(1) IN GENERAL.—The State plan shall de-
21 scribe the efforts by the State to promote family
22 preservation and stability, including efforts—

23 “(A) to encourage fathers to stay home
24 and be a part of the family;

1 “(B) to keep families together to the ex-
2 tent possible; and

3 “(C) except to the extent provided in para-
4 graph (2), to treat 2-parent families and 1-par-
5 ent families equally with respect to eligibility
6 for assistance.

7 “(2) MAINTENANCE OF TREATMENT.—The
8 State may impose eligibility limitations relating spe-
9 cifically to 2-parent families to the extent such limi-
10 tations are no more restrictive than such limitations
11 in effect in the State plan in fiscal year 1995.

12 **“SEC. 406. ADMINISTRATIVE REQUIREMENTS FOR STATE**
13 **PLAN.**

14 “(a) STATEWIDE PLAN.—The State plan shall be in
15 effect in all political subdivisions of the State, and, if ad-
16 ministered by the subdivisions, be mandatory upon such
17 subdivisions. If such plan is not administered uniformly
18 throughout the State, the plan shall describe the adminis-
19 trative variations.

20 “(b) SINGLE ADMINISTRATING AGENCY.—The State
21 plan shall provide for the establishment or designation of
22 a single State agency to administer the plan or supervise
23 the administration of the plan.

24 “(c) FINANCIAL PARTICIPATION.—The State plan
25 shall provide for financial participation by the State in the

1 same manner and amount as such State participates
2 under title XIX, except that with respect to the sums ex-
3 pended for the administration of the State plan, the per-
4 centage shall be 50 percent.

5 “(d) REASONABLE PROMPTNESS.—The State plan
6 shall provide that all individuals wishing to make applica-
7 tion for temporary employment assistance shall have op-
8 portunity to do so, and that such assistance be furnished
9 with reasonable promptness to all eligible individuals.

10 “(e) AUTOMATED DATA PROCESSING SYSTEM.—The
11 State plan shall, at the option of the State, provide for
12 the establishment and operation of an automated state-
13 wide management information system designed effectively
14 and efficiently, to assist management in the administra-
15 tion of the State plan approved under this part, so as—

16 “(1) to control and account for—

17 “(A) all the factors in the total eligibility
18 determination process under such plan for as-
19 sistance, and

20 “(B) the costs, quality, and delivery of
21 payments and services furnished to applicants
22 for and recipients of assistance; and

23 “(2) to notify the appropriate officials for child
24 support, food stamp, and social service programs,
25 and the medical assistance program approved under

1 title XIX, whenever a recipient becomes ineligible for
2 such assistance or the amount of assistance provided
3 to a recipient under the State plan is changed.

4 “(f) DISCLOSURE OF INFORMATION.—The State plan
5 shall provide for safeguards which restrict the use or dis-
6 closure of information concerning applicants or recipients.

7 “(g) DETECTION OF FRAUD.—The State plan shall
8 provide, in accordance with regulations issued by the Sec-
9 retary, for appropriate measures to detect fraudulent ap-
10 plications for temporary employment assistance before the
11 establishment of eligibility for such assistance.

12 **“Subpart 2—Administrative Provisions**

13 **“SEC. 411. APPROVAL OF PLAN.**

14 “(a) IN GENERAL.—The Secretary shall approve a
15 State plan which fulfills the requirements under subpart
16 1 within 120 days of the submission of the plan by the
17 State to the Secretary.

18 “(b) DEEMED APPROVAL.—If a State plan has not
19 been rejected by the Secretary during the period specified
20 in subsection (a), the plan shall be deemed to have been
21 approved.

22 **“SEC. 412. COMPLIANCE.**

23 In the case of any State plan for temporary employ-
24 ment assistance which has been approved under section
25 411, if the Secretary, after reasonable notice and oppor-

1 tunity for hearing to the State agency administering or
2 supervising the administration of such plan, finds that in
3 the administration of the plan there is a failure to comply
4 substantially with any provision required by subpart 1 to
5 be included in the plan, the Secretary shall notify such
6 State agency that further payments will not be made to
7 the State (or in the Secretary's discretion, that payments
8 will be limited to categories under or parts of the State
9 plan not affected by such failure) until the Secretary is
10 satisfied that such prohibited requirement is no longer so
11 imposed, and that there is no longer any such failure to
12 comply. Until the Secretary is so satisfied the Secretary
13 shall make no further payments to such State (or shall
14 limit payments to categories under or parts of the State
15 plan not affected by such failure).

16 **“SEC. 413. PAYMENTS TO STATES.**

17 “(a) COMPUTATION OF AMOUNT.—Subject to section
18 412, from the sums appropriated therefor, the Secretary
19 of the Treasury shall pay to each State which has an ap-
20 proved plan for temporary employment assistance, for
21 each quarter, beginning with the quarter commencing Oc-
22 tober 1, 1996, an amount equal to the Federal medical
23 assistance percentage (as defined in section 1905(b)) of
24 the expenditures by the State under such plan.

1 “(b) METHOD OF COMPUTATION AND PAYMENT.—
2 The method of computing and paying such amounts shall
3 be as follows:

4 “(1) The Secretary shall, prior to the beginning
5 of each quarter, estimate the amount to be paid to
6 the State for such quarter under the provisions of
7 subsection (a), such estimate to be based on—

8 “(A) a report filed by the State containing
9 its estimate of the total sum to be expended in
10 such quarter in accordance with the provisions
11 of such subsection and stating the amount ap-
12 propriated or made available by the State and
13 its political subdivisions for such expenditures
14 in such quarter, and if such amount is less than
15 the State’s proportionate share of the total sum
16 of such estimated expenditures, the source or
17 sources from which the difference is expected to
18 be derived;

19 “(B) records showing the number of needy
20 children in the State; and

21 “(C) such other information as the Sec-
22 retary may find necessary.

23 “(2) The Secretary of Health and Human Serv-
24 ices shall then certify to the Secretary of the Treas-

1 ury the amount so estimated by the Secretary of
2 Health and Human Services—

3 “(A) reduced or increased, as the case may
4 be, by any sum by which the Secretary of
5 Health and Human Services finds that the esti-
6 mate for any prior quarter was greater or less
7 than the amount which should have been paid
8 to the State for such quarter;

9 “(B) reduced by a sum equivalent to the
10 pro rata share to which the Federal Govern-
11 ment is equitably entitled, as determined by the
12 Secretary of Health and Human Services, of
13 the net amount recovered during any prior
14 quarter by the State or any political subdivision
15 thereof with respect to temporary employment
16 assistance furnished under the State plan; and

17 “(C) reduced by such amount as is nec-
18 essary to provide the appropriate reimburse-
19 ment to the Federal Government that the State
20 is required to make under section 457 out of
21 that portion of child support collections retained
22 by the State pursuant to such section,
23 except that such increases or reductions shall not be
24 made to the extent that such sums have been ap-
25 plied to make the amount certified for any prior

1 quarter greater or less than the amount estimated
2 by the Secretary of Health and Human Services for
3 such prior quarter.

4 “(c) METHOD OF PAYMENT.—The Secretary of the
5 Treasury shall thereupon, through the Fiscal Service of
6 the Department of the Treasury and prior to audit or set-
7 tlement by the General Accounting Office, pay to the
8 State, at the time or times fixed by the Secretary of
9 Health and Human Services, the amount so certified.

10 **“SEC. 414. QUALITY ASSURANCE, DATA COLLECTION, AND**
11 **REPORTING SYSTEM.**

12 “(a) QUALITY ASSURANCE.—

13 “(1) IN GENERAL.—Under the State plan, a
14 quality assurance system shall be developed based
15 upon a collaborative effort involving the Secretary,
16 the State, the political subdivisions of the State, and
17 assistance recipients, and shall include quantifiable
18 program outcomes related to self sufficiency in the
19 categories of welfare-to-work, payment accuracy, and
20 child support.

21 “(2) MODIFICATIONS TO SYSTEM.—As deemed
22 necessary, but not more often than every 2 years,
23 the Secretary, in consultation with the State, the po-
24 litical subdivisions of the State, and assistance re-
25 cipients, shall make appropriate changes in the de-

1 sign and administration of the quality assurance sys-
2 tem, including changes in benchmarks, measures,
3 and data collection or sampling procedures.

4 “(b) DATA COLLECTION AND REPORTING.—

5 “(1) IN GENERAL.—The State plan shall pro-
6 vide for a quarterly report to the Secretary regard-
7 ing the data described in paragraphs (2) and (3)
8 and such additional data needed for the quality as-
9 surance system. The data collection and reporting
10 system under this subsection shall promote account-
11 ability, continuous improvement, and integrity in the
12 State plans for temporary employment assistance
13 and Work First.

14 “(2) DISAGGREGATED DATA.—The State shall
15 collect the following data items on a monthly basis
16 from disaggregated case records of applicants for
17 and recipients of temporary employment assistance
18 from the previous month:

19 “(A) The age of adults and children (in-
20 cluding pregnant women).

21 “(B) Marital or familial status of cases:
22 married (2-parent family), widowed, divorced,
23 separated, or never married; or child living with
24 other adult relative.

1 “(C) The gender, race, educational attain-
2 ment, work experience, disability status (wheth-
3 er the individual is seriously ill, incapacitated,
4 or caring for a disabled or incapacitated child)
5 of adults.

6 “(D) The amount of cash assistance and
7 the amount and reason for any reduction in
8 such assistance. Any other data necessary to
9 determine the timeliness and accuracy of bene-
10 fits and welfare diversions.

11 “(E) Whether any member of the family
12 receives benefits under any of the following:

13 “(i) Any housing program.

14 “(ii) The food stamp program under
15 the Food Stamp Act of 1977.

16 “(iii) The Head Start programs car-
17 ried out under the Head Start Act.

18 “(iv) Any job training program.

19 “(F) The number of months since the most
20 recent application for assistance under the plan.

21 “(G) The total number of months for
22 which assistance has been provided to the fami-
23 lies under the plan.

24 “(H) The employment status, hours
25 worked, and earnings of individuals while re-

1 ceiving assistance, whether the case was closed
2 due to employment, and other data needed to
3 meet the work performance rate.

4 “(I) Status in Work First and workfare,
5 including the number of hours an individual
6 participated and the component in which the in-
7 dividual participated.

8 “(J) The number of persons in the assist-
9 ance unit and their relationship to the youngest
10 child. Nonrecipients in the household and their
11 relationship to the youngest child.

12 “(K) Citizenship status.

13 “(L) Shelter arrangement.

14 “(M) Unearned income (not including tem-
15 porary employment assistance), such as child
16 support, and assets.

17 “(N) The number of children who have a
18 parent who is deceased, incapacitated, or unem-
19 ployed.

20 “(O) Geographic location.

21 “(3) AGGREGATED DATA.—The State shall col-
22 lect the following data items on a monthly basis
23 from aggregated case records of applicants for and
24 recipients of temporary employment assistance from
25 the previous month:

1 “(A) The number of adults receiving as-
2 sistance.

3 “(B) The number of children receiving as-
4 sistance.

5 “(C) The number of families receiving as-
6 sistance.

7 “(D) The number of assistance units who
8 had their grants reduced or terminated and the
9 reason for the reduction or termination, includ-
10 ing sanction, employment, and meeting the time
11 limit for assistance).

12 “(E) The number of applications for as-
13 sistance; the number approved and the number
14 denied and the reason for denial.

15 “(4) LONGITUDINAL STUDIES.—The State shall
16 submit selected data items for a cohort of individ-
17 uals who are tracked over time. This longitudinal
18 sample shall be used for selected data items de-
19 scribed in paragraphs (2) and (3), as determined ap-
20 propriate by the Secretary.

21 “(c) ADDITIONAL DATA.—The report required by
22 subsection (b) for a fiscal year quarter shall also include
23 the following:

1 “(1) REPORT ON USE OF FEDERAL FUNDS TO
2 COVER ADMINISTRATIVE COSTS AND OVERHEAD.—A
3 statement of—

4 “(A) the percentage of the Federal funds
5 paid to the State under this part for the fiscal
6 year quarter that are used to cover administra-
7 tive costs or overhead; and

8 “(B) the total amount of State funds that
9 are used to cover such costs or overhead.

10 “(2) REPORT ON STATE EXPENDITURES ON
11 PROGRAMS FOR NEEDY FAMILIES.—A statement of
12 the total amount expended by the State during the
13 fiscal year quarter on programs for needy families,
14 with the amount spent on the program under this
15 part, and the purposes for which such amount was
16 spent, separately stated.

17 “(3) REPORT ON NONCUSTODIAL PARENTS PAR-
18 TICIPATING IN WORK ACTIVITIES.—The number of
19 noncustodial parents in the State who participated
20 in work activities during the fiscal year quarter.

21 “(4) REPORT ON CHILD SUPPORT COL-
22 LECTED.—The total amount of child support col-
23 lected by the State agency administering the State
24 plan under part D on behalf of a family receiving as-
25 sistance under this part.

1 “(5) REPORT ON CHILD CARE.—The total
2 amount expended by the State for child care under
3 this part, along with a description of the types of
4 child care provided, such as child care provided in
5 the case of a family that has ceased to receive assist-
6 ance under this part because of increased hours of,
7 or increased income from, employment, or in the
8 case of a family that is not receiving assistance
9 under this part but would be at risk of becoming eli-
10 gible for such assistance if child care was not pro-
11 vided.

12 “(6) REPORT ON TRANSITIONAL SERVICES.—
13 The total amount expended by the State for provid-
14 ing transitional services to a family that has ceased
15 to receive assistance under this part because of in-
16 creased hours of, or increased income from, employ-
17 ment, along with a description of such services.

18 “(d) COLLECTION PROCEDURES.—The Secretary
19 shall provide case sampling plans and data collection pro-
20 cedures as deemed necessary to make statistically valid es-
21 timates of plan performance.

22 “(e) VERIFICATION.—The Secretary shall develop
23 and implement procedures for verifying the quality of the
24 data submitted by the State, and shall provide technical
25 assistance, funded by the compliance penalties imposed

1 under section 412, if such data quality falls below accept-
2 able standards.

3 **“SEC. 415. COMPILATION AND REPORTING OF DATA.**

4 “(a) CURRENT PROGRAMS.—The Secretary shall, on
5 the basis of the Secretary’s review of the reports received
6 from the States under section 414, compile such data as
7 the Secretary believes necessary, and from time to time,
8 publish the findings as to the effectiveness of the programs
9 developed and administered by the States under this part.
10 The Secretary shall annually report to the Congress on
11 the programs developed and administered by each State
12 under this part.

13 “(b) RESEARCH, DEMONSTRATION AND EVALUA-
14 TION.—Of the amount specified under section 413(a), an
15 amount equal to 0.25 percent is authorized to be expended
16 by the Secretary to support the following types of re-
17 search, demonstrations, and evaluations:

18 “(1) STATE-INITIATED RESEARCH.—States may
19 apply for grants to cover 90 percent of the costs of
20 self-evaluations of programs under State plans ap-
21 proved under this part.

22 “(2) DEMONSTRATIONS.—

23 “(A) IN GENERAL.—The Secretary may
24 implement and evaluate demonstrations of inno-
25 vative and promising strategies to—

1 “(i) improve child well-being through
2 reductions in illegitimacy, teen pregnancy,
3 welfare dependency, homelessness, and
4 poverty;

5 “(ii) test promising strategies by non-
6 profit and for-profit institutions to increase
7 employment, earning, child support pay-
8 ments, and self-sufficiency with respect to
9 temporary employment assistance clients
10 under State plans; and

11 “(iii) foster the development of child
12 care.

13 “(B) ADDITIONAL PARAMETERS.—Dem-
14 onstrations implemented under this para-
15 graph—

16 “(i) may provide one-time capital
17 funds to establish, expand, or replicate
18 programs;

19 “(ii) may test performance-based
20 grant to loan financing in which programs
21 meeting performance targets receive grants
22 while programs not meeting such targets
23 repay funding on a pro-rated basis; and

24 “(iii) should test strategies in multiple
25 States and types of communities.

1 “(3) FEDERAL EVALUATIONS.—

2 “(A) IN GENERAL.—The Secretary shall
3 conduct research on the effects, benefits, and
4 costs of different approaches to operating wel-
5 fare programs, including an implementation
6 study based on a representative sample of
7 States and localities, documenting what policies
8 were adopted, how such policies were imple-
9 mented, the types and mix of services provided,
10 and other such factors as the Secretary deems
11 appropriate.

12 “(B) RESEARCH ON RELATED ISSUES.—
13 The Secretary shall also conduct research on is-
14 sues related to the purposes of this part, such
15 as strategies for moving welfare recipients into
16 the workforce quickly, reducing teen preg-
17 nancies and out-of-wedlock births, and provid-
18 ing adequate child care.

19 “(C) STATE REIMBURSEMENT.—The Sec-
20 retary may reimburse a State for any research-
21 related costs incurred pursuant to research con-
22 ducted under this paragraph.

23 “(D) USE OF RANDOM ASSIGNMENT.—
24 Evaluations authorized under this paragraph

1 should use random assignment to the maximum
2 extent feasible and appropriate.

3 “(4) REGIONAL INFORMATION CENTERS.—

4 “(A) IN GENERAL.—The Secretary shall
5 establish not less than 5, nor more than 7 re-
6 gional information centers located at major re-
7 search universities or consortiums of univer-
8 sities to ensure the effective implementation of
9 welfare reform and the efficient dissemination
10 of information about innovations, evaluation
11 outcomes, and training initiatives.

12 “(B) CENTER RESPONSIBILITIES.—The
13 Centers shall have the following functions:

14 “(i) Disseminate information about ef-
15 fective income support and related pro-
16 grams, along with suggestions for the rep-
17 lication of such programs.

18 “(ii) Research the factors that cause
19 and sustain welfare dependency and pov-
20 erty in the regions served by the respective
21 centers.

22 “(iii) Assist the States in the region
23 formulate and implement innovative pro-
24 grams and improvements in existing pro-

1 grams that help clients move off welfare
2 and become productive citizens.

3 “(iv) Provide training as appropriate
4 to staff of State agencies to enhance the
5 ability of the agencies to successfully place
6 Work First clients in productive employ-
7 ment or self-employment.

8 “(C) CENTER ELIGIBILITY TO PERFORM
9 EVALUATIONS.—The Centers may compete for
10 demonstration and evaluation contracts devel-
11 oped under this section.

12 **“SEC. 416. COLLECTION OF OVERPAYMENTS FROM FED-**
13 **ERAL TAX REFUNDS.**

14 “(a) IN GENERAL.—Upon receiving notice from a
15 State agency administering a plan approved under this
16 part that a named individual has been overpaid under the
17 State plan approved under this part, the Secretary of the
18 Treasury shall determine whether any amounts as refunds
19 of Federal taxes paid are payable to such individual, re-
20 gardless of whether such individual filed a tax return as
21 a married or unmarried individual. If the Secretary of the
22 Treasury finds that any such amount is payable, the Sec-
23 retary shall withhold from such refunds an amount equal
24 to the overpayment sought to be collected by the State
25 and pay such amount to the State agency.

1 “(b) REGULATIONS.—The Secretary of the Treasury
2 shall issue regulations, approved by the Secretary of
3 Health and Human Services, that provide—

4 “(1) that a State may only submit under sub-
5 section (a) requests for collection of overpayments
6 with respect to individuals—

7 “(A) who are no longer receiving tem-
8 porary employment assistance under the State
9 plan approved under this part,

10 “(B) with respect to whom the State has
11 already taken appropriate action under State
12 law against the income or resources of the indi-
13 viduals or families involved; and

14 “(C) to whom the State agency has given
15 notice of its intent to request withholding by
16 the Secretary of the Treasury from the income
17 tax refunds of such individuals;

18 “(2) that the Secretary of the Treasury will
19 give a timely and appropriate notice to any other
20 person filing a joint return with the individual whose
21 refund is subject to withholding under subsection
22 (a); and

23 “(3) the procedures that the State and the Sec-
24 retary of the Treasury will follow in carrying out
25 this section which, to the maximum extent feasible

1 and consistent with the specific provisions of this
2 section, will be the same as those issued pursuant to
3 section 464(b) applicable to collection of past-due
4 child support.”.

5 (b) PAYMENTS TO PUERTO RICO.—Section
6 1108(a)(1) (42 U.S.C. 1308(a)(1)) is amended—

7 (1) in subparagraph (F), by striking “or”; and
8 (2) by striking subparagraph (G) and inserting
9 the following:

10 “(G) \$82,000,000 with respect to each of
11 fiscal years 1989 through 1995, or

12 “(H) \$102,500,000 with respect to the fis-
13 cal year 1996 and each fiscal year thereafter;”.

14 (c) CONFORMING AMENDMENTS RELATING TO COL-
15 LECTION OF OVERPAYMENTS.—

16 (1) Section 6402 of the Internal Revenue Code
17 of 1986 (relating to authority to make credits or re-
18 funds) is amended—

19 (A) in subsection (a), by striking “(c) and
20 (d)” and inserting “(c), (d), and (e)”;

21 (B) by redesignating subsections (e)
22 through (i) as subsections (f) through (j), re-
23 spectively; and

24 (C) by inserting after subsection (d) the
25 following:

1 “(g) COLLECTION OF OVERPAYMENTS UNDER TITLE
2 IV–A OF THE SOCIAL SECURITY ACT.—The amount of
3 any overpayment to be refunded to the person making the
4 overpayment shall be reduced (after reductions pursuant
5 to subsections (c) and (d), but before a credit against fu-
6 ture liability for an internal revenue tax) in accordance
7 with section 416 of the Social Security Act (concerning
8 recovery of overpayments to individuals under State plans
9 approved under part A of title IV of such Act).”.

10 (2) Section 552a(a)(8)(B)(iv)(III) of title 5,
11 United States Code, is amended by striking “section
12 464 or 1137 of the Social Security Act” and insert-
13 ing “section 416, 464, or 1137 of the Social Secu-
14 rity Act”.

15 (d) EFFECTIVE DATES.—

16 (1) IN GENERAL.—Except as provided in para-
17 graph (2), the amendments made by this section
18 shall be effective with respect to calendar quarters
19 beginning on or after October 1, 1996.

20 (2) SPECIAL RULE.—In the case of a State that
21 the Secretary of Health and Human Services deter-
22 mines requires State legislation (other than legisla-
23 tion appropriating funds) in order to meet the re-
24 quirements imposed by the amendment made by
25 subsection (a), the State shall not be regarded as

1 failing to comply with the requirements of such
2 amendment before the first day of the first calendar
3 quarter beginning after the close of the first regular
4 session of the State legislature that begins after the
5 date of enactment of this Act. For purposes of this
6 paragraph, in the case of a State that has a 2-year
7 legislative session, each year of the session shall be
8 treated as a separate regular session of the State
9 legislature.

10 **Subtitle B—Make Work Pay**

11 **SEC. 9201. TRANSITIONAL MEDICAID BENEFITS.**

12 (a) STATE OPTION OF EXTENSION OF MEDICAID EN-
13 ROLLMENT FOR FORMER AFDC RECIPIENTS FOR 1 AD-
14 DITIONAL YEAR.—

15 (1) IN GENERAL.—Section 1925(b)(1) (42
16 U.S.C. 1396r-6(b)(1)) is amended by striking the
17 period at the end and inserting the following: “, and
18 that the State may, at its option, offer to each such
19 family the option of extending coverage under this
20 subsection for any of the first 2 succeeding 6-month
21 periods, in the same manner and under the same
22 conditions as the option of extending coverage under
23 this subsection for the first succeeding 6-month pe-
24 riod.”.

1 (2) CONFORMING AMENDMENTS.—Section
2 1925(b) (42 U.S.C. 1396r-6(b)) is amended—

3 (A) in the heading, by striking “EXTEN-
4 SION” and inserting “EXTENSIONS”;

5 (B) in the heading of paragraph (1), by
6 striking “REQUIREMENT” and inserting “IN
7 GENERAL”;

8 (C) in paragraph (2)(B)(ii)—

9 (i) in the heading, by striking “PE-
10 RIOD” and inserting “PERIODS”, and

11 (ii) by striking “in the period” and in-
12 serting “in any of the 6-month periods”;

13 (D) in paragraph (3)(A), by striking “the
14 6-month period” and inserting “any 6-month
15 period”;

16 (E) in paragraph (4)(A), by striking “the
17 extension period” and inserting “any extension
18 period”; and

19 (F) in paragraph (5)(D)(i), by striking “is
20 a 3-month period” and all that follows and in-
21 serting the following: “is, with respect to a par-
22 ticular 6-month additional extension period pro-
23 vided under this subsection, a 3-month period
24 beginning with the 1st or 4th month of such ex-
25 tension period.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall apply to calendar quarters beginning
3 on or after October 1, 1997, without regard to whether
4 or not final regulations to carry out such amendments
5 have been promulgated by such date.

6 **SEC. 9202. NOTICE OF AVAILABILITY REQUIRED TO BE PRO-**
7 **VIDED TO APPLICANTS AND FORMER RECIPI-**
8 **ENTS OF TEMPORARY FAMILY ASSISTANCE,**
9 **FOOD STAMPS, AND MEDICAID.**

10 (a) TEMPORARY FAMILY ASSISTANCE.—Section 406,
11 as added by the amendment made by section 9101(a) of
12 this Act, is amended by adding at the end the following:

13 “(h) NOTICE OF AVAILABILITY OF EITC.—The
14 State plan shall provide that the State agency referred to
15 in subsection (b) must provide written notice of the exist-
16 ence and availability of the earned income credit under
17 section 32 of the Internal Revenue Code of 1986 to—

18 “(1) any individual who applies for assistance
19 under the State plan, upon receipt of the applica-
20 tion; and

21 “(2) any individual whose assistance under the
22 State plan (or under the State plan approved under
23 part A of this title (as in effect before the effective
24 date of title IX of the Omnibus Budget Reconcili-

1 ation Act of 1995) is terminated, in the notice of
2 termination of benefits.”.

3 (b) FOOD STAMPS.—Section 11(e) of the Food
4 Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended—

5 (1) in paragraph (24) by striking “and” at the
6 end;

7 (2) in paragraph (25) by striking the period at
8 the end and inserting “; and”; and

9 (3) by inserting after paragraph (25) the fol-
10 lowing:

11 “(26) that whenever a household applies for
12 food stamp benefits, and whenever such benefits are
13 terminated with respect to a household, the State
14 agency shall provide to each member of such house-
15 hold notice of—

16 “(A) the existence of the earned income
17 tax credit under section 32 of the Internal Rev-
18 enue Code of 1986; and

19 “(B) the fact that such credit may be ap-
20 plicable to such member.”.

21 (c) MEDICAID.—Section 1902(a) (42 U.S.C.
22 1396a(a)) is amended—

23 (1) by striking “and” at the end of paragraph
24 (61);

1 (2) by striking the period at the end of para-
2 graph (62) and inserting “; and”; and

3 (3) by inserting after paragraph (62) the fol-
4 lowing new paragraph:

5 “(63) provide that the State shall provide notice
6 of the existence and availability of the earned income
7 tax credit under section 32 of the Internal Revenue
8 Code of 1986 to each individual applying for medical
9 assistance under the State plan and to each individ-
10 ual whose eligibility for medical assistance under the
11 State plan is terminated.”.

12 **SEC. 9203. NOTICE OF AVAILABILITY OF EARNED INCOME**
13 **TAX CREDIT AND DEPENDENT CARE TAX**
14 **CREDIT TO BE INCLUDED ON W-4 FORM.**

15 (a) IN GENERAL.—Section 11114 of the Omnibus
16 Budget Reconciliation Act of 1990 (26 U.S.C. 21 note),
17 relating to program to increase public awareness, is
18 amended by adding at the end the following new sentence:
19 “Such means shall include printing a notice of the avail-
20 ability of such credits on the forms used by employees to
21 determine the proper number of withholding exemptions
22 under chapter 24 of such Code.”

1 **SEC. 9204. ADVANCE PAYMENT OF EARNED INCOME TAX**
2 **CREDIT THROUGH STATE DEMONSTRATION**
3 **PROGRAMS.**

4 (a) IN GENERAL.—Section 3507 of the Internal Rev-
5 enue Code of 1986 (relating to the advance payment of
6 the earned income tax credit) is amended by adding at
7 the end the following:

8 “(g) STATE DEMONSTRATIONS.—

9 “(1) IN GENERAL.—In lieu of receiving earned
10 income advance amounts from an employer under
11 subsection (a), a participating resident shall receive
12 advance earned income payments from a responsible
13 State agency pursuant to a State Advance Payment
14 Program that is designated pursuant to paragraph
15 (2).

16 “(2) DESIGNATIONS.—

17 “(A) IN GENERAL.—From among the
18 States submitting proposals satisfying the re-
19 quirements of paragraph (3), the Secretary (in
20 consultation with the Secretary of Health and
21 Human Services) may designate not more than
22 4 State Advance Payment Demonstrations.
23 States selected for the demonstrations may
24 have, in the aggregate, no more than 5 percent
25 of the total number of households participating
26 in the program under the Food Stamp program

1 in the immediately preceding fiscal year. Ad-
2 ministrative costs of a State in conducting a
3 demonstration under this section may be in-
4 cluded for matching under section 413(a) of the
5 Social Security Act and section 16(a) of the
6 Food Stamp Act of 1977.

7 “(B) WHEN DESIGNATION MAY BE
8 MADE.—Any designation under this paragraph
9 shall be made no later than December 31,
10 1996.

11 “(C) PERIOD FOR WHICH DESIGNATION IS
12 IN EFFECT.—

13 “(i) IN GENERAL.—Designations
14 made under this paragraph shall be effec-
15 tive for advance earned income payments
16 made after December 31, 1996, and before
17 January 1, 2000.

18 “(ii) SPECIAL RULES.—

19 “(I) REVOCATION OF DESIGNA-
20 TIONS.—The Secretary may revoke any
21 designation made under this paragraph if
22 the Secretary determines that the State is
23 not complying substantially with the pro-
24 posal described in paragraph (3) submitted
25 by the State.

1 “(II) AUTOMATIC TERMINATION OF DES-
2 IGNATIONS.—Any failure by a State to
3 comply with the reporting requirements de-
4 scribed in paragraphs (3)(F) and (3)(G)
5 shall have the effect of immediately termi-
6 nating the designation under this para-
7 graph and rendering paragraph (5)(A)(ii)
8 inapplicable to subsequent payments.

9 “(3) PROPOSALS.—No State may be designated
10 under paragraph (2) unless the State’s proposal for
11 such designation—

12 “(A) identifies the responsible State agen-
13 cy,

14 “(B) describes how and when the advance
15 earned income payments will be made by that
16 agency, including a description of any other
17 State or Federal benefits with which such pay-
18 ments will be coordinated,

19 “(C) describes how the State will obtain
20 the information on which the amount of ad-
21 vance earned income payments made to each
22 participating resident will be determined in ac-
23 cordance with paragraph (4),

24 “(D) describes how State residents who
25 will be eligible to receive advance earned income

1 payments will be selected, notified of the oppor-
2 tunity to receive advance earned income pay-
3 ments from the responsible State agency, and
4 given the opportunity to elect to participate in
5 the program,

6 “(E) describes how the State will verify, in
7 addition to receiving the certifications and
8 statement described in paragraph (7)(D)(iv),
9 the eligibility of participating residents for the
10 earned income tax credit,

11 “(F) commits the State to furnishing to
12 each participating resident by January 31 of
13 each year a written statement showing—

14 “(i) the name and taxpayer identifica-
15 tion number of the participating resident,
16 and

17 “(ii) the total amount of advance
18 earned income payments made to the par-
19 ticipating resident during the prior cal-
20 endar year,

21 “(G) commits the State to furnishing to
22 the Secretary by December 1 of each year a
23 written statement showing the name and tax-
24 payer identification number of each participat-
25 ing resident,

1 “(H) commits the State to treat any ad-
2 vance earned income payments as described in
3 paragraph (5) and any repayments of excessive
4 advance earned income payments as described
5 in paragraph (6),

6 “(I) commits the State to assess the devel-
7 opment and implementation of its State Ad-
8 vance Payment Program, including an agree-
9 ment to share its findings and lessons with
10 other interested States in a manner to be de-
11 scribed by the Secretary, and

12 “(J) is submitted to the Secretary on or
13 before June 30, 1996.

14 “(4) AMOUNT AND TIMING OF ADVANCE
15 EARNED INCOME PAYMENTS.—

16 “(A) AMOUNT.—

17 “(i) IN GENERAL.—The method for
18 determining the amount of advance earned
19 income payments made to each participat-
20 ing resident shall conform to the fullest ex-
21 tent possible with the provisions of sub-
22 section (c).

23 “(ii) SPECIAL RULE.—A State may,
24 at its election, apply the rules of subsection
25 (c)(2)(B) by substituting ‘between 60 per-

1 cent and 75 percent of the credit percent-
2 age in effect under section 32(b)(1) for an
3 individual with the corresponding number
4 of qualifying children’ for ‘60 percent of
5 the credit percentage in effect under sec-
6 tion 32(b)(1) for such an eligible individual
7 with 1 qualifying child’ in clause (i) and
8 ‘the same percentage (as applied in clause
9 (i))’ for ‘60 percent’ in clause (ii).

10 “(B) TIMING.—The frequency of advance
11 earned income payments may be determined on
12 the basis of the payroll periods of participating
13 residents, on a single statewide schedule, or on
14 any other reasonable basis prescribed by the
15 State in its proposal; however, in no event may
16 advance earned income payments be made to
17 any participating resident less frequently than
18 on a calendar-quarter basis.

19 “(5) PAYMENTS TO BE TREATED AS PAYMENTS
20 OF WITHHOLDING AND FICA TAXES.—

21 “(A) IN GENERAL.—For purposes of this
22 title, advance earned income payments during
23 any calendar quarter—

1 “(i) shall neither be treated as a pay-
2 ment of compensation nor be included in
3 gross income, and

4 “(ii) shall be treated as made out of—

5 “(I) amounts required to be de-
6 ducted by the State and withheld for
7 the calendar quarter by the State
8 under section 3401 (relating to wage
9 withholding),

10 “(II) amounts required to be de-
11 ducted for the calendar quarter under
12 section 3102 (relating to FICA em-
13 ployee taxes), and

14 “(III) amounts of the taxes im-
15 posed on the State for the calendar
16 quarter under section 3111 (relating
17 to FICA employer taxes),

18 as if the State had paid to the Secretary,
19 on the day on which payments are made to
20 participating residents, an amount equal to
21 such payments.

22 “(B) IF ADVANCE PAYMENTS EXCEED
23 TAXES DUE.—If for any calendar quarter the
24 aggregate amount of advance earned income
25 payments made by the responsible State agency

1 under a State Advance Payment Program ex-
2 ceeds the sum of the amounts referred to in
3 subparagraph (A)(ii) (without regard to para-
4 graph (6)(A)), each such advance earned in-
5 come payment shall be reduced by an amount
6 which bears the same ratio to such excess as
7 such advance earned income payment bears to
8 the aggregate amount of all such advance
9 earned income payments.

10 “(6) STATE REPAYMENT OF EXCESSIVE AD-
11 VANCE EARNED INCOME PAYMENTS.—

12 “(A) IN GENERAL.—Notwithstanding any
13 other provision of law, in the case of an exces-
14 sive advance earned income payment a State
15 shall be treated as having deducted and with-
16 held under section 3401 (relating to wage with-
17 holding), and as being required to pay to the
18 United States, the repayment amount during
19 the repayment calendar quarter.

20 “(B) EXCESSIVE ADVANCE EARNED IN-
21 COME PAYMENT.—For purposes of this section,
22 the term ‘excessive advance income payment’
23 means that portion of any advance earned in-
24 come payment that, when combined with other
25 advance earned income payments previously

1 made to the same participating resident during
2 the same calendar year, exceeds the amount of
3 earned income tax credit to which that partici-
4 pating resident is entitled under section 32 for
5 that year.

6 “(C) REPAYMENT AMOUNT.—For purposes
7 of this subsection, the term ‘repayment amount’
8 means an amount equal to 50 percent of the ex-
9 cess of—

10 “(i) excessive advance earned income
11 payments made by a State during a par-
12 ticular calendar year, over

13 “(ii) the sum of—

14 “(I) 4 percent of all advance
15 earned income payments made by the
16 State during that calendar year, and

17 “(II) the excessive advance
18 earned income payments made by the
19 State during that calendar year that
20 have been collected from participating
21 residents by the Secretary.

22 “(D) REPAYMENT CALENDAR QUARTER.—
23 For purposes of this subsection, the term ‘re-
24 payment calendar quarter’ means the second
25 calendar quarter of the third calendar year be-

1 ginning after the calendar year in which an ex-
2 cessive earned income payment is made.

3 “(7) DEFINITIONS.—For purposes of this sub-
4 section—

5 “(A) STATE ADVANCE PAYMENT PRO-
6 GRAM.—The term ‘State Advance Payment
7 Program’ means the program described in a
8 proposal submitted for designation under para-
9 graph (1) and designated by the Secretary
10 under paragraph (2).

11 “(B) RESPONSIBLE STATE AGENCY.—The
12 term ‘responsible State agency’ means the sin-
13 gle State agency that will be making the ad-
14 vance earned income payments to residents of
15 the State who elect to participate in a State Ad-
16 vance Payment Program.

17 “(C) ADVANCE EARNED INCOME PAY-
18 MENTS.—The term ‘advance earned income
19 payments’ means an amount paid by a respon-
20 sible State agency to residents of the State pur-
21 suant to a State Advance Payment Program.

22 “(D) PARTICIPATING RESIDENT.—The
23 term ‘participating resident’ means an individ-
24 ual who—

1 “(i) is a resident of a State that has
2 in effect a designated State Advance Pay-
3 ment Program,

4 “(ii) makes the election described in
5 paragraph (3)(D) pursuant to guidelines
6 prescribed by the State,

7 “(iii) certifies to the State the number
8 of qualifying children the individual has,
9 and

10 “(iv) provides to the State the certifi-
11 cations and statement described in sub-
12 sections (b)(1), (b)(2), (b)(3), and (b)(4)
13 (except that for purposes of this clause,
14 the term ‘any employer’ shall be sub-
15 stituted for ‘another employer’ in sub-
16 section (b)(3)), along with any other infor-
17 mation required by the State.”.

18 (b) TECHNICAL ASSISTANCE.—The Secretaries of the
19 Treasury and Health and Human Services shall jointly en-
20 sure that technical assistance is provided to State Advance
21 Payment Programs and that these programs are rigor-
22 ously evaluated.

23 (c) ANNUAL REPORTS.—The Secretary shall issue
24 annual reports detailing the extent to which—

1 (1) residents participate in the State Advance
2 Payment Programs,

3 (2) participating residents file Federal and
4 State tax returns,

5 (3) participating residents report accurately the
6 amount of the advance earned income payments
7 made to them by the responsible State agency dur-
8 ing the year, and

9 (4) recipients of excessive advance earned in-
10 come payments repay those amounts.

11 The report shall also contain an estimate of the amount
12 of advance earned income payments made by each respon-
13 sible State agency but not reported on the tax returns of
14 a participating resident and the amount of excessive ad-
15 vance earned income payments.

16 (d) AUTHORIZATION OF APPROPRIATIONS.—For pur-
17 poses of providing technical assistance described in sub-
18 section (b), preparing the reports described in subsection
19 (c), and providing grants to States in support of des-
20 ignated State Advance Payment Programs, there are au-
21 thorized to be appropriated in advance to the Secretary
22 of the Treasury and the Secretary of Health and Human
23 Services a total of \$1,400,000 for fiscal years 1997
24 through 2000.

1 **SEC. 9205. FUNDING OF CHILD CARE SERVICES.**

2 (a) REPEAL OF CHILD CARE PROGRAMS UNDER THE
3 CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT
4 OF 1990.—The Child Care and Development Block Grant
5 Act of 1990 (42 U.S.C. 9858 et seq.) is hereby repealed.

6 (b) FUNDING OF CHILD CARE SERVICES THROUGH
7 SOCIAL SERVICES BLOCK GRANT PROGRAM.—Title XX
8 (42 U.S.C. 1397–1397f) is amended by adding at the end
9 the following:

10 **“SEC. 2008. CHILD CARE.**

11 “(a) CONDITIONAL GRANT.—

12 “(1) IN GENERAL.—In addition to any payment
13 under section 2002 or 2007, the Secretary shall
14 make a grant to each State with a plan approved
15 under this section for a fiscal year in an amount
16 equal to the special allotment of the State for the
17 fiscal year.

18 “(2) LIMITATIONS ON AUTHORIZATION OF AP-
19 PROPRIATIONS.—For grants under this section,
20 there are authorized to be appropriated to the Sec-
21 retary not more than—

22 “(A) \$1,400,000,000 for fiscal year 1997;

23 “(B) \$1,450,000,000 for each of fiscal
24 years 1998, 1999, and 2000; and

25 “(C) \$1,500,000,000 for each of fiscal
26 years 2001 and 2002.

1 “(b) STATE PLANS.—

2 “(1) CONTENT.—A plan meets the require-
3 ments of this paragraph if the plan—

4 “(A) identifies an appropriate State agency
5 to be the lead agency responsible for admin-
6 istering at the State level, and coordinating
7 with local governments, the activities of the
8 State pursuant to this section;

9 “(B) describes the activities the State will
10 carry out with funds provided under this sec-
11 tion;

12 “(C) provides assurances that the funds
13 provided under this section will be used to sup-
14 plement, not supplant, State and local funds as
15 well as Federal funds provided under any Act
16 and applied to child care activities in the State
17 during fiscal year 1989;

18 “(D) provides assurances that the State
19 will not expend more than 7 percent of the
20 funds provided to the States under this section
21 for the fiscal year for administrative expenses;

22 “(E) provides assurances that, in providing
23 child care assistance, the State will give priority
24 to families with low income and families living
25 in a low-income geographical area;

1 “(F) ensures that child care providers re-
2 imbursed under this section meet applicable
3 standards of State and local law;

4 “(G) provides assurances that the lead
5 agency will coordinate the use of funds provided
6 under this section with the use of other Federal
7 resources for child care provided under this Act,
8 and with other Federal, State, or local child
9 care and preschool programs operated in the
10 State;

11 “(H) provides for the establishment of
12 such fiscal and accounting procedures as may
13 be necessary to—

14 “(i) ensure a proper accounting of
15 Federal funds received by the State under
16 this section; and

17 “(ii) ensure the proper verification of
18 the reports submitted by the State under
19 subsection (f)(2);

20 “(I) provides assurances that the State will
21 not impose more stringent standards and licens-
22 ing or regulatory requirements on child care
23 providers receiving funds provided under this
24 section than those imposed on other child care
25 providers in the State;

1 “(J) provides assurances that the State
2 will not implement any policy or practice which
3 has the effect of significantly restricting paren-
4 tal choice by—

5 “(i) expressly or effectively excluding
6 any category of care or type of provider
7 within a category of care;

8 “(ii) limiting parental access to or
9 choices from among various categories of
10 care or types of providers; or

11 “(iii) excluding a significant number
12 of providers in any category of care; and

13 “(K) provides assurances that parents will
14 be informed regarding their options under this
15 section, including the option of receiving a child
16 care certificate or voucher.

17 “(2) FORM.—A State may submit a plan that
18 meets the requirements of paragraph (1) in the form
19 of amendments to the State plan submitted pursu-
20 ant to section 658E of the Child Care and Develop-
21 ment Block Grant Act of 1990, as in effect before
22 the effective date of section 9205 of the Omnibus
23 Budget Reconciliation Act of 1995.

24 “(3) APPROVAL.—Not later than 90 days after
25 the date the State submits a plan to the Secretary

1 under this subsection, the Secretary shall either ap-
2 prove or disapprove the plan. If the Secretary dis-
3 approves the plan, the Secretary shall provide the
4 State with an explanation and recommendations for
5 changes in the plan to gain approval.

6 “(c) SPECIAL ALLOTMENTS.—The special allotment
7 of a State for a fiscal year equals the amount that bears
8 the same ratio to the amount appropriated pursuant to
9 this section for the fiscal year, as the number of children
10 who have not attained 13 years of age and are residing
11 with families in the State bears to the total number of
12 such children in all States with plans approved under this
13 section for the fiscal year, determined on the basis of the
14 most recent data available from the Department of Com-
15 merce at the time the special allotment is determined.

16 “(d) PAYMENTS TO STATES.—

17 “(1) PAYMENTS.—

18 “(A) COMPUTATION OF AMOUNT.—From
19 the sums appropriated therefor, the Secretary
20 of the Treasury shall pay to each State which
21 has a plan approved under this section for a fis-
22 cal year, for each quarter, beginning with the
23 quarter commencing October 1, 1996, an
24 amount equal to $\frac{1}{4}$ of the special allotment of
25 the State for the fiscal year.

1 “(B) METHOD OF COMPUTATION AND PAY-
2 MENT.—The method of computing and paying
3 such amounts shall be as follows:

4 “(i) ESTIMATE.—The Secretary shall,
5 before each quarter, estimate the amount
6 to be paid to the State for the quarter
7 under this section, based on a report filed
8 by the State containing the State’s esti-
9 mate of the total sum to be expended by
10 the State in such quarter in accordance
11 with subsection (e).

12 “(ii) CERTIFICATION.—The Secretary
13 of Health and Human Services shall then
14 certify to the Secretary of the Treasury the
15 amount so estimated by the Secretary of
16 Health and Human Services reduced or in-
17 creased, as the case may be, by any sum
18 by which the Secretary of Health and
19 Human Services finds that the estimate for
20 any prior quarter was greater or less than
21 the amount which should have been paid to
22 the State for such quarter, except that
23 such increases or reductions shall not be
24 made to the extent that such sums have
25 been applied to make the amount certified

1 for any prior quarter greater or less than
2 the amount estimated by the Secretary of
3 Health and Human Services for such prior
4 quarter.

5 “(iii) METHOD OF PAYMENT.—The
6 Secretary of the Treasury shall thereupon,
7 through the Fiscal Service of the Depart-
8 ment of the Treasury and prior to audit or
9 settlement by the General Accounting Of-
10 fice, pay to the State, at the time or times
11 fixed by the Secretary of Health and
12 Human Services, the amount so certified.

13 “(2) DEADLINE FOR EXPENDITURE OF FUNDS
14 BY STATES.—Except as provided in paragraph
15 (3)(A), each State to which funds are paid under
16 this section for a fiscal year shall expend such funds
17 in the fiscal year or in the immediately succeeding
18 fiscal year.

19 “(3) REDISTRIBUTION OF UNEXPENDED SPE-
20 CIAL ALLOTMENTS.—

21 “(A) REMITTANCE TO THE SECRETARY.—
22 Each State to which funds are paid under this
23 section for a fiscal year shall remit to the Sec-
24 retary that part of such funds which the State
25 intends not to, or does not, expend in the fiscal

1 year or in the immediately succeeding fiscal
2 year.

3 “(B) REDISTRIBUTION.—The Secretary
4 shall increase the special allotment of each
5 State with a plan approved under this part for
6 a fiscal year that does not remit any amount to
7 the Secretary for the fiscal year by an amount
8 equal to—

9 “(i) the aggregate of the amounts re-
10 mitted pursuant to subparagraph (A) for
11 the fiscal year; multiplied by

12 “(ii) the adjusted State share for the
13 fiscal year.

14 “(C) ADJUSTED STATE SHARE.—As used
15 in subparagraph (B)(ii), the term ‘adjusted
16 State share’ means, with respect to a fiscal
17 year—

18 “(i) the special allotment of the State
19 for the fiscal year (before any increase
20 under subparagraph (B)); divided by

21 “(ii)(I) the sum of the special allot-
22 ments of all States with plans approved
23 under this part for the fiscal year; minus

1 “(II) the aggregate of the amounts re-
2 mitted to the Secretary pursuant to sub-
3 paragraph (A) for the fiscal year.

4 “(e) USE OF FUNDS.—

5 “(1) IN GENERAL.—Funds provided under this
6 section shall be used to expand parent choices in se-
7 lecting child care, to address deficiencies in the sup-
8 ply of child care, and to expand and improve child
9 care services, with an emphasis on providing such
10 services to low-income families and geographical
11 areas. Subject to the approval of the Secretary,
12 States to which funds are paid under this section
13 shall use such funds to carry out child care pro-
14 grams and activities through cash grants, certifi-
15 cates, or contracts with families, or public or private
16 entities as the State determines appropriate. States
17 shall take parental preference into account to the
18 maximum extent possible in carrying out child care
19 programs.

20 “(2) SPECIFIC USES.—Each State to which
21 funds are paid under this section may expend such
22 funds for—

23 “(A) child care services for infants, sick
24 children, children with special needs, and chil-
25 dren of adolescent parents;

1 “(B) after-school and before-school pro-
2 grams and programs during nontraditional
3 hours for the children of working parents;

4 “(C) programs for the recruitment and
5 training of day care workers, including older
6 Americans;

7 “(D) grant and loan programs to enable
8 child care workers and providers to meet State
9 and local standards and requirements;

10 “(E) child care programs developed by
11 public and private sector partnerships;

12 “(F) State efforts to provide technical as-
13 sistance designed to help providers improve the
14 services offered to parents and children; and

15 “(G) other child care-related programs
16 consistent with the purpose of this section and
17 approved by the Secretary.

18 “(3) LIMITATIONS ON USE OF FUNDS.—A State
19 to which funds are paid under this section for a fis-
20 cal year shall use not less than 80 percent of such
21 funds to provide direct child care assistance to low-
22 income parents through child care certificates or
23 vouchers, contracts, or grants.

24 “(4) METHODS OF FUNDING.—Funds for child
25 care services under this title shall be for the benefit

1 of parents and shall be provided through child care
2 vouchers or certificates provided directly to parents
3 or through contracts or grants with public or private
4 providers.

5 “(5) PARENTAL RIGHTS OF CHOICE.—Any par-
6 ent who receives a child care certificate under this
7 title may use such certificate with any child care
8 provider, including those providers which have reli-
9 gious activities, if such provider is freely chosen by
10 the parent from among the available alternatives.

11 “(6) CHILD CARE CERTIFICATES.—

12 “(A) IN GENERAL.—For purposes of this
13 title, a child care certificate is a certificate is-
14 sued by a State directly to a parent or legal
15 guardian for use only as payment for child care
16 services in any child care facility eligible to re-
17 ceive funds under this Act.

18 “(B) REDEMPTION.—If the demand for
19 child care services of families qualified to re-
20 ceive such services from a State under this Act
21 exceeds the available supply of such services,
22 the State shall ration assistance to obtain such
23 services using procedures that do not disadvan-
24 tage parents using child care certificates, rel-
25 ative to other methods of financing, in either

1 the waiting period or the pecuniary value of
2 such services.

3 “(C) COMMENCEMENT OF CERTIFICATE
4 PROGRAM.—Beginning not later than 1 year
5 after the date of the enactment of this section,
6 each State that receives funds under this title
7 shall offer a child care certificate program in
8 accordance with this section.

9 “(D) AUTHORITY TO USE CHILD CARE
10 FUNDS FOR CERTIFICATE PROGRAM.—Each
11 State to which funds are paid under this title
12 may use the funds provided to the State under
13 this title which are required to be used for child
14 care activities to plan and establish the State’s
15 child care certificate program.

16 “(7) OPTION OF RECEIVING A CHILD CARE
17 CERTIFICATE.—Each parent or legal guardian who
18 receives assistance pursuant to this title shall be
19 provided with the option of enrolling their child with
20 an eligible child care provider that receives funds
21 through grants, contracts, or child care certificates
22 provided under this title. Such parent shall have the
23 right to use such certificates to purchase child care
24 services from an eligible provider of their choice. The
25 State shall ensure that parental preference is consid-

1 ered to the maximum extent possible in awarding
2 grants or contracts.

3 “(8) RIGHTS OF RELIGIOUS CHILD CARE PRO-
4 VIDERS.—Notwithstanding any other provision of
5 law, a religious child care provider who receives
6 funds under this Act may require adherence by em-
7 ployees to the religious tenets or teachings of the
8 provider.

9 “(9) ELIGIBLE CHILD CARE PROVIDERS.—Any
10 child care provider who meets applicable standards
11 of State and local law shall be eligible to receive
12 funds under this section. As used in this paragraph,
13 the term ‘child care provider’ includes—

14 “(A) proprietary for-profit entities, rel-
15 atives, informal day care homes, religious child
16 care providers, day care centers, and any other
17 entities that the State determines appropriate
18 subject to approval of the Secretary;

19 “(B) nonprofit organizations under sub-
20 sections (c) and (d) of section 501 of the Inter-
21 nal Revenue Code of 1986;

22 “(C) professional or employee associations;

23 “(D) consortia of small businesses; and

1 “(E) units of State and local governments,
2 and elementary, secondary, and post-secondary
3 educational institutions.

4 “(10) PROHIBITED USES.—Any State to which
5 funds are paid under this section may not use such
6 funds—

7 “(A) to satisfy any State matching require-
8 ment imposed under any Federal grant;

9 “(B) for the purchase or improvement of
10 land, or the purchase, construction, or perma-
11 nent improvement (other than minor remodel-
12 ing) of any building or other facility; or

13 “(C) to provide any service which the State
14 makes generally available to the residents of the
15 State without cost to such residents and with-
16 out regard to the income of such residents.

17 “(f) REPORTING REQUIREMENTS.—

18 “(1) NOTICE TO SECRETARY OF UNEXPENDED
19 FUNDS.—Each State which has not completely ex-
20 pended the funds paid to the State under this sec-
21 tion for a fiscal year in the fiscal year or the imme-
22 diately succeeding fiscal year shall notify the Sec-
23 retary of any amount not so expended.

24 “(2) STATE REPORTS ON USE OF FUNDS.—Not
25 later than 18 months after the date of the enact-

1 ment of this section, and each year thereafter, the
2 State shall prepare and submit to the Secretary, in
3 such form as the Secretary shall prescribe, a report
4 describing the State's use of funds paid to the State
5 under this section, including—

6 “(A) the number, type, and distribution of
7 services and programs under this section;

8 “(B) the average cost of child care, by type
9 of provider;

10 “(C) the number of children serviced under
11 this section;

12 “(D) the average income and distribution
13 of incomes of the families being served;

14 “(E) efforts undertaken by the State pur-
15 suant to this section to promote and ensure
16 health and safety and improve quality; and

17 “(F) such other information as the Sec-
18 retary considers appropriate.

19 “(3) GUIDELINES FOR STATE REPORTS; CO-
20 ORDINATION WITH REPORTS UNDER SECTION
21 2006.—Within 6 months after the date of the enact-
22 ment of this section, the Secretary shall establish
23 guidelines for State reports under paragraph (2). To
24 the extent feasible, the Secretary shall coordinate
25 such reporting requirement with the reports required

1 under section 2006 and, as the Secretary deems ap-
2 propriate, with other reporting requirements placed
3 on States as a condition of receipt of other Federal
4 funds which support child care.

5 “(4) REPORTS BY THE SECRETARY.—

6 “(A) REPORTS TO THE CONGRESS OF SUM-
7 MARY OF STATE REPORTS.—The Secretary shall
8 annually summarize the information reported to
9 the Secretary pursuant to paragraph (2) and
10 provide such summary to the Congress.

11 “(B) REPORTS TO THE STATES ON EFFEC-
12 TIVE PRACTICES.—The Secretary shall annually
13 provide the States with a report on particularly
14 effective practices and programs supported by
15 funds paid to the State under this section,
16 which ensure the health and safety of children
17 in care, promote quality child care, and provide
18 training to all types of providers.

19 “(g) ADMINISTRATION AND ENFORCEMENT.—

20 “(1) ADMINISTRATION.—The Secretary shall—

21 “(A) coordinate all activities of the Depart-
22 ment of Health and Human Services relating to
23 child care, and, to the maximum extent prac-
24 ticable, coordinate such activities with similar
25 activities of other Federal entities;

1 “(B) collect, publish, and make available to
2 the public a listing of State child care standards
3 at least once every 3 years; and

4 “(C) provide technical assistance to assist
5 States to carry out this section, including as-
6 sistance on a reimbursable basis.

7 “(2) ENFORCEMENT.—

8 “(A) REVIEW OF COMPLIANCE WITH
9 STATE PLAN.—The Secretary shall review and
10 monitor State compliance with this section and
11 the plans approved under this section for the
12 State, and shall have the power to terminate
13 payments to the State in accordance with sub-
14 paragraph (B).

15 “(B) NONCOMPLIANCE.—

16 “(i) IN GENERAL.—If the Secretary,
17 after reasonable notice to a State and op-
18 portunity for a hearing, finds that—

19 “(I) there has been a failure by
20 the State to comply substantially with
21 any provision or requirement set forth
22 in the plan approved under this sec-
23 tion for the State; or

24 “(II) in the operation of any pro-
25 gram for which assistance is provided

1 under this section there is a failure by
2 the State to comply substantially with
3 any provision of this section;

4 the Secretary shall notify the State of the
5 findings and that no further payments may
6 be made to such State under this section
7 (or, in the case of noncompliance in the op-
8 eration of a program or activity, that no
9 further payments to the State will be made
10 with respect to such program or activity)
11 until the Secretary is satisfied that there
12 is no longer any such failure to comply or
13 that the noncompliance will be promptly
14 corrected.

15 “(ii) ADDITIONAL SANCTIONS.—In the
16 case of a finding of noncompliance made
17 pursuant to clause (i), the Secretary may,
18 in addition to imposing the sanctions de-
19 scribed in such subparagraph, impose the
20 other appropriate sanctions, including
21 recoupment of money improperly expended
22 for purposes prohibited or not authorized
23 by this section, and disqualification from
24 the receipt of financial assistance under
25 this section.

1 “(iii) NOTICE.—The notice required
2 under subparagraph (A) shall include a
3 specific identification of any additional
4 sanction being imposed under clause (ii).

5 “(C) ISSUANCE OF RULES.—The Secretary
6 shall establish by rule procedures for—

7 “(i) receiving, processing, and deter-
8 mining the validity of complaints concern-
9 ing any failure of a State to comply with
10 the State plan or any requirement of this
11 section; and

12 “(ii) imposing sanctions under this
13 subsection.

14 **“SEC. 2009. CHILD CARE DURING PARTICIPATION IN EM-**
15 **PLOYMENT, EDUCATION, AND TRAINING; EX-**
16 **TENDED ELIGIBILITY.**

17 “(a) CHILD CARE GUARANTEE.—

18 “(1) IN GENERAL.—Each State agency referred
19 to in section 2008(b)(1)(A) shall guarantee child
20 care in accordance with section 2008—

21 “(A) for any individual who is participat-
22 ing in an education or training activity (includ-
23 ing participation in a program established
24 under part G of title IV) if the State agency ap-
25 proves the activity and determines that the indi-

1 vidual is participating satisfactorily in the activ-
2 ity;

3 “(B) for each family with a dependent
4 child (as defined in section 413(a)(2)(E)) re-
5 quiring such care to the extent that such care
6 is determined by the State agency to be nec-
7 essary for an individual in the family to accept
8 employment or remain employed, including in a
9 community service job under part G of title IV;
10 and

11 “(C) to the extent that the State agency
12 determines that such care is necessary for the
13 employment of an individual, if the family of
14 which the individual is a member has ceased to
15 receive assistance under the State plan ap-
16 proved under part A of title IV by reason of in-
17 creased hours of, or income from, such employ-
18 ment, subject to paragraph (2) of this sub-
19 section.

20 “(2) LIMITATIONS ON ELIGIBILITY FOR TRANSI-
21 TIONAL CHILD CARE.—A family shall not be eligible
22 for child care under paragraph (1)(C)—

23 “(A) for more than 12 months after the
24 last month for which the family received assist-
25 ance described in such paragraph;

1 “(B) if the family did not receive such as-
2 sistance in at least 3 of the most recent 6
3 months in which the family received such assist-
4 ance;

5 “(C) if the family does not include a child
6 who is (or, if needy, would be) a dependent
7 child (within the meaning of section
8 413(a)(2)(E));

9 “(D) for any month beginning after the
10 caretaker relative (within the meaning of such
11 part) in the family has terminated his or her
12 employment without good cause; or

13 “(E) with respect to a child, for any month
14 beginning after the caretaker relative in the
15 family has refused to cooperate with the State
16 in establishing or enforcing the obligation of
17 any parent of the child to provide support for
18 the child, without good cause as determined by
19 the State agency in accordance with standards
20 prescribed by the Secretary which shall take
21 into consideration the best interests of the
22 child.

23 “(b) STATE ENTITLEMENT TO PAYMENTS.—Each
24 State with a plan approved under section 2008 shall be

1 entitled to receive from the Secretary for any fiscal year
2 an amount equal to—

3 “(1) the total amount expended by the State to
4 carry out subsection (a) during the fiscal year; mul-
5 tiplied by

6 “(2) the Federal medical assistance percentage
7 (as defined in the last sentence of section 1118).”.

8 (c) EFFECTIVE DATE.—The amendments and re-
9 peals made by this section shall take effect on October
10 1, 1996.

11 **SEC. 9206. CERTAIN FEDERAL ASSISTANCE INCLUDIBLE IN**
12 **GROSS INCOME.**

13 (a) IN GENERAL.—Part II of subchapter B of chap-
14 ter 1 of the Internal Revenue Code of 1986 (relating to
15 items specifically included in gross income) is amended by
16 adding at the end the following new section:

17 **“SEC. 91. CERTAIN FEDERAL ASSISTANCE.**

18 “(a) IN GENERAL.—Gross income shall include an
19 amount equal to the specified Federal assistance received
20 by the taxpayer during the taxable year.

21 “(b) SPECIFIED FEDERAL ASSISTANCE.—For pur-
22 poses of this section—

23 “(1) IN GENERAL.—The term ‘specified Federal
24 assistance’ means—

1 “(A) assistance provided under a State
2 plan approved under part A of title IV of the
3 Social Security Act (relating to temporary em-
4 ployment assistance program),

5 “(B) assistance provided under any food
6 stamp program, and

7 “(C) supplemental security income benefits
8 under title XVI of the Social Security Act (in-
9 cluding supplemental security income benefits
10 of the type described in section 1616 of such
11 Act or section 212 of Public Law 93-66).

12 “(2) SPECIAL RULE.—In the case of assistance
13 provided under a program described in subsection
14 (d)(2), such term shall include only the assistance
15 required to be provided under section 21 or 22 (as
16 the case may be) of the Food Stamp Act of 1977.

17 “(c) INDIVIDUALS SUBJECT TO TAX.—For purposes
18 of this section—

19 “(1) TEMPORARY EMPLOYMENT ASSISTANCE
20 PROGRAM.—Assistance described in subsection
21 (b)(1)(A) shall be treated as received by the relative
22 with whom the dependent child is living (within the
23 meaning of section 406(c) of the Social Security
24 Act).

1 “(2) FOOD STAMPS.—In the case of assistance
2 described in subsection (b)(1)(B)—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B), such assistance shall be
5 treated as received ratably by each of the indi-
6 viduals taken into account in determining the
7 amount of such assistance for the benefit of
8 such individuals.

9 “(B) ASSISTANCE TO CHILDREN TREATED
10 AS RECEIVED BY PARENTS, ETC.—The amount
11 of assistance which would (but for this subpara-
12 graph) be treated as received by a child shall be
13 treated as received as follows:

14 “(i) If there is an includible parent,
15 such amount shall be treated as received
16 by the includible parent (or if there is
17 more than 1 includible parent, as received
18 ratably by each includible parent).

19 “(ii) If there is no includible parent
20 and there is an includible grandparent,
21 such amount shall be treated as received
22 by the includible grandparent (or if there
23 is more than 1 includible grandparent, as
24 received ratably by each includible grand-
25 parent).

1 “(iii) If there is no includible parent
2 or grandparent, such amount shall be
3 treated as received ratably by each includ-
4 ible adult.

5 “(C) DEFINITIONS.—For purposes of sub-
6 paragraph (B)—

7 “(i) CHILD.—The term ‘child’ means
8 any individual who has not attained age 16
9 as of the close of the taxable year. Such
10 term shall not include any individual who
11 is an includible parent of a child (as de-
12 fined in the preceding sentence).

13 “(ii) ADULT.—The term ‘adult’ means
14 any individual who is not a child.

15 “(iii) INCLUDIBLE.—The term ‘in-
16 cludible’ means, with respect to any indi-
17 vidual, an individual who is included in de-
18 termining the amount of assistance paid to
19 the household which includes the child.

20 “(iv) PARENT.—The term ‘parent’ in-
21 cludes the stepfather and stepmother of
22 the child.

23 “(v) GRANDPARENT.—The term
24 ‘grandparent’ means any parent of a par-
25 ent of the child.

1 “(d) FOOD STAMP PROGRAM.—For purposes of sub-
2 section (b), the term ‘food stamp program’ means—

3 “(1) the food stamp program (as defined in sec-
4 tion 3(h) of the Food Stamp Act of 1977), and

5 “(2) the portion of the program under sections
6 21 and 22 of such Act which provides food assist-
7 ance.”

8 (b) REPORTING.—

9 (1) IN GENERAL.—Subpart B of part III of
10 subchapter A of chapter 61 of such Code is amended
11 by adding at the end the following new section:

12 **“SEC. 6050Q. PAYMENTS OF CERTAIN FEDERAL ASSIST-**
13 **ANCE.**

14 “(a) REQUIREMENT OF REPORTING.—The appro-
15 priate official shall make a return, according to the forms
16 and regulations prescribed by the Secretary, setting
17 forth—

18 “(1) the aggregate amount of specified Federal
19 assistance paid to any individual during any cal-
20 endar year, and

21 “(2) the name, address, and TIN of such indi-
22 vidual.

23 “(b) STATEMENTS TO BE FURNISHED TO PERSONS
24 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—

25 Every person required to make a return under subsection

1 (a) shall furnish to each individual whose name is required
2 to be set forth in such return a written statement show-
3 ing—

4 “(1) the aggregate amount of payments made
5 to the individual which are required to be shown on
6 such return, and

7 “(2) the name of the agency making the pay-
8 ments.

9 The written statement required under the preceding sen-
10 tence shall be furnished to the individual on or before Jan-
11 uary 31 of the year following the calendar year for which
12 the return under subsection (a) was required to be made.

13 “(c) DEFINITIONS AND SPECIAL RULE.—For pur-
14 poses of this section—

15 “(1) APPROPRIATE OFFICIAL.—The term ‘ap-
16 propriate official’ means—

17 “(A) in the case of specified Federal as-
18 sistance described in section 91(b)(1)(A), the
19 head of the State agency administering the plan
20 under which such assistance is provided,

21 “(B) in the case of specified Federal as-
22 sistance described in section 91(b)(1)(B), the
23 head of the State agency administering the pro-
24 gram under which such assistance is provided,
25 and

1 “(C) in the case of specified Federal assist-
2 ance described in section 91(b)(1)(C), the Sec-
3 retary of Health and Human Services.

4 “(2) SPECIFIED FEDERAL ASSISTANCE.—The
5 term ‘specified Federal assistance’ has the meaning
6 given such term by section 91(b).

7 “(3) AMOUNTS TREATED AS PAID.—The rules
8 of section 91(c) shall apply for purposes of deter-
9 mining to whom specified Federal assistance is
10 paid.”

11 (2) PENALTIES.—

12 (A) Subparagraph (B) of section
13 6724(d)(1) of such Code is amended by redesign-
14 ating clauses (ix) through (xiv) as clauses (x)
15 through (xv), respectively, and by inserting
16 after clause (viii) the following new clause:

17 “(ix) section 6050Q (relating to pay-
18 ments of certain Federal assistance),”.

19 (B) Paragraph (2) of section 6724(d) of
20 such Code is amended by redesignating sub-
21 paragraphs (Q) through (T) as subparagraphs
22 (R) through (U), respectively, and by inserting
23 after subparagraph (P) the following new sub-
24 paragraph:

1 “(Q) section 6050Q(b) (relating to pay-
2 ments of certain Federal assistance),”.

3 (c) TEMPORARY EMPLOYMENT ASSISTANCE PRO-
4 GRAM, SUPPLEMENTAL SECURITY INCOME, AND FOOD
5 STAMP BENEFITS NOT TAKEN INTO ACCOUNT FOR PUR-
6 POSES OF THE EARNED INCOME TAX CREDIT.—Section
7 32 of the Internal Revenue Code of 1986 (relating to the
8 earned income tax credit), is amended by adding at the
9 end the following new subsection:

10 “(k) ADJUSTED GROSS INCOME DETERMINED WITH-
11 OUT REGARD TO CERTAIN FEDERAL ASSISTANCE.—For
12 purposes of this section, adjusted gross income shall be
13 determined without regard to any amount which is includ-
14 ible in gross income solely by reason of section 91.”

15 (d) CLERICAL AMENDMENTS.—

16 (1) The table of sections for part II of sub-
17 chapter B of chapter 1 of such Code is amended by
18 adding at the end the following new item:

 “Sec. 91. Certain Federal assistance.”

19 (2) The table of sections for subpart B of part
20 III of subchapter A of chapter 61 of such Code is
21 amended by adding at the end the following new
22 item:

 “Sec. 6050Q. Payments of certain Federal assistance.”

23 (e) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to benefits received after December

1 31, 1995, except that the amendment made by subsection
2 (c) shall apply to taxable years beginning after such date.

3 **SEC. 9207. DEPENDENT CARE CREDIT TO BE REFUNDABLE;**
4 **HIGH-INCOME TAXPAYERS INELIGIBLE FOR**
5 **CREDIT.**

6 (a) CREDIT TO BE REFUNDABLE.—

7 (1) IN GENERAL.—Section 21 of the Internal
8 Revenue Code of 1986 (relating to expenses for
9 household and dependent care services necessary for
10 gainful employment) is hereby moved to subpart C
11 of part IV of subchapter A of chapter 1 of such
12 Code (relating to refundable credits) and inserted
13 after section 34.

14 (2) TECHNICAL AMENDMENTS.—

15 (A) Section 35 of such Code is redesign-
16 nated as section 36.

17 (B) Section 21 of such Code is redesign-
18 nated as section 35.

19 (C) Paragraph (1) of section 35(a) of such
20 Code (as redesignated by subparagraph (B)) is
21 amended by striking “this chapter” and insert-
22 ing “this subtitle”.

23 (D) Subparagraph (C) of section 129(a)(2)
24 of such Code is amended by striking “section
25 21(e)” and inserting “section 35(e)”.

1 (E) Paragraph (2) of section 129(b) of
2 such Code is amended by striking “section
3 21(d)(2)” and inserting “section 35(d)(2)”.

4 (F) Paragraph (1) of section 129(e) of
5 such Code is amended by striking “section
6 21(b)(2)” and inserting “section 35(b)(2)”.

7 (G) Subsection (e) of section 213 of such
8 Code is amended by striking “section 21” and
9 inserting “section 35”.

10 (H) Paragraph (2) of section 1324(b) of
11 title 31, United States Code, is amended by in-
12 serting before the period “, or from section 35
13 of such Code”.

14 (I) The table of sections for subpart C of
15 part IV of subchapter A of chapter 1 of such
16 Code is amended by striking the item relating
17 to section 35 and inserting the following:

“Sec. 35. Expenses for household and dependent care services
necessary for gainful employment.

“Sec. 36. Overpayments of tax.”.

18 (J) The table of sections for subpart A of
19 such part IV is amended by striking the item
20 relating to section 21.

21 (b) HIGHER-INCOME TAXPAYERS INELIGIBLE FOR
22 CREDIT.—Subsection (a) of section 35 of such Code, as
23 redesignated by subsection (a), is amended by adding at
24 the end the following new paragraph:

1 “(3) PHASEOUT OF CREDIT FOR HIGHER-IN-
2 COME TAXPAYERS.—The amount of the credit which
3 would (but for this paragraph) be allowed by this
4 section shall be reduced (but not below zero) by an
5 amount which bears the same ratio to such amount
6 of credit as the excess of the taxpayer’s adjusted
7 gross income for the taxable year over \$60,000 bears
8 to \$20,000. Any reduction determined under the
9 preceding sentence which is not a multiple of \$10
10 shall be rounded to the nearest multiple of \$10.”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 1996.

14 **Subtitle C—Work First**

15 **SEC. 9301. WORK FIRST PROGRAM.**

16 (a) ESTABLISHMENT AND OPERATION OF PRO-
17 GRAM.—Title IV (42 U.S.C. 601 et seq.) is amended by
18 striking part F and inserting the following:

19 **“Part F—Work First Program**

20 **“SEC. 481. STATE ROLE.**

21 “(a) PROGRAM REQUIREMENTS.—Any State may es-
22 tablish and operate a work first program that meets the
23 following requirements:

24 “(1) OBJECTIVE.—The objective of the pro-
25 gram is for each program participant to find and

1 hold a full-time unsubsidized paid job, and for this
2 goal to be achieved in a cost-effective fashion.

3 “(2) METHOD.—The method of the program is
4 to connect recipients of assistance under the State
5 plan approved under part A with the private sector
6 labor market as soon as possible and offer them the
7 support and skills necessary to remain in the labor
8 market. Each component of the program should be
9 permeated with an emphasis on employment and
10 with an understanding that minimum wage jobs are
11 a stepping stone to more highly paid employment.
12 The program shall provide recipients with education,
13 training, job search and placement, wage
14 supplementation, temporary subsidized jobs, or such
15 other services that the State deems necessary to help
16 a recipient obtain private sector employment.

17 “(3) JOB CREATION.—The creation of jobs,
18 with an emphasis on private sector jobs, shall be a
19 component of the program and shall be a priority for
20 each State office with responsibilities under the pro-
21 gram.

22 “(4) FORMS OF ASSISTANCE.—The State shall
23 provide assistance to participants in the program in
24 the form of education, training, job placement serv-
25 ices (including vouchers for job placement services),

1 work supplementation programs, temporary sub-
2 sidized job creation, job counseling, assistance in es-
3 tablishing microenterprises, or other services to pro-
4 vide individuals with the support and skills necessary
5 to obtain and keep employment in the private sector.

6 “(5) 2-YEAR LIMITATION ON PARTICIPATION.—
7 The program shall comply with section 487(b).

8 “(6) AGREEMENTS OF MUTUAL RESPONSIBIL-
9 ITY.—

10 “(A) IN GENERAL.—The State agency
11 shall develop an agreement of mutual respon-
12 sibility for each program participant, which will
13 be an individualized comprehensive plan, devel-
14 oped by the team and the participant, to move
15 the participant into a full-time unsubsidized
16 job. The agreement should detail the education,
17 training, or skills that the individual will be re-
18 ceiving to obtain a full-time unsubsidized job,
19 and the obligations of the individual.

20 “(B) HOURS OF PARTICIPATION REQUIRE-
21 MENT.—The agreement shall provide that the
22 individual shall participate in activities in ac-
23 cordance with the agreement for—

24 “(i) not fewer than 20 hours per week
25 during fiscal years 1997 and 1998;

1 “(ii) not fewer than 25 hours per
2 week during fiscal year 1999; and

3 “(iii) not fewer than 30 hours per
4 week thereafter.

5 “(7) CASELOAD PARTICIPATION RATES.—The
6 program shall comply with section 488.

7 “(8) NONDISPLACEMENT.—The program may
8 not be operated in a manner that results in—

9 “(A) the displacement of a currently em-
10 ployed worker or position by a program partici-
11 pant;

12 “(B) the replacement of an employee who
13 has been terminated with a program partici-
14 pant; or

15 “(C) the replacement of an individual who
16 is on layoff from the same position given to a
17 program participant or any equivalent position.

18 “(b) ANNUAL REPORTS.—

19 “(1) COMPLIANCE WITH PERFORMANCE MEAS-
20 URES.—Each State that operates a program under
21 this part shall submit to the Secretary annual re-
22 ports that compare the achievements of the program
23 with the performance-based measures established
24 under section 488(c).

1 “(2) COMPLIANCE WITH PARTICIPATION
2 RATES.—Each State that operates a program under
3 this part for a fiscal year shall submit to the Sec-
4 retary a report on the participation rate of the State
5 for the fiscal year.

6 **“SEC. 482. REVAMPED JOBS PROGRAM.**

7 “A State that establishes a program under this part
8 may operate a program similar to the program known as
9 the ‘GAIN Program’ that has been operated by Riverside
10 County, California, under Federal law in effect imme-
11 diately before the date this part first applies to the State
12 of California.

13 **“SEC. 483. USE OF PLACEMENT COMPANIES.**

14 “(a) IN GENERAL.—A State that establishes a pro-
15 gram under this part may enter into contracts with private
16 companies (whether operated for profit or not for profit)
17 for the placement of participants in the program in posi-
18 tions of full-time employment, preferably in the private
19 sector, for wages sufficient to eliminate the need of such
20 participants for cash assistance.

21 “(b) REQUIRED CONTRACT TERMS.—Each contract
22 entered into under this section with a company shall meet
23 the following requirements:

24 “(1) PROVISION OF JOB READINESS AND SUP-
25 PORT SERVICES.—The contract shall require the

1 company to provide, to any program participant who
2 presents to the company a voucher issued under sub-
3 section (d) intensive personalized support and job
4 readiness services designed to prepare the individual
5 for employment and ensure the continued success of
6 the individual in employment.

7 “(2) PAYMENTS.—

8 “(A) IN GENERAL.—The contract shall
9 provide for payments to be made to the com-
10 pany with respect to each program participant
11 who presents to the company a voucher issued
12 under subsection (d).

13 “(B) STRUCTURE.—The contract shall
14 provide for the majority of the amounts to be
15 paid under the contract with respect to a pro-
16 gram participant, to be paid after the company
17 has placed the participant in a position of full-
18 time employment and the participant has been
19 employed in the position for such period of not
20 less than 5 months as the State deems appro-
21 priate.

22 “(c) COMPETITIVE BIDDING REQUIRED.—Contracts
23 under this section shall be awarded only after competitive
24 bidding.

1 “(d) VOUCHERS.—The State shall issue a voucher to
2 each program participant whose agreement of mutual re-
3 sponsibility provides for the use of placement companies
4 under this section, indicating that the participant is eligi-
5 ble for the services of such a company.

6 **“SEC. 484. TEMPORARY SUBSIDIZED JOB CREATION.**

7 “A State that establishes a program under this part
8 may establish a program similar to the program known
9 as ‘JOBS Plus’ that has been operated by the State of
10 Oregon under Federal law in effect immediately before the
11 date this part first applies to the State of Oregon.

12 **“SEC. 485. MICROENTERPRISE.**

13 “(a) GRANTS AND LOANS TO NONPROFIT ORGANIZA-
14 TIONS FOR THE PROVISION OF TECHNICAL ASSISTANCE,
15 TRAINING, AND CREDIT TO LOW INCOME ENTRE-
16 PRENEURS.—A State that establishes a program under
17 this part may make grants and loans to nonprofit organi-
18 zations to provide technical assistance, training, and credit
19 to low income entrepreneurs for the purpose of establish-
20 ing microenterprises.

21 “(b) MICROENTERPRISE DEFINED.—For purposes of
22 this subsection, the term ‘microenterprise’ means a com-
23 mercial enterprise which has 5 or fewer employees, 1 or
24 more of whom owns the enterprise.

1 **“SEC. 486. WORK SUPPLEMENTATION PROGRAM.**

2 “(a) IN GENERAL.—A State that establishes a pro-
3 gram under this part may institute a work
4 supplementation program under which the State, to the
5 extent it considers appropriate, may reserve the sums that
6 would otherwise be payable under the State plan approved
7 under part A to participants in the program and use the
8 sums instead for the purpose of providing and subsidizing
9 jobs for the participants (as described in subsection
10 (c)(3)(A) and (B)), as an alternative to providing such as-
11 sistance to the participants.

12 “(b) STATE FLEXIBILITY.—

13 “(1) Nothing in this part, or in any State plan
14 approved under part A, shall be construed to prevent
15 a State from operating (on such terms and condi-
16 tions and in such cases as the State may find to be
17 necessary or appropriate) a work supplementation
18 program in accordance with this section and section
19 484 (as in effect immediately before the date this
20 part first applies to the State).

21 “(2) Notwithstanding any other provision of
22 law, a State may adjust the levels of the standards
23 of need under the State plan as the State determines
24 to be necessary and appropriate for carrying out a
25 work supplementation program under this section.

1 “(3) Notwithstanding any other provision of
2 law, a State operating a work supplementation pro-
3 gram under this section may provide that the need
4 standards in effect in those areas of the State in
5 which the program is in operation may be different
6 from the need standards in effect in the areas in
7 which the program is not in operation, and the State
8 may provide that the need standards for categories
9 of recipients may vary among such categories to the
10 extent the State determines to be appropriate on the
11 basis of ability to participate in the work
12 supplementation program.

13 “(4) Notwithstanding any other provision of
14 law, a State may make such further adjustments in
15 the amounts of assistance provided under the plan
16 to different categories of recipients (as determined
17 under paragraph (3)) in order to offset increases in
18 benefits from needs-related programs (other than
19 the State plan approved under part A) as the State
20 determines to be necessary and appropriate to fur-
21 ther the purposes of the work supplementation pro-
22 gram.

23 “(5) In determining the amounts to be reserved
24 and used for providing and subsidizing jobs under

1 this section as described in subsection (a), the State
2 may use a sampling methodology.

3 “(6) Notwithstanding any other provision of
4 law, a State operating a work supplementation pro-
5 gram under this section, may reduce or eliminate the
6 amount of earned income to be disregarded under
7 the State plan as the State determines to be nec-
8 essary and appropriate to further the purposes of
9 the work supplementation program.

10 “(c) RULES RELATING TO SUPPLEMENTED JOBS.—

11 “(1) A work supplementation program operated
12 by a State under this section may provide that any
13 individual who is an eligible individual (as deter-
14 mined under paragraph (2)) shall take a supple-
15 mented job (as defined in paragraph (3)) to the ex-
16 tent that supplemented jobs are available under the
17 program. Payments by the State to individuals or to
18 employers under the work supplementation program
19 shall be treated as expenditures incurred by the
20 State for temporary employment assistance under
21 part A except as limited by subsection (d).

22 “(2) For purposes of this section, an eligible in-
23 dividual is an individual who is in a category which
24 the State determines should be eligible to participate
25 in the work supplementation program, and who

1 would, at the time of placement in the job involved,
2 be eligible for assistance under an approved State
3 plan if the State did not have a work
4 supplementation program in effect.

5 “(3) For purposes of this subsection, a supple-
6 mented job is—

7 “(A) a job provided to an eligible individ-
8 ual by the State or local agency administering
9 the State plan under part A; or

10 “(B) a job provided to an eligible individ-
11 ual by any other employer for which all or part
12 of the wages are paid by the State or local
13 agency.

14 A State may provide or subsidize under the program
15 any job which the State determines to be appro-
16 priate.

17 “(d) COST LIMITATION.—The amount of the Federal
18 payment to a State under section 413 for expenditures in-
19 curred in making payments to individuals and employers
20 under a work supplementation program under this sub-
21 section shall not exceed an amount equal to the amount
22 which would otherwise be payable under such section if
23 the family of each individual employed in the program es-
24 tablished in the State under this section had received the
25 maximum amount of assistance providable under the State

1 plan to such a family with no income (without regard to
2 adjustments under subsection (b) of this section) for the
3 lesser of—

4 “(1) 9 months; or

5 “(2) the number of months in which the indi-
6 vidual was employed in the program.

7 “(e) RULES OF INTERPRETATION.—

8 “(1) This section shall not be construed as re-
9 quiring the State or local agency administering the
10 State plan to provide employee status to an eligible
11 individual to whom the State or local agency pro-
12 vides a job under the work supplementation program
13 (or with respect to whom the State or local agency
14 provides all or part of the wages paid to the individ-
15 ual by another entity under the program), or as re-
16 quiring any State or local agency to provide that an
17 eligible individual filling a job position provided by
18 another entity under the program be provided em-
19 ployee status by the entity during the first 13 weeks
20 the individual fills the position.

21 “(2) Wages paid under a work supplementation
22 program shall be considered to be earned income for
23 purposes of any provision of law.

24 “(f) PRESERVATION OF MEDICAID ELIGIBILITY.—

25 Any State that chooses to operate a work supplementation

1 program under this section shall provide that any individ-
2 ual who participates in the program, and any child or rel-
3 ative of the individual (or other individual living in the
4 same household as the individual) who would be eligible
5 for assistance under the State plan approved under part
6 A if the State did not have a work supplementation pro-
7 gram, shall be considered individuals receiving assistance
8 under the State plan approved under part A for purposes
9 of eligibility for medical assistance under the State plan
10 approved under title XIX.

11 **“SEC. 487. PARTICIPATION RULES.**

12 “(a) IN GENERAL.—Except as provided in subsection
13 (b), a State that establishes a program under this part
14 may require any individual receiving assistance under the
15 State plan approved under part A to participate in the
16 program.

17 “(b) 2-YEAR LIMITATION ON PARTICIPATION.—

18 “(1) IN GENERAL.—Except as provided in para-
19 graph (2), an individual may not participate in a
20 State program established under this part if the in-
21 dividual has participated in the State program es-
22 tablished under this part for 24 months after the
23 date the individual first signed an agreement of mu-
24 tual responsibility under this part, excluding any
25 month during which the individual worked for an av-

1 erage of at least 25 hours per week in a private sec-
2 tor job.

3 “(2) AUTHORITY TO ALLOW REPEAT PARTICI-
4 PATION.—

5 “(A) IN GENERAL.—Subject to subpara-
6 graph (B) of this paragraph, a State may allow
7 an individual who, by reason of paragraph (1),
8 would be prohibited from participating in the
9 State program established under this part to
10 participate in the program for such additional
11 period or periods as the State determines ap-
12 propriate.

13 “(B) LIMITATION ON PERCENTAGE OF RE-
14 PEAT PARTICIPANTS.—

15 “(i) IN GENERAL.—Except as pro-
16 vided in clause (ii) of this subparagraph,
17 the number of individuals allowed under
18 subparagraph (A) to participate during a
19 program year in a State program estab-
20 lished under this part shall not exceed—

21 “(I) 10 percent of the total num-
22 ber of individuals who participated in
23 the State program established under
24 this part or the State program estab-

1 lished under part H during the imme-
2 diately preceding program year; or

3 “(II) in the case of fiscal year
4 2004 or any succeeding fiscal year, 15
5 percent of such total number of indi-
6 viduals.

7 “(ii) AUTHORITY TO INCREASE LIM-
8 TATION.—

9 “(I) PETITION.—A State may re-
10 quest the Secretary to increase to not
11 more than 15 percent the percentage
12 limitation imposed by clause (i)(I) for
13 a fiscal year before fiscal year 2004.

14 “(II) AUTHORITY TO GRANT RE-
15 QUEST.—The Secretary may approve
16 a request made pursuant to subclause
17 (I) if the Secretary deems it appro-
18 priate. The Secretary shall develop
19 recommendations on the criteria that
20 should be applied in evaluating re-
21 quests under subclause (I).

22 **“SEC. 488. CASELOAD PARTICIPATION RATES; PERFORM-**
23 **ANCE MEASURES.**

24 “(a) PARTICIPATION RATES.—

1 “(1) REQUIREMENT.—A State that operates a
 2 program under this part shall achieve a participation
 3 rate for the following fiscal years of not less than
 4 the following percentage:

“Fiscal year:	Percentage:
1997	20
1998	24
1999	28
2000	32
2001	36
2002	40
2003 or later	52.

5 “(2) PARTICIPATION RATE DEFINED.—

6 “(A) IN GENERAL.—As used in this sub-
 7 section, the term ‘participation rate’ means,
 8 with respect to a State and a fiscal year, an
 9 amount equal to—

10 “(i) the average monthly number of
 11 individuals who, during the fiscal year,
 12 participate in the State program estab-
 13 lished under this part or (if applicable)
 14 part G or H; divided by

15 “(ii) the average monthly number of
 16 individuals who are not described in sec-
 17 tion 402(c)(1)(D) and for whom an indi-
 18 vidual responsibility plan is in effect under
 19 section 403 during the fiscal year.

20 “(B) SPECIAL RULE.—For each of the 1st
 21 12 months after an individual ceases to receive

1 assistance under a State plan approved under
2 part A by reason of having become employed
3 for more than 25 hours per week in an
4 unsubsidized job in the private sector, the indi-
5 vidual shall be considered to be participating in
6 the State program established under this part,
7 and to be an adult recipient of such assistance,
8 for purposes of subparagraph (A).

9 “(3) STATE COMPLIANCE REPORTS.—Each
10 State that operates a program under this part for a
11 fiscal year shall submit to the Secretary a report on
12 the participation rate of the State for the fiscal year.

13 “(4) EFFECT OF FAILURE TO MEET PARTICIPA-
14 TION RATES.—

15 “(A) IN GENERAL.—If a State reports that
16 the State has failed to achieve the participation
17 rate required by paragraph (1) for the fiscal
18 year, the Secretary may make recommendations
19 for changes in the State program established
20 under this part and (if the State has estab-
21 lished a program under part G) the State pro-
22 gram established under part G. The State may
23 elect to follow such recommendations, and shall
24 demonstrate to the Secretary how the State will
25 achieve the required participation rates.

1 “(B) SECOND CONSECUTIVE FAILURE.—
2 Notwithstanding subparagraph (A), if a State
3 fails to achieve the participation rate required
4 by paragraph (1) for 2 consecutive fiscal years,
5 the Secretary may—

6 “(i) require the State to make
7 changes in the State program established
8 under this part and (if the State has estab-
9 lished a program under part G) the State
10 program established under part G; and

11 “(ii) reduce by 5 percent the amount
12 otherwise payable to the State under sec-
13 tion 413.

14 “(b) PERFORMANCE STANDARDS.—The Secretary
15 shall develop standards to be used to measure the effec-
16 tiveness of the programs established under this part and
17 part G in moving recipients of assistance under the State
18 plan approved under part A into full-time unsubsidized
19 employment.

20 “(c) PERFORMANCE-BASED MEASURES.—

21 “(1) ESTABLISHMENT.—The Secretary shall, by
22 regulation, establish measures of the effectiveness of
23 the State programs established under this part and
24 under part G in moving recipients of assistance
25 under the State plan approved under part A into

1 full-time unsubsidized employment, based on the
2 performance of such programs.

3 “(2) ANNUAL COMPLIANCE REPORTS.—Each
4 State that operates a program under this part shall
5 submit to the Secretary annual reports that compare
6 the achievements of the program with the perform-
7 ance-based measures established under paragraph
8 (1).

9 **“SEC. 489. FEDERAL ROLE.**

10 “(a) APPROVAL OF STATE PLANS.—

11 “(1) IN GENERAL.—Within 60 days after the
12 date a State submits to the Secretary a plan that
13 provides for the establishment and operation of a
14 work first program that meets the requirements of
15 section 481, the Secretary shall approve the plan.

16 “(2) AUTHORITY TO EXTEND APPROVAL DEAD-
17 LINE.—The 60-day deadline established in para-
18 graph (1) with respect to a State may be extended
19 in accordance with an agreement between the Sec-
20 retary and the State.

21 “(b) PERFORMANCE-BASED MEASURES.—The Sec-
22 retary shall, by regulation, establish measures of the effec-
23 tiveness of the State program established under this part
24 and (if the State has established a program under part
25 G) the State program established under part G in moving

1 recipients of assistance under the State plan approved
2 under part A into full-time unsubsidized employment,
3 based on the performance of such programs.

4 “(c) EFFECT OF FAILURE TO MEET PARTICIPATION
5 RATES.—

6 “(1) IN GENERAL.—If a State reports that the
7 State has failed to achieve the participation rate re-
8 quired by section 488 for the fiscal year, the Sec-
9 retary may make recommendations for changes in
10 the State program established under this part and
11 (if the State has established a program under part
12 G) the State program established under part G. The
13 State may elect to follow such recommendations, and
14 shall demonstrate to the Secretary how the State
15 will achieve the required participation rates.

16 “(2) SECOND CONSECUTIVE FAILURE.—Not-
17 withstanding paragraph (1), if the State has failed
18 to achieve the participation rates required by section
19 488 for 2 consecutive fiscal years, the Secretary may
20 require the State to make changes in the State pro-
21 gram established under this part and (if the State
22 has established a program under part G) the State
23 program established under part G.

1 **“Part G—Workfare Program**

2 **“SEC. 490. ESTABLISHMENT AND OPERATION OF PROGRAM.**

3 “(a) IN GENERAL.—A State that establishes a work
4 first program under part F may establish and carry out
5 a workfare program that meets the requirements of this
6 part, unless the State has established a job placement
7 voucher program under part H.

8 “(b) OBJECTIVE.—The objective of the workfare pro-
9 gram is for each program participant to find and hold a
10 full-time unsubsidized paid job, and for this goal to be
11 achieved in a cost-effective fashion.

12 “(c) CASE MANAGEMENT TEAMS.—The State shall
13 assign to each program participant a case management
14 team that shall meet with the participant and assist the
15 participant to choose the most suitable workfare job under
16 subsection (e), (f), or (g) and to eventually obtain a full-
17 time unsubsidized paid job.

18 “(d) PROVISION OF JOBS.—The State shall provide
19 each participant in the program with a community service
20 job that meets the requirements of subsection (e) or a sub-
21 sidized job that meets the requirements of subsection (f)
22 or (g).

23 “(e) COMMUNITY SERVICE JOBS.—

24 “(1) IN GENERAL.—Except as provided in para-
25 graphs (2) and (3), each participant shall work for
26 not fewer than 30 hours per week (or, at the option

1 of the State, 20 hours per week during fiscal years
2 1997 and 1998, not fewer than 25 hours per week
3 during fiscal year 1999, not fewer than 30 hours per
4 week during fiscal years 2000 and 2001, and not
5 fewer than 35 hours per week thereafter) in a com-
6 munity service job, and be paid at a rate which is
7 not greater than 75 percent (or, at the option of the
8 State, 100 percent) of the maximum amount of as-
9 sistance that may be provided under the State plan
10 approved under part A to a family of the same size
11 and composition with no income.

12 “(2) EXCEPTION.—(A) If the participant has
13 obtained unsubsidized part-time employment in the
14 private sector, the State shall provide the participant
15 with a part-time community service job.

16 “(B) If the State provides a participant a part-
17 time community service job under subparagraph (A),
18 the State shall ensure that the participant works for
19 not fewer than 30 hours per week.

20 “(3) WAGES NOT CONSIDERED EARNED IN-
21 COME.—Wages paid under a workfare program shall
22 not be considered to be earned income for purposes
23 of any provision of law.

1 “(4) COMMUNITY SERVICE JOB DEFINED.—For
2 purposes of this section, the term ‘community serv-
3 ice job’ means—

4 “(A) a job provided to a participant by the
5 State administering the State plan under part
6 A; or

7 “(B) a job provided to a participant by any
8 other employer for which all or part of the
9 wages are paid by the State.

10 A State may provide or subsidize under the program
11 any job which the State determines to be appro-
12 priate.

13 “(f) TEMPORARY SUBSIDIZED JOB CREATION.—A
14 State that establishes a workfare program under this part
15 may establish a program similar to the program operated
16 by the State of Oregon, which is known as ‘JOBS Plus’.

17 “(g) WORK SUPPLEMENTATION PROGRAM.—

18 “(1) IN GENERAL.—A State that establishes a
19 workfare program under this part may institute a
20 work supplementation program under which the
21 State, to the extent it considers appropriate, may re-
22 serve the sums that would otherwise be payable to
23 participants in the program as a community service
24 minimum wage and use the sums instead for the

1 purpose of providing and subsidizing private sector
2 jobs for the participants.

3 “(2) EMPLOYER AGREEMENT.—An employer
4 who provides a private sector job to a participant
5 under paragraph (1) shall agree to provide to the
6 participant an amount in wages equal to the poverty
7 threshold for a family of three.

8 “(h) JOB SEARCH REQUIREMENT.—The State shall
9 require each participant to spend a minimum of 5 hours
10 per week on activities related to securing unsubsidized
11 full-time employment in the private sector.

12 “(i) DURATION OF PARTICIPATION.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (2), an individual may not participate for
15 more than 2 years in a workfare program under this
16 part.

17 “(2) AUTHORITY TO ALLOW REPEATED PAR-
18 TICIPATION.—

19 “(A) IN GENERAL.—Subject to subpara-
20 graph (B), a State may allow an individual
21 who, by reason of paragraph (1), would be pro-
22 hibited from participating in the State program
23 established under this part to participate in the
24 program for such additional period or periods
25 as the State determines appropriate.

1 “(B) LIMITATION ON PERCENTAGE OF RE-
2 PEAT PARTICIPANTS.—

3 “(i) IN GENERAL.—Except as pro-
4 vided in clause (ii), the number of individ-
5 uals allowed under subparagraph (A) to
6 participate during a program year in a
7 State program established under this part
8 shall not exceed 10 percent of the total
9 number of individuals who participated in
10 the program during the immediately pre-
11 ceding program year.

12 “(ii) AUTHORITY TO INCREASE LIM-
13 TATION.—

14 “(I) PETITION.—A State may re-
15 quest the Secretary to increase the
16 percentage limitation imposed by
17 clause (i) to not more than 15 per-
18 cent.

19 “(II) AUTHORITY TO GRANT RE-
20 QUEST.—The Secretary may approve
21 a request made pursuant to subclause
22 (I) if the Secretary deems it appro-
23 priate. The Secretary shall develop
24 recommendations on the criteria that

1 should be applied in evaluating re-
2 quests under subclause (I).

3 “(j) USE OF PLACEMENT COMPANIES.—A State that
4 establishes a workfare program under this part may enter
5 into contracts with private companies (whether operated
6 for profit or not for profit) for the placement of partici-
7 pants in the program in positions of full-time employment,
8 preferably in the private sector, for wages sufficient to
9 eliminate the need of such participants for cash assistance
10 in accordance with section 483.

11 “(k) MAXIMUM OF 3 COMMUNITY SERVICE JOBS.—
12 A program participant may not receive more than 3 com-
13 munity service jobs under the program.

14 **“Part H—Job Placement Voucher Program**

15 **“SEC. 490A. JOB PLACEMENT VOUCHER PROGRAM.**

16 “A State that is not operating a workfare program
17 under part G may establish a job placement voucher pro-
18 gram that meets the following requirements:

19 “(1) The program shall offer each program par-
20 ticipant a voucher which the participant may use to
21 obtain employment in the private sector.

22 “(2) An employer who receives a voucher issued
23 under the program from an individual may redeem
24 the voucher at any time after the individual has been
25 employed by the employer for 6 months, unless an-

1 other employee of the employer was displaced by the
2 employment of the individual.

3 “(3) Upon presentation of a voucher by an em-
4 ployer to the State agency responsible for the admin-
5 istration of the program, the State agency shall pay
6 to the employer an amount equal to 50 percent of
7 the total amount of assistance provided under the
8 State plan approved under part A to the family of
9 which the individual is a member for the most recent
10 12 months for which the family was eligible for such
11 assistance.”.

12 (c) FUNDING.—Section 413(a), as added by section
13 9101(a) of this Act, is amended—

14 (1) by striking “Subject to” and inserting the
15 following:

16 “(1) IN GENERAL.—Subject to”; and

17 (2) by inserting after and below the end the fol-
18 lowing:

19 “(2) WORK FIRST AND OTHER PROGRAMS.—(A)
20 Each State that is operating a program in accord-
21 ance with a plan approved under part F and a pro-
22 gram in accordance with part G or H shall be enti-
23 tled to payments under paragraph (3) for any fiscal
24 year in an amount equal to the sum of the applicable
25 percentages (specified in such paragraph) of its ex-

1 penditures to carry out such programs (subject to
2 limitations prescribed by or pursuant to such parts
3 or this part on expenditures that may be included
4 for purposes of determining payment under para-
5 graph (3)), but such payments for any fiscal year in
6 the case of any State may not exceed the limitation
7 determined under subparagraph (B) with respect to
8 the State.

9 “(B) The limitation determined under this sub-
10 paragraph with respect to a State for any fiscal year
11 is the amount that bears the same ratio to the
12 amount specified in subparagraph (C) for such fiscal
13 year as the average monthly number of adult recipi-
14 ents (as defined in subparagraph (D)) in the State
15 in the preceding fiscal year bears to the average
16 monthly number of such recipients in all the States
17 for such preceding year.

18 “(C)(i) The amount specified in this subpara-
19 graph is—

20 “(I) \$1,600,000,000 for fiscal year 1997;

21 “(II) \$1,600,000,000 for fiscal year 1998;

22 “(III) \$1,900,000,000 for fiscal year 1999;

23 “(IV) \$2,500,000,000 for fiscal year 2000;

24 and

1 “(V) \$3,200,000,000 for fiscal year 2001;

2 and

3 “(VI) \$4,700,000,000 for fiscal year 2002;

4 and

5 “(VII) the amount determined under
6 clause (ii) for fiscal year 2003 and each suc-
7 ceeding fiscal year.

8 “(ii) The amount determined under this clause
9 for a fiscal year is the product of the following:

10 “(I) The amount specified in this subpara-
11 graph for the immediately preceding fiscal year.

12 “(II) 1.00 plus the percentage (if any) by
13 which—

14 “(aa) the average of the Consumer
15 Price Index (as defined in section 1(f)(5)
16 of the Internal Revenue Code of 1986) for
17 the most recent 12-month period for which
18 such information is available; exceeds

19 “(bb) the average of the Consumer
20 Price Index (as so defined) for the 12-
21 month period ending on June 30 of the
22 2nd preceding fiscal year.

23 “(III) The amount that bears the same
24 ratio to the amount specified in this subpara-
25 graph for the immediately preceding fiscal year

1 as the number of individuals whom the Sec-
2 retary estimates will participate in programs
3 operated under part F, G, or H during the fis-
4 cal year bears to the total number of individuals
5 who participated in such programs during such
6 preceding fiscal year.

7 “(D) For purposes of this paragraph, the term
8 ‘adult recipient’ in the case of any State means an
9 individual other than a dependent child (unless such
10 child is the custodial parent of another dependent
11 child) whose needs are met (in whole or in part)
12 with assistance provided under the State plan ap-
13 proved under this part.

14 “(E) For purposes of subparagraph (D), the
15 term ‘dependent child’ means a needy child (i) who
16 has been deprived of parental support or care by
17 reason of the death, continued absence from the
18 home (other than absence occasioned solely by rea-
19 son of the performance of active duty in the uni-
20 formed services of the United States), or physical or
21 mental incapacity of a parent, and who is living with
22 his father, mother, grandfather, grandmother, broth-
23 er, sister, stepfather, stepmother, stepbrother, step-
24 sister, uncle, aunt, first cousin, nephew, or niece, in
25 a place of residence maintained by one or more of

1 such relatives as his or their own home, and (ii) who
2 is (I) under the age of eighteen, or (II) at the option
3 of the State, under the age of nineteen and a full-
4 time student in a secondary school (or in the equiva-
5 lent level of vocational or technical training), if, be-
6 fore he attains age nineteen, he may reasonably be
7 expected to complete the program of such secondary
8 school (or such training).

9 “(F) For purposes of subparagraph (E), the
10 term ‘relative with whom any dependent child is liv-
11 ing’ means the individual who is one of the relatives
12 specified in subparagraph (E) and with whom such
13 child is living (within the meaning of such sub-
14 section) in a place of residence maintained by such
15 individual (himself or together with any one or more
16 of the other relatives so specified) as his (or their)
17 own home.

18 “(3)(A) In lieu of any payment under para-
19 graph (1) therefor, the Secretary shall pay to each
20 State that is operating a program in accordance
21 with a plan approved under part F and a program
22 in accordance with part G or H, with respect to ex-
23 penditures by the State to carry out such programs,
24 an amount equal to—

1 “(i) with respect to so much of such ex-
2 penditures in a fiscal year as do not exceed the
3 State’s expenditures in the fiscal year 1987
4 with respect to which payments were made to
5 such State from its allotment for such fiscal
6 year pursuant to part C of this title as then in
7 effect, 90 percent; and

8 “(ii) with respect to so much of such ex-
9 penditures in a fiscal year as exceed the amount
10 described in clause (i)—

11 “(I) 50 percent, in the case of expend-
12 itures for administrative costs made by a
13 State in operating such programs for such
14 fiscal year (other than the personnel costs
15 for staff employed full-time in the oper-
16 ation of such program) and the costs of
17 transportation and other work-related sup-
18 portive services; and

19 “(II) 60 percent or the Federal medi-
20 cal assistance percentage (as defined in the
21 last sentence of section 1118), whichever is
22 the greater, in the case of expenditures
23 made by a State in operating such pro-
24 grams for such fiscal year (other than for
25 costs described in subclause (I)).

1 “(B) With respect to the amount for which pay-
2 ment is made to a State under subparagraph (A)(i),
3 the State’s expenditures for the costs of operating
4 such programs may be in cash or in kind, fairly eval-
5 uated.

6 “(C) Not more than 10 percent of the amount
7 payable to a State under this paragraph for a quar-
8 ter may be for expenditures made during the quarter
9 with respect to program participants who are not eli-
10 gible for assistance under the State plan approved
11 under this part.”.

12 (d) SECRETARY’S SPECIAL ADJUSTMENT FUND.—
13 Section 413(a), as added by section 9101(a) of this Act,
14 is amended by adding at the end the following:

15 “(4) SECRETARY’S SPECIAL ADJUSTMENT
16 FUND.—(A) There shall be available to the Sec-
17 retary from the amount appropriated for payments
18 under paragraph (2) for States’ programs under
19 parts F and G for fiscal year 1996, \$300,000,000
20 for special adjustments to States’ limitations on
21 Federal payments for such programs.

22 “(B) A State may, not later than March 1 and
23 September 1 of each fiscal year, submit to the Sec-
24 retary a request to adjust the limitation on pay-
25 ments under this section with respect to its program

1 under part F (and, in fiscal years after 1997) its
2 program under part G for the following fiscal year.
3 The Secretary shall only consider such a request
4 from a State which has, or which demonstrates con-
5 vincingly on the basis of estimates that it will, sub-
6 mit allowable claims for Federal payment in the full
7 amount available to it under paragraph (2) in the
8 current fiscal year and obligated 95 percent of its
9 full amount in the prior fiscal year. The Secretary
10 shall by regulation prescribe criteria for the equi-
11 table allocation among the States of Federal pay-
12 ments pursuant to adjustments of the limitations re-
13 ferred to in the preceding sentence in the case where
14 the requests of all States that the Secretary finds
15 reasonable exceed the amount available, and, within
16 30 days following the dates specified in this para-
17 graph, will notify each State whether one or more
18 of its limitations will be adjusted in accordance with
19 the State's request and the amount of the adjust-
20 ment (which may be some or all of the amount re-
21 quested).

22 “(C) The Secretary may adjust the limitation
23 on Federal payments to a State for a fiscal year
24 under paragraph (2), and upon a determination by
25 the Secretary that (and the amount by which) a

1 State's limitation should be raised, the amount spec-
2 ified in such paragraph shall be considered to be so
3 increased for the following fiscal year.

4 “(D) The amount made available under sub-
5 paragraph (A) for special adjustments shall remain
6 available to the Secretary until expended. That
7 amount shall be reduced by the sum of the adjust-
8 ments approved by the Secretary in any fiscal year,
9 and the amount shall be increased in a fiscal year
10 by the amount by which all States' limitations under
11 paragraph (2) of this subsection and section 2008
12 for a fiscal year exceeded the sum of the Federal
13 payments under such provisions of law for such fiscal
14 year, but for fiscal years after 1997, such amount
15 at the end of such fiscal year shall not exceed
16 \$400,000,000.”.

17 (e) CONFORMING AMENDMENTS.—

18 (1) Section 1115(b)(2)(A) (42 U.S.C.
19 1315(b)(2)(A)) is amended by striking “, and
20 402(a)(19) (relating to the work incentive pro-
21 gram)”.

22 (2) Section 1108 (42 U.S.C. 1308) is amend-
23 ed—

1 (A) in subsection (a), by striking “or, in
2 the case of part A of title IV, section 403(k)”;
3 and

4 (B) in subsection (d), by striking “(exclu-
5 sive of any amounts on account of services and
6 items to which, in the case of part A of such
7 title, section 403(k) applies)”.

8 (3) Section 1902(a)(10)(A)(i)(I) (42 U.S.C.
9 1396a(a)(19)(A)(i)(I)) is amended—

10 (A) by striking “402(a)(37), 406(h), or”;
11 and

12 (B) by striking “482(e)(6)” and inserting
13 “486(f)”.

14 (4) Section 1928(a)(1) (42 U.S.C. 1396s(a)(1))
15 is amended by striking “482(e)(6)” and inserting
16 “486(f)”.

17 (f) INTENT OF THE CONGRESS.—The Congress in-
18 tends for State activities under section 484 of the Social
19 Security Act (as added by the amendment made by section
20 9301(a) of this Act) to emphasize the use of the funds
21 that would otherwise be used to provide individuals with
22 assistance under part A of title IV of the Social Security
23 Act and with food stamp benefits under the Food Stamp
24 Act of 1977, to subsidize the wages of such individuals
25 in temporary jobs.

1 (g) SENSE OF THE CONGRESS.—It is the sense of
2 the Congress that States should target individuals who
3 have not attained 25 years of age for participation in the
4 program established by the State under part F of title IV
5 of the Social Security Act (as added by the amendment
6 made by section 9301(a) of this section) in order to break
7 the cycle of welfare dependency.

8 **SEC. 9302. REGULATIONS.**

9 The Secretary of Health and Human Services shall
10 prescribe such regulations as may be necessary to imple-
11 ment the amendments made by this subtitle.

12 **SEC. 9303. APPLICABILITY TO STATES.**

13 (a) STATE OPTION TO ACCELERATE APPLICABIL-
14 ITY.—If a State formally notifies the Secretary of Health
15 and Human Services that the State desires to accelerate
16 the applicability to the State of the amendments made by
17 this subtitle, the amendments shall apply to the State on
18 and after such earlier date as the State may select.

19 (b) STATE OPTION TO DELAY APPLICABILITY UNTIL
20 WAIVERS EXPIRE.—The amendments made by this sub-
21 title shall not apply to a State with respect to which there
22 is in effect a waiver issued under section 1115 of the So-
23 cial Security Act for the State program established under
24 part F of title IV of such Act, until the waiver expires,
25 if the State formally notifies the Secretary of Health and

1 Human Services that the State desires to so delay such
2 effective date.

3 (c) AUTHORITY OF THE SECRETARY OF HEALTH
4 AND HUMAN SERVICES TO DELAY APPLICABILITY TO A
5 STATE.—If a State formally notifies the Secretary of
6 Health and Human Services that the State desires to
7 delay the applicability to the State of the amendments
8 made by this title, the amendments shall apply to the
9 State on and after any later date agreed upon by the Sec-
10 retary and the State.

11 **Subtitle D—Family Responsibility**
12 **And Improved Child Support**
13 **Enforcement**

14 **CHAPTER 1—ELIGIBILITY AND OTHER**
15 **MATTERS CONCERNING TITLE IV-D**
16 **PROGRAM CLIENTS**

17 **SEC. 9401. STATE OBLIGATION TO PROVIDE PATERNITY ES-**
18 **TABLISHMENT AND CHILD SUPPORT EN-**
19 **FORCEMENT SERVICES.**

20 (a) STATE LAW REQUIREMENTS.—Section 466(a)
21 (42 U.S.C. 666(a)) is amended by inserting after para-
22 graph (11) the following:

23 “(12) USE OF CENTRAL CASE REGISTRY AND
24 CENTRALIZED COLLECTIONS UNIT.—Procedures
25 under which—

1 “(A) every child support order established
2 or modified in the State on or after October 1,
3 1998, is recorded in the central case registry
4 established in accordance with section 454A(e);
5 and

6 “(B) child support payments are collected
7 through the centralized collections unit estab-
8 lished in accordance with section 454B—

9 “(i) on and after October 1, 1998,
10 under each order subject to wage withhold-
11 ing under section 466(b); and

12 “(ii) on and after October 1, 1999,
13 under each other order required to be re-
14 corded in such central case registry under
15 this paragraph or section 454A(e), except
16 as provided in subparagraph (C); and

17 “(C)(i) parties subject to a child support
18 order described in subparagraph (B)(ii) may
19 opt out of the procedure for payment of support
20 through the centralized collections unit (but not
21 the procedure for inclusion in the central case
22 registry) by filing with the State agency a writ-
23 ten agreement, signed by both parties, to an
24 alternative payment procedure; and

1 “(ii) an agreement described in clause (i)
2 becomes void whenever either party advises the
3 State agency of an intent to vacate the agree-
4 ment.”.

5 (b) STATE PLAN REQUIREMENTS.—Section 454 (42
6 U.S.C. 654) is amended—

7 (1) by striking paragraph (4) and inserting the
8 following:

9 “(4) provide that such State will undertake—

10 “(A) to provide appropriate services under
11 this part to—

12 “(i) each child with respect to whom
13 an assignment is effective under section
14 403(b)(1)(E)(i), 471(a)(17), or 1912 (ex-
15 cept in cases where the State agency deter-
16 mines, in accordance with paragraph (25),
17 that it is against the best interests of the
18 child to do so); and

19 “(ii) each child not described in clause
20 (i)—

21 “(I) with respect to whom an in-
22 dividual applies for such services; and

23 “(II) (on and after October 1,
24 1998) each child with respect to
25 whom a support order is recorded in

1 the central State case registry estab-
2 lished under section 454A, regardless
3 of whether application is made for
4 services under this part; and

5 “(B) to enforce the support obligation es-
6 tablished with respect to the custodial parent of
7 a child described in subparagraph (A) unless
8 the parties to the order which establishes the
9 support obligation have opted, in accordance
10 with section 466(a)(12)(C), for an alternative
11 payment procedure.”; and

12 (2) in paragraph (6)—

13 (A) by striking subparagraph (A) and in-
14 serting the following:

15 “(A) services under the State plan shall be
16 made available to nonresidents on the same
17 terms as to residents;”;

18 (B) in subparagraph (B)—

19 (i) by inserting “on individuals not re-
20 ceiving assistance under part A” after
21 “such services shall be imposed”; and

22 (ii) by inserting “but no fees or costs
23 shall be imposed on any absent or custo-
24 dial parent or other individual for inclusion

1 in the central State registry maintained
2 pursuant to section 454A(e)”; and

3 (C) in each of subparagraphs (B), (C), and
4 (D)—

5 (i) by indenting such subparagraph
6 and aligning its left margin with the left
7 margin of subparagraph (A); and

8 (ii) by striking the final comma and
9 inserting a semicolon.

10 (c) CONFORMING AMENDMENTS.—

11 (1) Section 452(g)(2)(A) (42 U.S.C.
12 652(g)(2)(A)) is amended by striking “454(6)” each
13 place it appears and inserting “454(4)(A)(ii)”.

14 (2) Section 454(23) (42 U.S.C. 654(23)) is
15 amended, effective October 1, 1998, by striking “in-
16 formation as to any application fees for such services
17 and”.

18 (3) Section 466(a)(3)(B) (42 U.S.C.
19 666(a)(3)(B)) is amended by striking “in the case of
20 overdue support which a State has agreed to collect
21 under section 454(6)” and inserting “in any other
22 case”.

23 (4) Section 466(e) (42 U.S.C. 666(e)) is
24 amended by striking “or (6)”.

1 **SEC. 9402. DISTRIBUTION OF PAYMENTS.**

2 (a) DISTRIBUTIONS THROUGH STATE CHILD SUP-
3 PORT ENFORCEMENT AGENCY TO FORMER ASSISTANCE
4 RECIPIENTS.—Section 454(5) (42 U.S.C. 654(5)) is
5 amended—

6 (1) in subparagraph (A)—

7 (A) by striking section 402(a)(26) is effec-
8 tive,” and inserting “section 403(b)(1)(E)(i) is
9 effective, except as otherwise specifically pro-
10 vided in section 464 or 466(a)(3),”; and

11 (B) by striking “except that” and all that
12 follows through the semicolon; and

13 (2) in subparagraph (B), by striking “, except”
14 and all that follows through “medical assistance”.

15 (b) DISTRIBUTION TO A FAMILY CURRENTLY RE-
16 CEIVING TEMPORARY EMPLOYMENT ASSISTANCE.—Sec-
17 tion 457 (42 U.S.C. 657) is amended—

18 (1) by striking subsection (a) and redesignating
19 subsection (b) as subsection (a);

20 (2) in subsection (a) (as so redesignated)—

21 (A) in the matter preceding paragraph (2),
22 to read as follows:

23 “(a) IN THE CASE OF A FAMILY RECEIVING TEA.—
24 Amounts collected under this part during any month as
25 support of a child who is receiving assistance under part
26 A (or a parent or caretaker relative of such a child) shall

1 (except in the case of a State exercising the option under
2 subsection (b)) be distributed as follows:

3 “(1) an amount equal to the amount that will
4 be disregarded pursuant to section 402(d)(2)(C)
5 shall be taken from each of—

6 “(A) the amounts received in a month
7 which represent payments for that month; and

8 “(B) the amounts received in a month
9 which represent payments for a prior month
10 which were made by the absent parent in that
11 prior month;

12 and shall be paid to the family without affecting its
13 eligibility for assistance or decreasing any amount
14 otherwise payable as assistance to such family dur-
15 ing such month;”;

16 (B) in paragraph (4), by striking “or (B)”
17 and all that follows through the period and in-
18 serting “; then (B) from any remainder,
19 amounts equal to arrearages of such support
20 obligations assigned, pursuant to part A, to any
21 other State or States shall be paid to such
22 other State or States and used to pay any such
23 arrearages (with appropriate reimbursement of
24 the Federal Government to the extent of its

1 participation in the financing); and then (C)
2 any remainder shall be paid to the family.”; and

3 (3) by inserting after subsection (a) (as so re-
4 designated) the following new subsection:

5 “(b) ALTERNATIVE DISTRIBUTION IN CASE OF FAM-
6 ILY RECEIVING TEA.—In the case of a State electing the
7 option under this subsection, amounts collected as de-
8 scribed in subsection (a) shall be distributed as follows:

9 “(1) an amount equal to the amount that will
10 be disregarded pursuant to section 402(d)(2)(C)
11 shall be taken from each of—

12 “(A) the amounts received in a month
13 which represent payments for that month; and

14 “(B) the amounts received in a month
15 which represent payments for a prior month
16 which were made by the absent parent in that
17 prior month;

18 and shall be paid to the family without affecting its
19 eligibility for assistance or decreasing any amount
20 otherwise payable as assistance to such family dur-
21 ing such month;

22 “(2) second, from any remainder, amounts
23 equal to the balance of support owed for the current
24 month shall be paid to the family;

1 “(3) third, from any remainder, amounts equal
2 to arrearages of such support obligations assigned,
3 pursuant to part A, to the State making the collec-
4 tion shall be retained and used by such State to pay
5 any such arrearages (with appropriate reimburse-
6 ment of the Federal Government to the extent of its
7 participation in the financing);

8 “(4) fourth, from any remainder, amounts
9 equal to arrearages of such support obligations as-
10 signed, pursuant to part A, to any other State or
11 States shall be paid to such other State or States
12 and used to pay any such arrearages (with appro-
13 priate reimbursement of the Federal Government to
14 the extent of its participation in the financing); and

15 “(5) fifth, any remainder shall be paid to the
16 family.”.

17 (c) DISTRIBUTION TO A FAMILY NOT RECEIVING
18 TEA.—Section 457(c) (42 U.S.C. 657(c)) is amended to
19 read as follows:

20 “(c) DISTRIBUTIONS IN CASE OF FAMILY NOT RE-
21 CEIVING TEA.—Amounts collected by a State agency
22 under this part during any month as support of a child
23 who is not receiving assistance under part A (or of a par-
24 ent or caretaker relative of such a child) shall (subject to

1 the remaining provisions of this section) be distributed as
2 follows:

3 “(1) first, amounts equal to the total of such
4 support owed for such month shall be paid to the
5 family;

6 “(2) second, from any remainder, amounts
7 equal to arrearages of such support obligations for
8 months during which such child did not receive as-
9 sistance under part A shall be paid to the family;

10 “(3) third, from any remainder, amounts equal
11 to arrearages of such support obligations assigned to
12 the State making the collection pursuant to part A
13 shall be retained and used by such State to pay any
14 such arrearages (with appropriate reimbursement of
15 the Federal Government to the extent of its partici-
16 pation in the financing); and

17 “(4) fourth, from any remainder, amounts
18 equal to arrearages of such support obligations as-
19 signed to any other State pursuant to part A shall
20 be paid to such other State or States, and used to
21 pay such arrearages, in the order in which such ar-
22 rearages accrued (with appropriate reimbursement
23 of the Federal Government to the extent of its par-
24 ticipation in the financing).”.

1 (d) DISTRIBUTION TO A CHILD RECEIVING ASSIST-
2 ANCE UNDER TITLE IV–E.—Section 457(d) (42 U.S.C.
3 657(d)) is amended, in the matter preceding paragraph
4 (1), by striking “Notwithstanding the preceding provisions
5 of this section, amounts” and inserting the following:

6 “(d) DISTRIBUTIONS IN CASE OF A CHILD RECEIV-
7 ING ASSISTANCE UNDER TITLE IV–E.—Amounts”.

8 (e) REGULATIONS.—The Secretary of Health and
9 Human Services shall promulgate regulations under part
10 A of title IV of the Social Security Act, establishing stand-
11 ards applicable to States electing the alternative formula
12 under section 457(b) of such Act for distribution of collec-
13 tions on behalf of families receiving temporary employ-
14 ment assistance, designed to minimize irregular monthly
15 payments to such families.

16 (f) CLERICAL AMENDMENTS.—Section 454 (42
17 U.S.C. 654) is amended—

18 (1) in paragraph (11)—

19 (A) by striking “(11)” and inserting
20 “(11)(A)”; and

21 (B) by inserting after the semicolon “and”;

22 and

23 (2) by redesignating paragraph (12) as sub-
24 paragraph (B) of paragraph (11).

25 (g) EFFECTIVE DATES.—

1 (1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, the amendments made by
3 this section shall become effective on October 1,
4 1996.

5 (2) FAMILY NOT RECEIVING TEA.—The amend-
6 ment made by subsection (c) shall become effective
7 on October 1, 1999.

8 (3) SPECIAL RULES.—

9 (A) APPLICABILITY.—A State may elect to
10 have the amendments made by any subsection
11 of this section become effective only with re-
12 spect to child support cases beginning on or
13 after the effective date of such subsection.

14 (B) DELAYED IMPLEMENTATION.—A State
15 may elect to have the amendments made by this
16 section (other than subsection (c)) become ef-
17 fective on a date later than October 1, 1996,
18 which date shall coincide with the operation of
19 the single statewide automated data processing
20 and information retrieval system required by
21 section 454A of the Social Security Act (as
22 added by section 9415(a)(2) of this Act) and
23 the State centralized collection unit required by
24 section 454B of the Social Security Act (as
25 added by section 9422(b) of this Act).

1 **SEC. 9403. DUE PROCESS RIGHTS.**

2 (a) IN GENERAL.—Section 454 (42 U.S.C. 654), as
3 amended by section 9402(f) of this Act, is amended by
4 inserting after paragraph (11) the following new para-
5 graph:

6 “(12) provide for procedures to ensure that—

7 “(A) individuals who are applying for or
8 receiving services under this part, or are parties
9 to cases in which services are being provided
10 under this part—

11 “(i) receive notice of all proceedings in
12 which support obligations might be estab-
13 lished or modified; and

14 “(ii) receive a copy of any order estab-
15 lishing or modifying a child support obliga-
16 tion, or (in the case of a petition for modi-
17 fication) a notice of determination that
18 there should be no change in the amount
19 of the child support award, within 14 days
20 after issuance of such order or determina-
21 tion;

22 “(B) individuals applying for or receiving
23 services under this part have access to a fair
24 hearing that meets standards established by the
25 Secretary and ensures prompt consideration
26 and resolution of complaints (but the resort to

1 such procedure shall not stay the enforcement
2 of any support order); and

3 “(C) individuals adversely affected by the
4 establishment or modification of (or, in the case
5 of a petition for modification, the determination
6 that there should be no change in) a child sup-
7 port order shall be afforded not less than 30
8 days after the receipt of the order or determina-
9 tion to initiate proceedings to challenge such
10 order or determination;”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall become effective on October 1, 1997.

13 **SEC. 9404. PRIVACY SAFEGUARDS.**

14 (a) STATE PLAN REQUIREMENT.—Section 454 (42
15 U.S.C. 454) is amended—

16 (1) by striking “and” at the end of paragraph
17 (23);

18 (2) by striking the period at the end of para-
19 graph (24) and inserting “; and”; and

20 (3) by adding after paragraph (24) the follow-
21 ing:

22 “(25) will have in effect safeguards applicable
23 to all sensitive and confidential information handled
24 by the State agency designed to protect the privacy
25 rights of the parties, including—

1 “(A) safeguards against unauthorized use
2 or disclosure of information relating to proceed-
3 ings or actions to establish paternity, or to es-
4 tablish or enforce support;

5 “(B) prohibitions on the release of infor-
6 mation on the whereabouts of one party to an-
7 other party against whom a protective order
8 with respect to the former party has been en-
9 tered; and

10 “(C) prohibitions on the release of infor-
11 mation on the whereabouts of one party to an-
12 other party if the State has reason to believe
13 that the release of the information may result
14 in physical or emotional harm to the former
15 party.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall become effective on October 1, 1997.

18 **CHAPTER 2—PROGRAM ADMINISTRATION**

19 **AND FUNDING**

20 **SEC. 9411. FEDERAL MATCHING PAYMENTS.**

21 (a) INCREASED BASE MATCHING RATE.—Section
22 455(a)(2) (42 U.S.C. 655(a)(2)) is amended to read as
23 follows:

24 “(2) The applicable percent for a quarter for
25 purposes of paragraph (1)(A) is—

1 “(A) for fiscal year 1997, 69 percent,
2 “(B) for fiscal year 1998, 72 percent, and
3 “(C) for fiscal year 1999 and succeeding
4 fiscal years, 75 percent.”.

5 (b) MAINTENANCE OF EFFORT.—Section 455 (42
6 U.S.C. 655) is amended—

7 (1) in subsection (a)(1), in the matter preced-
8 ing subparagraph (A), by striking “From” and in-
9 serting “Subject to subsection (c), from”; and
10 (2) by inserting after subsection (b) the follow-
11 ing new subsection:

12 “(c) MAINTENANCE OF EFFORT.—Notwithstanding
13 the provisions of subsection (a), total expenditures for the
14 State program under this part for fiscal year 1997 and
15 each succeeding fiscal year, reduced by the percentage
16 specified for such fiscal year under subsection (a)(2)(A),
17 (B), or (C)(i), shall not be less than such total expendi-
18 tures for fiscal year 1996, reduced by 66 percent.”.

19 **SEC. 9412. PERFORMANCE-BASED INCENTIVES AND PEN-**
20 **ALTIES.**

21 (a) INCENTIVE ADJUSTMENTS TO FEDERAL MATCH-
22 ING RATE.—Section 458 (42 U.S.C. 658) is amended to
23 read as follows:

24 “INCENTIVE ADJUSTMENTS TO MATCHING RATE
25 “SEC. 458. (a) INCENTIVE ADJUSTMENT.—(1) IN
26 GENERAL.—In order to encourage and reward State child

1 support enforcement programs which perform in an effec-
2 tive manner, the Federal matching rate for payments to
3 a State under section 455(a)(1)(A), for each fiscal year
4 beginning on or after October 1, 1998, shall be increased
5 by a factor reflecting the sum of the applicable incentive
6 adjustments (if any) determined in accordance with regu-
7 lations under this section with respect to Statewide pater-
8 nity establishment and to overall performance in child sup-
9 port enforcement.

10 “(2) STANDARDS.—(A) IN GENERAL.—The Sec-
11 retary shall specify in regulations—

12 “(i) the levels of accomplishment, and rates of
13 improvement as alternatives to such levels, which
14 States must attain to qualify for incentive adjust-
15 ments under this section; and

16 “(ii) the amounts of incentive adjustment that
17 shall be awarded to States achieving specified ac-
18 complishment or improvement levels, which amounts
19 shall be graduated, ranging up to—

20 “(I) 5 percentage points, in connection
21 with Statewide paternity establishment; and

22 “(II) 10 percentage points, in connection
23 with overall performance in child support en-
24 forcement.

1 “(B) LIMITATION.—In setting performance stand-
2 ards pursuant to subparagraph (A)(i) and adjustment
3 amounts pursuant to subparagraph (A)(ii), the Secretary
4 shall ensure that the aggregate number of percentage
5 point increases as incentive adjustments to all States do
6 not exceed such aggregate increases as assumed by the
7 Secretary in estimates of the cost of this section as of
8 June 1995, unless the aggregate performance of all States
9 exceeds the projected aggregate performance of all States
10 in such cost estimates.

11 “(3) DETERMINATION OF INCENTIVE ADJUST-
12 MENT.—The Secretary shall determine the amount (if
13 any) of incentive adjustment due each State on the basis
14 of the data submitted by the State pursuant to section
15 454(15)(B) concerning the levels of accomplishment (and
16 rates of improvement) with respect to performance indica-
17 tors specified by the Secretary pursuant to this section.

18 “(4) FISCAL YEAR SUBJECT TO INCENTIVE ADJUST-
19 MENT.—The total percentage point increase determined
20 pursuant to this section with respect to a State program
21 in a fiscal year shall apply as an adjustment to the appli-
22 cable percent under section 455(a)(2) for payments to
23 such State for the succeeding fiscal year.

24 “(5) RECYCLING OF INCENTIVE ADJUSTMENT.—A
25 State shall expend in the State program under this part

1 all funds paid to the State by the Federal Government
2 as a result of an incentive adjustment under this section.

3 “(b) MEANING OF TERMS.—For purposes of this sec-
4 tion—

5 “(1) the term ‘Statewide paternity establish-
6 ment percentage’ means, with respect to a fiscal
7 year, the ratio (expressed as a percentage) of—

8 “(A) the total number of out-of-wedlock
9 children in the State under one year of age for
10 whom paternity is established or acknowledged
11 during the fiscal year, to

12 “(B) the total number of children born out
13 of wedlock in the State during such fiscal year;
14 and

15 “(2) the term ‘overall performance in child sup-
16 port enforcement’ means a measure or measures of
17 the effectiveness of the State agency in a fiscal year
18 which takes into account factors including—

19 “(A) the percentage of cases requiring a
20 child support order in which such an order was
21 established;

22 “(B) the percentage of cases in which child
23 support is being paid;

24 “(C) the ratio of child support collected to
25 child support due; and

1 “(D) the cost-effectiveness of the State
2 program, as determined in accordance with
3 standards established by the Secretary in regu-
4 lations.”.

5 (b) ADJUSTMENT OF PAYMENTS UNDER PART D OF
6 TITLE IV.—Section 455(a)(2) (42 U.S.C. 655(a)(2)), as
7 amended by section 9411(a) of this Act, is amended—

8 (1) by striking the period at the end of sub-
9 paragraph (C)(ii) and inserting a comma; and

10 (2) by adding after and below subparagraph
11 (C), flush with the left margin of the subsection, the
12 following:

13 “increased by the incentive adjustment factor (if any) de-
14 termined by the Secretary pursuant to section 458.”.

15 (c) CONFORMING AMENDMENTS.—Section 454(22)
16 (42 U.S.C. 654(22)) is amended—

17 (1) by striking “incentive payments” the first
18 place it appears and inserting “incentive adjust-
19 ments”; and

20 (2) by striking “any such incentive payments
21 made to the State for such period” and inserting
22 “any increases in Federal payments to the State re-
23 sulting from such incentive adjustments”.

24 (d) CALCULATION OF IV-D PATERNITY ESTABLISH-
25 MENT PERCENTAGE.—(1) Section 452(g)(1) (42 U.S.C.

1 652(g)(1)) is amended in the matter preceding subpara-
2 graph (A) by inserting “its overall performance in child
3 support enforcement is satisfactory (as defined in section
4 458(b) and regulations of the Secretary), and” after
5 “1994,”.

6 (2) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is
7 amended—

8 (A) in subparagraph (A), in the matter preced-
9 ing clause (i)—

10 (i) by striking “paternity establishment
11 percentage” and inserting “IV-D paternity es-
12 tablishment percentage”; and

13 (ii) by striking “(or all States, as the case
14 may be)”;

15 (B) in subparagraph (A)(i), by striking “during
16 the fiscal year”;

17 (C) in subparagraph (A)(ii)(I), by striking “as
18 of the end of the fiscal year” and inserting “in the
19 fiscal year or, at the option of the State, as of the
20 end of such year”;

21 (D) in subparagraph (A)(ii)(II), by striking “or
22 (E) as of the end of the fiscal year” and inserting
23 “in the fiscal year or, at the option of the State, as
24 of the end of such year”;

25 (E) in subparagraph (A)(iii)—

1 (i) by striking “during the fiscal year”;

2 and

3 (ii) by striking “and” at the end; and

4 (F) in the matter following subparagraph (A)—

5 (i) by striking “who were born out of wed-
6 lock during the immediately preceding fiscal
7 year” and inserting “born out of wedlock”;

8 (ii) by striking “such preceding fiscal
9 year” both places it appears and inserting “the
10 preceding fiscal year”; and

11 (iii) by striking “or (E)” the second place
12 it appears.

13 (3) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is
14 amended—

15 (A) by striking subparagraph (A) and redesignating
16 subparagraphs (B) and (C) as subparagraphs
17 (A) and (B), respectively;

18 (B) in subparagraph (A), as redesignated, by
19 striking “the percentage of children born out-of-wed-
20 lock in the State” and inserting “the percentage of
21 children in the State who are born out of wedlock
22 or for whom support has not been established”; and

23 (C) in subparagraph (B), as redesignated—

1 (i) by inserting “and overall performance
2 in child support enforcement” after “paternity
3 establishment percentages”; and

4 (ii) by inserting “and securing support”
5 before the period.

6 (e) REDUCTION OF PAYMENTS UNDER PART D OF
7 TITLE IV.—

8 (1) NEW REQUIREMENTS.—Section 455 (42
9 U.S.C. 655) is amended by inserting after sub-
10 section (b) the following:

11 “(c)(1) If the Secretary finds, with respect to a State
12 program under this part in a fiscal year beginning on or
13 after October 1, 1997—

14 “(A)(i) on the basis of data submitted by a
15 State pursuant to section 454(15)(B), that the State
16 program in such fiscal year failed to achieve the IV-
17 D paternity establishment percentage (as defined in
18 section 452(g)(2)(A)) or the appropriate level of
19 overall performance in child support enforcement (as
20 defined in section 458(b)(2)), or to meet other per-
21 formance measures that may be established by the
22 Secretary, or

23 “(ii) on the basis of an audit or audits of such
24 State data conducted pursuant to section
25 452(a)(4)(C), that the State data submitted pursu-

1 ant to section 454(15)(B) is incomplete or unreli-
2 able; and

3 “(B) that, with respect to the succeeding fiscal
4 year—

5 “(i) the State failed to take sufficient cor-
6 rective action to achieve the appropriate per-
7 formance levels as described in subparagraph
8 (A)(i) of this paragraph, or

9 “(ii) the data submitted by the State pur-
10 suant to section 454(15)(B) is incomplete or
11 unreliable,

12 the amounts otherwise payable to the State under this
13 part for quarters following the end of such succeeding fis-
14 cal year, prior to quarters following the end of the first
15 quarter throughout which the State program is in compli-
16 ance with such performance requirement, shall be reduced
17 by the percentage specified in paragraph (2).

18 “(2) The reductions required under paragraph (1)
19 shall be—

20 “(A) not less than 6 nor more than 8 percent,
21 or

22 “(B) not less than 8 nor more than 12 percent,
23 if the finding is the second consecutive finding made
24 pursuant to paragraph (1), or

1 “(C) not less than 12 nor more than 15 per-
2 cent, if the finding is the third or a subsequent con-
3 secutive such finding.

4 “(3) For purposes of this subsection, section 405(d),
5 and section 452(a)(4), a State which is determined as a
6 result of an audit to have submitted incomplete or unreli-
7 able data pursuant to section 454(15)(B), shall be deter-
8 mined to have submitted adequate data if the Secretary
9 determines that the extent of the incompleteness or
10 unreliability of the data is of a technical nature which does
11 not adversely affect the determination of the level of the
12 State’s performance.”.

13 (2) CONFORMING AMENDMENTS.—

14 (A) Section 452(a)(4) (42 U.S.C.
15 652(a)(4)) is amended by striking “403(h)”
16 each place such term appears and inserting
17 “455(c)”.

18 (B) Subsections (d)(3)(A), (g)(1), and
19 (g)(3)(A) of section 452 (42 U.S.C. 652) are
20 each amended by striking “403(h)” and insert-
21 ing “455(c)”.

22 (f) EFFECTIVE DATES.—

23 (1) INCENTIVE ADJUSTMENTS.—(A) The
24 amendments made by subsections (a), (b), and (c)

1 shall become effective October 1, 1997, except to the
2 extent provided in subparagraph (B).

3 (B) Section 458 of the Social Security Act, as
4 in effect prior to the enactment of this section, shall
5 be effective for purposes of incentive payments to
6 States for fiscal years prior to fiscal year 1999.

7 (2) PENALTY REDUCTIONS.—(A) The amend-
8 ments made by subsection (d) shall become effective
9 with respect to calendar quarters beginning on and
10 after the date of enactment of this Act.

11 (B) The amendments made by subsection (e)
12 shall become effective with respect to calendar quar-
13 ters beginning on and after the date one year after
14 the date of enactment of this Act.

15 **SEC. 9413. FEDERAL AND STATE REVIEWS AND AUDITS.**

16 (a) STATE AGENCY ACTIVITIES.—Section 454 (42
17 U.S.C. 654) is amended—

18 (1) in paragraph (14), by striking “(14)” and
19 inserting “(14)(A)”;

20 (2) by redesignating paragraph (15) as sub-
21 paragraph (B) of paragraph (14); and

22 (3) by inserting after paragraph (14) the fol-
23 lowing new paragraph:

24 “(15) provide for—

1 “(A) a process for annual reviews of and
2 reports to the Secretary on the State program
3 under this part, which shall include such infor-
4 mation as may be necessary to measure State
5 compliance with Federal requirements for expe-
6 dited procedures and timely case processing,
7 using such standards and procedures as are re-
8 quired by the Secretary, under which the State
9 agency will determine the extent to which such
10 program is in conformity with applicable re-
11 quirements with respect to the operation of
12 State programs under this part (including the
13 status of complaints filed under the procedure
14 required under paragraph (12)(B)); and

15 “(B) a process of extracting from the
16 State automated data processing system and
17 transmitting to the Secretary data and calcula-
18 tions concerning the levels of accomplishment
19 (and rates of improvement) with respect to ap-
20 plicable performance indicators (including IV-D
21 paternity establishment percentages and overall
22 performance in child support enforcement) to
23 the extent necessary for purposes of sections
24 452(g) and 458.”.

1 (b) FEDERAL ACTIVITIES.—Section 452(a)(4) (42
2 U.S.C. 652(a)(4)) is amended to read as follows:

3 “(4)(A) review data and calculations transmit-
4 ted by State agencies pursuant to section
5 454(15)(B) on State program accomplishments with
6 respect to performance indicators for purposes of
7 section 452(g) and 458, and determine the amount
8 (if any) of penalty reductions pursuant to section
9 455(c) to be applied to the State;

10 “(B) review annual reports by State agencies
11 pursuant to section 454(15)(A) on State program
12 conformity with Federal requirements; evaluate any
13 elements of a State program in which significant de-
14 ficiencies are indicated by such report on the status
15 of complaints under the State procedure under sec-
16 tion 454(12)(B); and, as appropriate, provide to the
17 State agency comments, recommendations for addi-
18 tional or alternative corrective actions, and technical
19 assistance; and

20 “(C) conduct audits, in accordance with the
21 government auditing standards of the United States
22 Comptroller General—

23 “(i) at least once every 3 years (or more
24 frequently, in the case of a State which fails to
25 meet requirements of this part, or of regula-

1 tions implementing such requirements, concern-
2 ing performance standards and reliability of
3 program data) to assess the completeness, reli-
4 ability, and security of the data, and the accu-
5 racy of the reporting systems, used for the cal-
6 culations of performance indicators specified in
7 subsection (g) and section 458;

8 “(ii) of the adequacy of financial manage-
9 ment of the State program, including assess-
10 ments of—

11 “(I) whether Federal and other funds
12 made available to carry out the State pro-
13 gram under this part are being appro-
14 priately expended, and are properly and
15 fully accounted for; and

16 “(II) whether collections and disburse-
17 ments of support payments and program
18 income are carried out correctly and are
19 properly and fully accounted for; and

20 “(iii) for such other purposes as the Sec-
21 retary may find necessary;”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall be effective with respect to calendar
24 quarters beginning on or after the date one year after en-
25 actment of this section.

1 **SEC. 9414. REQUIRED REPORTING PROCEDURES.**

2 (a) ESTABLISHMENT.—Section 452(a)(5) (42 U.S.C.
3 652(a)(5)) is amended by inserting “, and establish proce-
4 dures to be followed by States for collecting and reporting
5 information required to be provided under this part, and
6 establish uniform definitions (including those necessary to
7 enable the measurement of State compliance with the re-
8 quirements of this part relating to expedited processes and
9 timely case processing) to be applied in following such pro-
10 cedures” before the semicolon.

11 (b) STATE PLAN REQUIREMENT.—Section 454 (42
12 U.S.C. 654), as amended by section 9404(a) of this Act,
13 is amended—

14 (1) by striking “and” at the end of paragraph
15 (24);

16 (2) by striking the period at the end of para-
17 graph (25) and inserting “; and”; and

18 (3) by adding after paragraph (25) the follow-
19 ing:

20 “(26) provide that the State shall use the defi-
21 nitions established under section 452(a)(5) in col-
22 lecting and reporting information as required under
23 this part.”.

1 **SEC. 9415. AUTOMATED DATA PROCESSING REQUIRE-**
2 **MENTS.**

3 (a) REVISED REQUIREMENTS.—(1) Section 454(16)
4 (42 U.S.C. 654(16)) is amended—

5 (A) by striking “, at the option of the State,”;

6 (B) by inserting “and operation by the State
7 agency” after “for the establishment”;

8 (C) by inserting “meeting the requirements of
9 section 454A” after “information retrieval system”;

10 (D) by striking “in the State and localities
11 thereof, so as (A)” and inserting “so as”;

12 (E) by striking “(i)”; and

13 (F) by striking “(including” and all that follows
14 and inserting a semicolon.

15 (2) Part D of title IV (42 U.S.C. 651–669) is amend-
16 ed by inserting after section 454 the following new section:

17 “AUTOMATED DATA PROCESSING

18 “SEC. 454A. (a) IN GENERAL.—In order to meet the
19 requirements of this section, for purposes of the require-
20 ment of section 454(16), a State agency shall have in op-
21 eration a single statewide automated data processing and
22 information retrieval system which has the capability to
23 perform the tasks specified in this section, and performs
24 such tasks with the frequency and in the manner specified
25 in this part or in regulations or guidelines of the Sec-
26 retary.

1 “(b) PROGRAM MANAGEMENT.—The automated sys-
2 tem required under this section shall perform such func-
3 tions as the Secretary may specify relating to management
4 of the program under this part, including—

5 “(1) controlling and accounting for use of Fed-
6 eral, State, and local funds to carry out such pro-
7 gram; and

8 “(2) maintaining the data necessary to meet
9 Federal reporting requirements on a timely basis.

10 “(c) CALCULATION OF PERFORMANCE INDICA-
11 TORS.—In order to enable the Secretary to determine the
12 incentive and penalty adjustments required by sections
13 452(g) and 458, the State agency shall—

14 “(1) use the automated system—

15 “(A) to maintain the requisite data on
16 State performance with respect to paternity es-
17 tablishment and child support enforcement in
18 the State; and

19 “(B) to calculate the IV-D paternity es-
20 tablishment percentage and overall performance
21 in child support enforcement for the State for
22 each fiscal year; and

23 “(2) have in place systems controls to ensure
24 the completeness, and reliability of, and ready access
25 to, the data described in paragraph (1)(A), and the

1 accuracy of the calculations described in paragraph
2 (1)(B).

3 “(d) INFORMATION INTEGRITY AND SECURITY.—The
4 State agency shall have in effect safeguards on the integ-
5 rity, accuracy, and completeness of, access to, and use of
6 data in the automated system required under this section,
7 which shall include the following (in addition to such other
8 safeguards as the Secretary specifies in regulations):

9 “(1) POLICIES RESTRICTING ACCESS.—Written
10 policies concerning access to data by State agency
11 personnel, and sharing of data with other persons,
12 which—

13 “(A) permit access to and use of data only
14 to the extent necessary to carry out program re-
15 sponsibilities;

16 “(B) specify the data which may be used
17 for particular program purposes, and the per-
18 sonnel permitted access to such data; and

19 “(C) ensure that data obtained or disclosed
20 for a limited program purpose is not used or
21 redisclosed for another, impermissible purpose.

22 “(2) SYSTEMS CONTROLS.—Systems controls
23 (such as passwords or blocking of fields) to ensure
24 strict adherence to the policies specified under para-
25 graph (1).

1 “(3) MONITORING OF ACCESS.—Routine mon-
2 itoring of access to and use of the automated sys-
3 tem, through methods such as audit trails and feed-
4 back mechanisms, to guard against and promptly
5 identify unauthorized access or use.

6 “(4) TRAINING AND INFORMATION.—The State
7 agency shall have in effect procedures to ensure that
8 all personnel (including State and local agency staff
9 and contractors) who may have access to or be re-
10 quired to use sensitive or confidential program data
11 are fully informed of applicable requirements and
12 penalties, and are adequately trained in security pro-
13 cedures.

14 “(5) PENALTIES.—The State agency shall have
15 in effect administrative penalties (up to and includ-
16 ing dismissal from employment) for unauthorized ac-
17 cess to, or disclosure or use of, confidential data.”.

18 (3) REGULATIONS.—Section 452 (42 U.S.C. 652) is
19 amended by adding at the end the following:

20 “(j) The Secretary shall prescribe final regulations
21 for implementation of the requirements of section 454A
22 not later than 2 years after the date of the enactment of
23 this subsection.”.

24 (4) IMPLEMENTATION TIMETABLE.—Section
25 454(24) (42 U.S.C. 654(24)), as amended by sections

1 9404(a)(2) and 9414(b)(1) of this Act, is amended to read
2 as follows:

3 “(24) provide that the State will have in effect
4 an automated data processing and information re-
5 trieval system—

6 “(A) by October 1, 1995, meeting all re-
7 quirements of this part which were enacted on
8 or before the date of enactment of the Family
9 Support Act of 1988; and

10 “(B) by October 1, 1999, meeting all re-
11 quirements of this part enacted on or before the
12 date of enactment of the Omnibus Budget Rec-
13 onciliation Act of 1995 (but this provision shall
14 not be construed to alter earlier deadlines speci-
15 fied for elements of such system), except that
16 such deadline shall be extended by 1 day for
17 each day (if any) by which the Secretary fails
18 to meet the deadline imposed by section 452(j)
19 of this Act;”.

20 (b) SPECIAL FEDERAL MATCHING RATE FOR DE-
21 VELOPMENT COSTS OF AUTOMATED SYSTEMS.—Section
22 455(a) (42 U.S.C. 655(a)) is amended—

23 (1) in paragraph (1)(B)—

24 (A) by striking “90 percent” and inserting
25 “the percent specified in paragraph (3)”;

1 (B) by striking “so much of”; and

2 (C) by striking “which the Secretary” and

3 all that follows and inserting “, and”; and

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

6 “(3)(A) The Secretary shall pay to each State, for
7 each quarter in fiscal year 1996, 90 percent of so much
8 of State expenditures described in subparagraph (1)(B) as
9 the Secretary finds are for a system meeting the require-
10 ments specified in section 454(16), or meeting such re-
11 quirements without regard to clause (D) thereof.

12 “(B)(i) The Secretary shall pay to each State, for
13 each quarter in fiscal years 1997 through 2001, the per-
14 centage specified in clause (ii) of so much of State expend-
15 itures described in subparagraph (1)(B) as the Secretary
16 finds are for a system meeting the requirements specified
17 in section 454(16) and 454A, subject to clause (iii).

18 “(ii) The percentage specified in this clause, for pur-
19 poses of clause (i), is the higher of—

20 “(I) 80 percent, or

21 “(II) the percentage otherwise applicable to
22 Federal payments to the State under subparagraph
23 (A) (as adjusted pursuant to section 458).”.

1 (c) CONFORMING AMENDMENT.—Section 123(c) of
2 the Family Support Act of 1988 (102 Stat. 2352; Public
3 Law 100–485) is repealed.

4 (d) ADDITIONAL PROVISIONS.—For additional provi-
5 sions of section 454A, as added by subsection (a) of this
6 section, see the amendments made by sections 9421,
7 9422(c), and 9433(d) of this Act.

8 **SEC. 9416. DIRECTOR OF CSE PROGRAM; STAFFING STUDY.**

9 (a) REPORTING TO SECRETARY.—Section 452(a) (42
10 U.S.C. 652(a)) is amended in the matter preceding para-
11 graph (1) by striking “directly”.

12 (b) STAFFING STUDIES.—

13 (1) SCOPE.—The Secretary of Health and
14 Human Services shall, directly or by contract, con-
15 duct studies of the staffing of each State child sup-
16 port enforcement program under part D of title IV
17 of the Social Security Act. Such studies shall include
18 a review of the staffing needs created by require-
19 ments for automated data processing, maintenance
20 of a central case registry and centralized collections
21 of child support, and of changes in these needs re-
22 sulting from changes in such requirements. Such
23 studies shall examine and report on effective staffing
24 practices used by the States and on recommended
25 staffing procedures.

1 (2) FREQUENCY OF STUDIES.—The Secretary
2 shall complete the first staffing study required under
3 paragraph (1) by October 1, 1997, and may conduct
4 additional studies subsequently at appropriate inter-
5 vals.

6 (3) REPORT TO THE CONGRESS.—The Sec-
7 retary shall submit a report to the Congress stating
8 the findings and conclusions of each study conducted
9 under this subsection.

10 **SEC. 9417. FUNDING FOR SECRETARIAL ASSISTANCE TO**
11 **STATE PROGRAMS.**

12 Section 452 (42 U.S.C. 652), as amended by section
13 9415(a)(3) of this Act, is amended by adding at the end
14 the following new subsection:

15 “(k) FUNDING FOR FEDERAL ACTIVITIES ASSISTING
16 STATE PROGRAMS.—(1) There shall be available to the
17 Secretary, from amounts appropriated for fiscal year 1996
18 and each succeeding fiscal year for payments to States
19 under this part, the amount specified in paragraph (2) for
20 the costs to the Secretary for—

21 “(A) information dissemination and technical
22 assistance to States, training of State and Federal
23 staff, staffing studies, and related activities needed
24 to improve programs (including technical assistance
25 concerning State automated systems);

1 “(B) research, demonstration, and special
2 projects of regional or national significance relating
3 to the operation of State programs under this part;
4 and

5 “(C) operation of the Federal Parent Locator
6 Service under section 453, to the extent such costs
7 are not recovered through user fees.

8 “(2) The amount specified in this paragraph for a
9 fiscal year is the amount equal to a percentage of the re-
10 duction in Federal payments to States under part A on
11 account of child support (including arrearages) collected
12 in the preceding fiscal year on behalf of children receiving
13 assistance under State plans approved under part A in
14 such preceding fiscal year (as determined on the basis of
15 the most recent reliable data available to the Secretary
16 as of the end of the third calendar quarter following the
17 end of such preceding fiscal year), equal to—

18 “(A) 1 percent, for the activities specified in
19 subparagraphs (A) and (B) of paragraph (1); and

20 “(B) 2 percent, for the activities specified in
21 subparagraph (C) of paragraph (1).”.

22 **SEC. 9418. REPORTS AND DATA COLLECTION BY THE SEC-**
23 **RETARY.**

24 (a) ANNUAL REPORT TO CONGRESS.—(1) Section
25 452(a)(10)(A) (42 U.S.C. 652(a)(10)(A)) is amended—

1 (A) by striking “this part;” and inserting “this
2 part, including—”; and

3 (B) by adding at the end the following indented
4 clauses:

5 “(i) the total amount of child support
6 payments collected as a result of services
7 furnished during such fiscal year to indi-
8 viduals receiving services under this part;

9 “(ii) the cost to the States and to the
10 Federal Government of furnishing such
11 services to those individuals; and

12 “(iii) the number of cases involving
13 families—

14 “(I) who became ineligible for as-
15 sistance under a State plan approved
16 under part A during a month in such
17 fiscal year; and

18 “(II) with respect to whom a
19 child support payment was received in
20 the same month;”.

21 (2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C))
22 is amended—

23 (A) in the matter preceding clause (i)—

24 (i) by striking “with the data required
25 under each clause being separately stated for

1 cases” and inserting “separately stated for (1)
2 cases”;

3 (ii) by striking “cases where the child was
4 formerly receiving” and inserting “or formerly
5 received”;

6 (iii) by inserting “or 1912” after
7 “471(a)(17)”; and

8 (iv) by inserting “(2)” before “all other”;

9 (B) in each of clauses (i) and (ii), by striking
10 “, and the total amount of such obligations”;

11 (C) in clause (iii), by striking “described in”
12 and all that follows and inserting “in which support
13 was collected during the fiscal year.”;

14 (D) by striking clause (iv); and

15 (E) by redesignating clause (v) as clause (vii),
16 and inserting after clause (iii) the following new
17 clauses:

18 “(iv) the total amount of support col-
19 lected during such fiscal year and distrib-
20 uted as current support;

21 “(v) the total amount of support col-
22 lected during such fiscal year and distrib-
23 uted as arrearages;

24 “(vi) the total amount of support due
25 and unpaid for all fiscal years; and”.

1 (3) Section 452(a)(10)(G) (42 U.S.C. 652(a)(10)(G))
2 is amended by striking “on the use of Federal courts
3 and”.

4 (4) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is
5 amended by striking all that follows subparagraph (I).

6 (b) DATA COLLECTION AND REPORTING.—Section
7 469 (42 U.S.C. 669) is amended—

8 (1) by striking subsections (a) and (b) and in-
9 serting the following:

10 “(a) The Secretary shall collect and maintain, on a
11 fiscal year basis, up-to-date statistics, by State, with re-
12 spect to services to establish paternity and services to es-
13 tablish child support obligations, the data specified in sub-
14 section (b), separately stated, in the case of each such
15 service, with respect to—

16 “(1) families (or dependent children) receiving
17 assistance under State plans approved under part A
18 (or E); and

19 “(2) families not receiving such assistance.

20 “(b) The data referred to in subsection (a) are—

21 “(1) the number of cases in the caseload of the
22 State agency administering the plan under this part
23 in which such service is needed; and

24 “(2) the number of such cases in which the
25 service has been provided.”; and

1 (2) in subsection (c), by striking “(a)(2)” and
2 inserting “(b)(2)”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall be effective with respect to fiscal year
5 1996 and succeeding fiscal years.

6 **CHAPTER 3—LOCATE AND CASE**

7 **TRACKING**

8 **SEC. 9421. CENTRAL STATE AND CASE REGISTRY.**

9 Section 454A, as added by section 9415(a)(2) of this
10 Act, is amended by adding at the end the following:

11 “(e) CENTRAL CASE REGISTRY.—(1) IN GEN-
12 ERAL.—The automated system required under this section
13 shall perform the functions, in accordance with the provi-
14 sions of this subsection, of a single central registry con-
15 taining records with respect to each case in which services
16 are being provided by the State agency (including, on and
17 after October 1, 1998, each order specified in section
18 466(a)(12)), using such standardized data elements (such
19 as names, social security numbers or other uniform identi-
20 fication numbers, dates of birth, and case identification
21 numbers), and containing such other information (such as
22 information on case status) as the Secretary may require.

23 “(2) PAYMENT RECORDS.—Each case record in the
24 central registry shall include a record of—

1 “(A) the amount of monthly (or other periodic)
2 support owed under the support order, and other
3 amounts due or overdue (including arrears, interest
4 or late payment penalties, and fees);

5 “(B) the date on which or circumstances under
6 which the support obligation will terminate under
7 such order;

8 “(C) all child support and related amounts col-
9 lected (including such amounts as fees, late payment
10 penalties, and interest on arrearages);

11 “(D) the distribution of such amounts collected;
12 and

13 “(E) the birth date of the child for whom the
14 child support order is entered.

15 “(3) UPDATING AND MONITORING.—The State agen-
16 cy shall promptly establish and maintain, and regularly
17 monitor, case records in the registry required by this sub-
18 section, on the basis of—

19 “(A) information on administrative actions and
20 administrative and judicial proceedings and orders
21 relating to paternity and support;

22 “(B) information obtained from matches with
23 Federal, State, or local data sources;

24 “(C) information on support collections and dis-
25 tributions; and

1 “(D) any other relevant information.

2 “(f) DATA MATCHES AND OTHER DISCLOSURES OF
3 INFORMATION.—The automated system required under
4 this section shall have the capacity, and be used by the
5 State agency, to extract data at such times, and in such
6 standardized format or formats, as may be required by
7 the Secretary, and to share and match data with, and re-
8 ceive data from, other data bases and data matching serv-
9 ices, in order to obtain (or provide) information necessary
10 to enable the State agency (or Secretary or other State
11 or Federal agencies) to carry out responsibilities under
12 this part. Data matching activities of the State agency
13 shall include at least the following:

14 “(1) DATA BANK OF CHILD SUPPORT OR-
15 DERS.—Furnish to the Data Bank of Child Support
16 Orders established under section 453(h) (and update
17 as necessary, with information including notice of
18 expiration of orders) minimal information (to be
19 specified by the Secretary) on each child support
20 case in the central case registry.

21 “(2) FEDERAL PARENT LOCATOR SERVICE.—
22 Exchange data with the Federal Parent Locator
23 Service for the purposes specified in section 453.

24 “(3) TEMPORARY EMPLOYMENT ASSISTANCE
25 PROGRAM AND MEDICAID AGENCIES.—Exchange

1 data with State agencies (of the State and of other
2 States) administering the programs under part A
3 and title XIX, as necessary for the performance of
4 State agency responsibilities under this part and
5 under such programs.

6 “(4) INTRA- AND INTERSTATE DATA
7 MATCHES.—Exchange data with other agencies of
8 the State, agencies of other States, and interstate
9 information networks, as necessary and appropriate
10 to carry out (or assist other States to carry out) the
11 purposes of this part.”.

12 **SEC. 9422. CENTRALIZED COLLECTION AND DISBURSE-**
13 **MENT OF SUPPORT PAYMENTS.**

14 (a) STATE PLAN REQUIREMENT.—Section 454 (42
15 U.S.C. 654), as amended by sections 9404(a) and 9414(b)
16 of this Act, is amended—

17 (1) by striking “and” at the end of paragraph
18 (25);

19 (2) by striking the period at the end of para-
20 graph (26) and inserting “; and”; and

21 (3) by adding after paragraph (26) the follow-
22 ing new paragraph:

23 “(27) provide that the State agency, on and
24 after October 1, 1998—

1 “(1) operated directly by the State agency (or
2 by two or more State agencies under a regional co-
3 operative agreement), or by a single contractor re-
4 sponsible directly to the State agency; and

5 “(2) used for the collection and disbursement
6 (including interstate collection and disbursement) of
7 payments under support orders in all cases being en-
8 forced by the State pursuant to section 454(4).

9 “(b) REQUIRED PROCEDURES.—The centralized col-
10 lections unit shall use automated procedures, electronic
11 processes, and computer-driven technology to the maxi-
12 mum extent feasible, efficient, and economical, for the col-
13 lection and disbursement of support payments, including
14 procedures—

15 “(1) for receipt of payments from parents, em-
16 ployers, and other States, and for disbursements to
17 custodial parents and other obligees, the State agen-
18 cy, and the State agencies of other States;

19 “(2) for accurate identification of payments;

20 “(3) to ensure prompt disbursement of the cus-
21 todial parent’s share of any payment; and

22 “(4) to furnish to either parent, upon request,
23 timely information on the current status of support
24 payments.”.

1 (c) USE OF AUTOMATED SYSTEM.—Section 454A, as
2 added by section 9415(a)(2) of this Act and as amended
3 by section 9421 of this Act, is amended by adding at the
4 end the following new subsection:

5 “(g) CENTRALIZED COLLECTION AND DISTRIBUTION
6 OF SUPPORT PAYMENTS.—The automated system re-
7 quired under this section shall be used, to the maximum
8 extent feasible, to assist and facilitate collections and dis-
9 bursement of support payments through the centralized
10 collections unit operated pursuant to section 454B,
11 through the performance of functions including at a mini-
12 mum—

13 “(1) generation of orders and notices to em-
14 ployers (and other debtors) for the withholding of
15 wages (and other income)—

16 “(A) within two working days after receipt
17 (from the directory of New Hires established
18 under section 453(i) or any other source) of no-
19 tice of and the income source subject to such
20 withholding; and

21 “(B) using uniform formats directed by
22 the Secretary;

23 “(2) ongoing monitoring to promptly identify
24 failures to make timely payment; and

1 “(3) automatic use of enforcement mechanisms
2 (including mechanisms authorized pursuant to sec-
3 tion 466(c)) where payments are not timely made.”.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall become effective on October 1, 1998.

6 **SEC. 9423. AMENDMENTS CONCERNING INCOME WITH-**
7 **HOLDING.**

8 (a) MANDATORY INCOME WITHHOLDING.—(1) Sec-
9 tion 466(a)(1) (42 U.S.C. 666(a)(1)) is amended to read
10 as follows:

11 “(1) INCOME WITHHOLDING.—(A) UNDER OR-
12 DERS ENFORCED UNDER THE STATE PLAN.—Proce-
13 dures described in subsection (b) for the withholding
14 from income of amounts payable as support in cases
15 subject to enforcement under the State plan.

16 “(B) UNDER CERTAIN ORDERS PREDATING
17 CHANGE IN REQUIREMENT.—Procedures under
18 which all child support orders issued (or modified)
19 before October 1, 1996, and which are not otherwise
20 subject to withholding under subsection (b), shall be-
21 come subject to withholding from wages as provided
22 in subsection (b) if arrearages occur, without the
23 need for a judicial or administrative hearing.”.

24 (2) Section 466(a)(8) (42 U.S.C. 666(a)(8)) is re-
25 pealed.

1 (3) Section 466(b) (42 U.S.C. 666(b)) is amended—

2 (A) in the matter preceding paragraph (1), by
3 striking “subsection (a)(1)” and inserting “sub-
4 section (a)(1)(A)”;

5 (B) in paragraph (5), by striking all that fol-
6 lows “administered by” and inserting “the State
7 through the centralized collections unit established
8 pursuant to section 454B, in accordance with the re-
9 quirements of such section 454B.”;

10 (C) in paragraph (6)(A)(i)—

11 (i) by inserting “, in accordance with time-
12 tables established by the Secretary,” after
13 “must be required”; and

14 (ii) by striking “to the appropriate agency”
15 and all that follows and inserting “to the State
16 centralized collections unit within 5 working
17 days after the date such amount would (but for
18 this subsection) have been paid or credited to
19 the employee, for distribution in accordance
20 with this part.”;

21 (D) in paragraph (6)(A)(ii), by inserting “be in
22 a standard format prescribed by the Secretary, and”
23 after “shall”; and

24 (E) in paragraph (6)(D)—

1 (i) by striking “employer who discharges”
2 and inserting “employer who—(A) discharges”;

3 (ii) by relocating subparagraph (A), as des-
4 igned, as an indented subparagraph after and
5 below the introductory matter;

6 (iii) by striking the period at the end; and

7 (iv) by adding after and below subpara-
8 graph (A) the following new subparagraph:

9 “(B) fails to withhold support from wages,
10 or to pay such amounts to the State centralized
11 collections unit in accordance with this sub-
12 section.”.

13 (b) CONFORMING AMENDMENT.—Section 466(c) (42
14 U.S.C. 666(c)) is repealed.

15 (c) DEFINITION OF TERMS.—The Secretary shall
16 promulgate regulations providing definitions, for purposes
17 of part D of title IV of the Social Security Act, for the
18 term “income” and for such other terms relating to in-
19 come withholding under section 466(b) of such Act as the
20 Secretary may find it necessary or advisable to define.

21 **SEC. 9424. LOCATOR INFORMATION FROM INTERSTATE**
22 **NETWORKS.**

23 Section 466(a) (42 U.S.C. 666(a)), as amended by
24 section 9423(a)(2) of this Act, is amended by inserting
25 after paragraph (7) the following:

1 “(8) LOCATOR INFORMATION FROM INTER-
2 STATE NETWORKS.—Procedures ensuring that the
3 State will neither provide funding for, nor use for
4 any purpose (including any purpose unrelated to the
5 purposes of this part), any automated interstate net-
6 work or system used to locate individuals—

7 “(A) for purposes relating to the use of
8 motor vehicles; or

9 “(B) providing information for law en-
10 forcement purposes (where child support en-
11 forcement agencies are otherwise allowed access
12 by State and Federal law),

13 unless all Federal and State agencies administering
14 programs under this part (including the entities es-
15 tablished under section 453) have access to informa-
16 tion in such system or network to the same extent
17 as any other user of such system or network.”.

18 **SEC. 9425. EXPANDED FEDERAL PARENT LOCATOR SERV-**
19 **ICE.**

20 (a) EXPANDED AUTHORITY TO LOCATE INDIVIDUALS
21 AND ASSETS.—Section 453 (42 U.S.C. 653) is amended—

22 (1) in subsection (a), by striking all that follows
23 “subsection (c))” and inserting the following:

1 “, for the purpose of establishing parentage, establishing,
2 setting the amount of, modifying, or enforcing child sup-
3 port obligations—

4 “(1) information on, or facilitating the discov-
5 ery of, the location of any individual—

6 “(A) who is under an obligation to pay
7 child support;

8 “(B) against whom such an obligation is
9 sought; or

10 “(C) to whom such an obligation is owed,
11 including such individual’s social security num-
12 ber (or numbers), most recent residential ad-
13 dress, and the name, address, and employer
14 identification number of such individual’s em-
15 ployer; and

16 “(2) information on the individual’s wages (or
17 other income) from, and benefits of, employment (in-
18 cluding rights to or enrollment in group health care
19 coverage); and

20 “(3) information on the type, status, location,
21 and amount of any assets of, or debts owed by or
22 to, any such individual.”; and

23 (2) in subsection (b)—

24 (A) in the matter preceding paragraph (1),
25 by striking “social security” and all that follows

1 through “absent parent” and inserting “infor-
2 mation specified in subsection (a)”;

3 (B) in paragraph (2), by inserting before
4 the period “, or from any consumer reporting
5 agency (as defined in section 603(f) of the Fair
6 Credit Reporting Act (15 U.S.C. 1681a(f))”;

7 (3) in subsection (e)(1), by inserting before the
8 period “, or by consumer reporting agencies”.

9 (b) REIMBURSEMENT FOR DATA FROM FEDERAL
10 AGENCIES.—Section 453(e)(2) (42 U.S.C. 653(e)(2)) is
11 amended in the fourth sentence by inserting before the
12 period “in an amount which the Secretary determines to
13 be reasonable payment for the data exchange (which
14 amount shall not include payment for the costs of obtain-
15 ing, compiling, or maintaining the data)”.

16 (c) ACCESS TO CONSUMER REPORTS UNDER FAIR
17 CREDIT REPORTING ACT.—(1) Section 608 of the Fair
18 Credit Reporting Act (15 U.S.C. 1681f) is amended—

19 (A) by striking “, limited to” and inserting “to
20 a governmental agency (including the entire
21 consumer report, in the case of a Federal, State, or
22 local agency administering a program under part D
23 of title IV of the Social Security Act, and limited
24 to”;

1 (B) by striking “employment, to a govern-
2 mental agency” and inserting “employment, in the
3 case of any other governmental agency)”.

4 (2) REIMBURSEMENT FOR REPORTS BY STATE
5 AGENCIES AND CREDIT BUREAUS.—Section 453 (42
6 U.S.C. 653) is amended by adding at the end the following
7 new subsection:

8 “(g) The Secretary is authorized to reimburse costs
9 to State agencies and consumer credit reporting agencies
10 the costs incurred by such entities in furnishing informa-
11 tion requested by the Secretary pursuant to this section
12 in an amount which the Secretary determines to be rea-
13 sonable payment for the data exchange (which amount
14 shall not include payment for the costs of obtaining, com-
15 piling, or maintaining the data).”.

16 (d) DISCLOSURE OF TAX RETURN INFORMATION.—
17 (1) Section 6103(1)(6)(A)(ii) of the Internal Revenue
18 Code of 1986 is amended by striking “, but only if” and
19 all that follows and inserting a period.

20 (2) Section 6103(1)(8)(A) of the Internal Revenue
21 Code of 1986 is amended by inserting “Federal,” before
22 “State or local”.

23 (e) TECHNICAL AMENDMENTS.—

24 (1) Sections 452(a)(9), 453(a), 453(b), 463(a),
25 and 463(e) (42 U.S.C. 652(a)(9), 653(a), 653(b),

1 663(a), and 663(e)) are each amended by inserting
2 “Federal” before “Parent” each place it appears.

3 (2) Section 453 (42 U.S.C. 653) is amended in
4 the heading by adding “FEDERAL” before “PAR-
5 ENT”.

6 (f) NEW COMPONENTS.—Section 453 (42 U.S.C.
7 653), as amended by subsection (c)(2) of this section, is
8 amended by adding at the end the following:

9 “(h) DATA BANK OF CHILD SUPPORT ORDERS.—

10 “(1) IN GENERAL.—Not later than October 1,
11 1998, In order to assist States in administering
12 their State plans under this part and parts A, F,
13 and G, and for the other purposes specified in this
14 section, the Secretary shall establish and maintain in
15 the Federal Parent Locator Service an automated
16 registry to be known as the Data Bank of Child
17 Support Orders, which shall contain abstracts of
18 child support orders and other information described
19 in paragraph (2) on each case in each State central
20 case registry maintained pursuant to section
21 454A(e), as furnished (and regularly updated), pur-
22 suant to section 454A(f), by State agencies admin-
23 istering programs under this part.

24 “(2) CASE INFORMATION.—The information re-
25 ferred to in paragraph (1), as specified by the Sec-

1 retary, shall include sufficient information (including
2 names, social security numbers or other uniform
3 identification numbers, and State case identification
4 numbers) to identify the individuals who owe or are
5 owed support (or with respect to or on behalf of
6 whom support obligations are sought to be estab-
7 lished), and the State or States which have estab-
8 lished or modified, or are enforcing or seeking to es-
9 tablish, such an order.

10 “(i) DIRECTORY OF NEW HIRES.—

11 “(1) IN GENERAL.—Not later than October 1,
12 1998, In order to assist States in administering
13 their State plans under this part and parts A, F,
14 and G, and for the other purposes specified in this
15 section, the Secretary shall establish and maintain in
16 the Federal Parent Locator Service an automated
17 directory to be known as the directory of New Hires,
18 containing—

19 “(A) information supplied by employers on
20 each newly hired individual, in accordance with
21 paragraph (2); and

22 “(B) information supplied by State agen-
23 cies administering State unemployment com-
24 pensation laws, in accordance with paragraph
25 (3).

1 “(2) EMPLOYER INFORMATION.—

2 “(A) INFORMATION REQUIRED.—Subject
3 to subparagraph (D), each employer shall fur-
4 nish to the Secretary, for inclusion in the direc-
5 tory established under this subsection, not later
6 than 10 days after the date (on or after Octo-
7 ber 1, 1998) on which the employer hires a new
8 employee (as defined in subparagraph (C)), a
9 report containing the name, date of birth, and
10 social security number of such employee, and
11 the employer identification number of the em-
12 ployer.

13 “(B) REPORTING METHOD AND FOR-
14 MAT.—The Secretary shall provide for trans-
15 mission of the reports required under subpara-
16 graph (A) using formats and methods which
17 minimize the burden on employers, which shall
18 include—

19 “(i) automated or electronic trans-
20 mission of such reports;

21 “(ii) transmission by regular mail;
22 and

23 “(iii) transmission of a copy of the
24 form required for purposes of compliance

1 with section 3402 of the Internal Revenue
2 Code of 1986.

3 “(C) EMPLOYEE DEFINED.—For purposes
4 of this paragraph, the term ‘employee’ means
5 any individual subject to the requirement of
6 section 3402(f)(2) of the Internal Revenue Code
7 of 1986.

8 “(D) PAPERWORK REDUCTION REQUIRE-
9 MENT.—As required by the information re-
10 sources management policies published by the
11 Director of the Office of Management and
12 Budget pursuant to section 3504(b)(1) of title
13 44, United States Code, the Secretary, in order
14 to minimize the cost and reporting burden on
15 employers, shall not require reporting pursuant
16 to this paragraph if an alternative reporting
17 mechanism can be developed that either relies
18 on existing Federal or State reporting or en-
19 ables the Secretary to collect the needed infor-
20 mation in a more cost-effective and equally ex-
21 peditious manner, taking into account the re-
22 porting costs on employers.

23 “(E) CIVIL MONEY PENALTY ON NON-
24 COMPLYING EMPLOYERS.—(i) Any employer
25 that fails to make a timely report in accordance

1 with this paragraph with respect to an individ-
2 ual shall be subject to a civil money penalty, for
3 each calendar year in which the failure occurs,
4 of the lesser of \$500 or 1 percent of the wages
5 or other compensation paid by such employer to
6 such individual during such calendar year.

7 “(ii) Subject to clause (iii), the provisions
8 of section 1128A (other than subsections (a)
9 and (b) thereof) shall apply to a civil money
10 penalty under clause (i) in the same manner as
11 they apply to a civil money penalty or proceed-
12 ing under section 1128A(a).

13 “(iii) Any employer with respect to whom
14 a penalty under this subparagraph is upheld
15 after an administrative hearing shall be liable to
16 pay all costs of the Secretary with respect to
17 such hearing.

18 “(3) EMPLOYMENT SECURITY INFORMATION.—

19 “(A) REPORTING REQUIREMENT.—Each
20 State agency administering a State unemploy-
21 ment compensation law approved by the Sec-
22 retary of Labor under the Federal Unemploy-
23 ment Tax Act shall furnish to the Secretary of
24 Health and Human Services extracts of the re-
25 ports to the Secretary of Labor concerning the

1 wages and unemployment compensation paid to
2 individuals required under section 303(a)(6), in
3 accordance with subparagraph (B).

4 “(B) MANNER OF COMPLIANCE.—The ex-
5 tracts required under subparagraph (A) shall be
6 furnished to the Secretary of Health and
7 Human Services on a quarterly basis, with re-
8 spect to calendar quarters beginning on and
9 after October 1, 1996, by such dates, in such
10 format, and containing such information as re-
11 quired by that Secretary in regulations.

12 “(j) DATA MATCHES AND OTHER DISCLOSURES.—

13 “(1) VERIFICATION BY SOCIAL SECURITY AD-
14 MINISTRATION.—(A) The Secretary shall transmit
15 data on individuals and employers maintained under
16 this section to the Social Security Administration to
17 the extent necessary for verification in accordance
18 with subparagraph (B).

19 “(B) The Social Security Administration shall
20 verify the accuracy of, correct or supply to the ex-
21 tent necessary and feasible, and report to the Sec-
22 retary, the following information in data supplied by
23 the Secretary pursuant to subparagraph (A):

24 “(i) the name, social security number, and
25 birth date of each individual; and

1 “(ii) the employer identification number of
2 each employer.

3 “(2) CHILD SUPPORT LOCATOR MATCHES.—For
4 the purpose of locating individuals for purposes of
5 paternity establishment and establishment and en-
6 forcement of child support, the Secretary shall—

7 “(A) match data in the directory of New
8 Hires against the child support order abstracts
9 in the Data Bank of Child Support Orders not
10 less often than every 2 working days; and

11 “(B) report information obtained from
12 such a match to concerned State agencies oper-
13 ating programs under this part not later than
14 2 working days after such match.

15 “(3) DATA MATCHES AND DISCLOSURES OF
16 DATA IN ALL REGISTRIES FOR TITLE IV PROGRAM
17 PURPOSES.—The Secretary shall—

18 “(A) perform matches of data in each com-
19 ponent of the Federal Parent Locator Service
20 maintained under this section against data in
21 each other such component (other than the
22 matches required pursuant to paragraph (1)),
23 and report information resulting from such
24 matches to State agencies operating programs
25 under this part and parts A, F, and G; and

1 “(B) disclose data in such registries to
2 such State agencies,
3 to the extent, and with the frequency, that the Sec-
4 retary determines to be effective in assisting such
5 States to carry out their responsibilities under such
6 programs.

7 “(k) FEES.—

8 “(1) FOR SSA VERIFICATION.—The Secretary
9 shall reimburse the Commissioner of Social Security,
10 at a rate negotiated between the Secretary and the
11 Commissioner, the costs incurred by the Commis-
12 sioner in performing the verification services speci-
13 fied in subsection (j).

14 “(2) FOR INFORMATION FROM SESAS.—The
15 Secretary shall reimburse costs incurred by State
16 employment security agencies in furnishing data as
17 required by subsection (j)(3), at rates which the Sec-
18 retary determines to be reasonable (which rates shall
19 not include payment for the costs of obtaining, com-
20 piling, or maintaining such data).

21 “(3) FOR INFORMATION FURNISHED TO STATE
22 AND FEDERAL AGENCIES.—State and Federal agen-
23 cies receiving data or information from the Secretary
24 pursuant to this section shall reimburse the costs in-
25 curred by the Secretary in furnishing such data or

1 information, at rates which the Secretary determines
2 to be reasonable (which rates shall include payment
3 for the costs of obtaining, verifying, maintaining,
4 and matching such data or information).

5 “(l) RESTRICTION ON DISCLOSURE AND USE.—Data
6 in the Federal Parent Locator Service, and information
7 resulting from matches using such data, shall not be used
8 or disclosed except as specifically provided in this section.

9 “(m) RETENTION OF DATA.—Data in the Federal
10 Parent Locator Service, and data resulting from matches
11 performed pursuant to this section, shall be retained for
12 such period (determined by the Secretary) as appropriate
13 for the data uses specified in this section.

14 “(n) INFORMATION INTEGRITY AND SECURITY.—The
15 Secretary shall establish and implement safeguards with
16 respect to the entities established under this section de-
17 signed to—

18 “(1) ensure the accuracy and completeness of
19 information in the Federal Parent Locator Service;
20 and

21 “(2) restrict access to confidential information
22 in the Federal Parent Locator Service to authorized
23 persons, and restrict use of such information to au-
24 thorized purposes.

1 “(o) LIMIT ON LIABILITY.—The Secretary shall not
2 be liable to either a State or an individual for inaccurate
3 information provided to a component of the Federal Par-
4 ent Locator Service section and disclosed by the Secretary
5 in accordance with this section.”.

6 (g) CONFORMING AMENDMENTS.—

7 (1) TO PART D OF TITLE IV OF THE SOCIAL SE-
8 CURITY ACT.—Section 454(8)(B) (42 U.S.C.
9 654(8)(B)) is amended to read as follows:

10 “(B) the Federal Parent Locator Service
11 established under section 453;”.

12 (2) TO FEDERAL UNEMPLOYMENT TAX ACT.—
13 Section 3304(16) of the Internal Revenue Code of
14 1986 is amended—

15 (A) by striking “Secretary of Health, Edu-
16 cation, and Welfare” each place such term ap-
17 pears and inserting “Secretary of Health and
18 Human Services”;

19 (B) in subparagraph (B), by striking
20 “such information” and all that follows and in-
21 serting “information furnished under subpara-
22 graph (A) or (B) is used only for the purposes
23 authorized under such subparagraph;”;

24 (C) by striking “and” at the end of sub-
25 paragraph (A);

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

3 (E) by inserting after subparagraph (A)
4 the following new subparagraph:

5 “(B) wage and unemployment compensa-
6 tion information contained in the records of
7 such agency shall be furnished to the Secretary
8 of Health and Human Services (in accordance
9 with regulations promulgated by such Sec-
10 retary) as necessary for the purposes of the di-
11 rectory of New Hires established under section
12 453(i) of the Social Security Act, and”.

13 (3) TO STATE GRANT PROGRAM UNDER TITLE
14 III OF THE SOCIAL SECURITY ACT.—Section 303(a)
15 (42 U.S.C. 503(a)) is amended—

16 (A) by striking “and” at the end of para-
17 graph (8);

18 (B) by striking the period at the end of
19 paragraph (9) and inserting “; and”; and

20 (C) by adding after paragraph (9) the fol-
21 lowing new paragraph:

22 “(10) The making of quarterly electronic re-
23 ports, at such dates, in such format, and containing
24 such information, as required by the Secretary of
25 Health and Human Services under section 453(i)(3),

1 and compliance with such provisions as such Sec-
2 retary may find necessary to ensure the correctness
3 and verification of such reports.”.

4 **SEC. 9426. USE OF SOCIAL SECURITY NUMBERS.**

5 (a) STATE LAW REQUIREMENT.—Section 466(a) (42
6 U.S.C. 666(a)), as amended by section 9401(a) of this
7 Act, is amended by inserting after paragraph (12) the fol-
8 lowing:

9 “(13) SOCIAL SECURITY NUMBERS RE-
10 QUIRED.—Procedures requiring the recording of so-
11 cial security numbers—

12 “(A) of both parties on marriage licenses
13 and divorce decrees; and

14 “(B) of both parents, on birth records and
15 child support and paternity orders.”.

16 (b) CLARIFICATION OF FEDERAL POLICY.—Section
17 205(c)(2)(C)(ii) (42 U.S.C. 405(c)(2)(C)(ii)) is amended
18 by striking the third sentence and inserting “This clause
19 shall not be considered to authorize disclosure of such
20 numbers except as provided in the preceding sentence.”.

1 **CHAPTER 4—STREAMLINING AND**
2 **UNIFORMITY OF PROCEDURES**

3 **SEC. 9431. ADOPTION OF UNIFORM STATE LAWS.**

4 Section 466(a) (42 U.S.C. 666(a)), as amended by
5 sections 9401(a) and 9426(a) of this Act, is amended in-
6 serting after paragraph (13) the following:

7 “(14) INTERSTATE ENFORCEMENT.—(A) ADOPT-
8 TION OF UIFSA.—Procedures under which the State
9 adopts in its entirety (with the modifications and ad-
10 ditions specified in this paragraph) not later than
11 January 1, 1997, and uses on and after such date,
12 the Uniform Interstate Family Support Act, as ap-
13 proved by the National Conference of Commissioners
14 on Uniform State Laws in August, 1992.

15 “(B) EXPANDED APPLICATION OF UIFSA.—The
16 State law adopted pursuant to subparagraph (A)
17 shall be applied to any case—

18 “(i) involving an order established or modi-
19 fied in one State and for which a subsequent
20 modification is sought in another State; or

21 “(ii) in which interstate activity is required
22 to enforce an order.

23 “(C) JURISDICTION TO MODIFY ORDERS.—The
24 State law adopted pursuant to subparagraph (A) of
25 this paragraph shall contain the following provision

1 in lieu of section 611(a)(1) of the Uniform Inter-
2 state Family Support Act described in such subpara-
3 graph (A):

4 “(1) the following requirements are met:

5 “(i) the child, the individual obligee, and
6 the obligor—

7 “(I) do not reside in the issuing
8 State; and

9 “(II) either reside in this State or
10 are subject to the jurisdiction of this State
11 pursuant to section 201; and

12 “(ii) (in any case where another State is
13 exercising or seeks to exercise jurisdiction to
14 modify the order) the conditions of section 204
15 are met to the same extent as required for pro-
16 ceedings to establish orders; or’.

17 “(D) SERVICE OF PROCESS.—The State law
18 adopted pursuant to subparagraph (A) shall recog-
19 nize as valid, for purposes of any proceeding subject
20 to such State law, service of process upon persons
21 in the State (and proof of such service) by any
22 means acceptable in another State which is the initi-
23 ating or responding State in such proceeding.

24 “(E) COOPERATION BY EMPLOYERS.—The
25 State law adopted pursuant to subparagraph (A)

1 shall provide for the use of procedures (including
2 sanctions for noncompliance) under which all entities
3 in the State (including for-profit, nonprofit, and gov-
4 ernmental employers) are required to provide
5 promptly, in response to a request by the State
6 agency of that or any other State administering a
7 program under this part, information on the employ-
8 ment, compensation, and benefits of any individual
9 employed by such entity as an employee or contrac-
10 tor.”.

11 **SEC. 9432. IMPROVEMENTS TO FULL FAITH AND CREDIT**
12 **FOR CHILD SUPPORT ORDERS.**

13 Section 1738B of title 28, United States Code, is
14 amended—

15 (1) in subsection (a)(2), by striking “subsection
16 (e)” and inserting “subsections (e), (f), and (i)”;

17 (2) in subsection (b), by inserting after the 2nd
18 undesignated paragraph the following:

19 “‘child’s home State’ means the State in which
20 a child lived with a parent or a person acting as par-
21 ent for at least six consecutive months immediately
22 preceding the time of filing of a petition or com-
23 parable pleading for support and, if a child is less
24 than six months old, the State in which the child
25 lived from birth with any of them. A period of tem-

1 porary absence of any of them is counted as part of
2 the six-month period.”;

3 (3) in subsection (c), by inserting “by a court
4 of a State” before “is made”;

5 (4) in subsection (c)(1), by inserting “and sub-
6 sections (e), (f), and (g)” after “located”;

7 (5) in subsection (d)—

8 (A) by inserting “individual” before “con-
9 testant”; and

10 (B) by striking “subsection (e)” and in-
11 serting “subsections (e) and (f)”;

12 (6) in subsection (e), by striking “make a modi-
13 fication of a child support order with respect to a
14 child that is made” and inserting “modify a child
15 support order issued”;

16 (7) in subsection (e)(1), by inserting “pursuant
17 to subsection (i)” before the semicolon;

18 (8) in subsection (e)(2)—

19 (A) by inserting “individual” before “con-
20 testant” each place such term appears; and

21 (B) by striking “to that court’s making the
22 modification and assuming” and inserting “with
23 the State of continuing, exclusive jurisdiction
24 for a court of another State to modify the order
25 and assume”;

1 (9) by redesignating subsections (f) and (g) as
2 subsections (g) and (h), respectively;

3 (10) by inserting after subsection (e) the follow-
4 ing:

5 “(f) RECOGNITION OF CHILD SUPPORT ORDERS.—

6 If one or more child support orders have been issued in
7 this or another State with regard to an obligor and a child,
8 a court shall apply the following rules in determining
9 which order to recognize for purposes of continuing, exclu-
10 sive jurisdiction and enforcement:

11 “(1) If only one court has issued a child sup-
12 port order, the order of that court must be recog-
13 nized.

14 “(2) If two or more courts have issued child
15 support orders for the same obligor and child, and
16 only one of the courts would have continuing, exclu-
17 sive jurisdiction under this section, the order of that
18 court must be recognized.

19 “(3) If two or more courts have issued child
20 support orders for the same obligor and child, and
21 only one of the courts would have continuing, exclu-
22 sive jurisdiction under this section, an order issued
23 by a court in the current home State of the child
24 must be recognized, but if an order has not been is-

1 sued in the current home State of the child, the
2 order most recently issued must be recognized.

3 “(4) If two or more courts have issued child
4 support orders for the same obligor and child, and
5 none of the courts would have continuing, exclusive
6 jurisdiction under this section, a court may issue a
7 child support order, which must be recognized.

8 “(5) The court that has issued an order recog-
9 nized under this subsection is the court having con-
10 tinuing, exclusive jurisdiction.”;

11 (11) in subsection (g) (as so redesignated)—

12 (A) by striking “PRIOR” and inserting
13 “MODIFIED”; and

14 (B) by striking “subsection (e)” and in-
15 serting “subsections (e) and (f)”;

16 (12) in subsection (h) (as so redesignated)—

17 (A) in paragraph (2), by inserting “includ-
18 ing the duration of current payments and other
19 obligations of support” before the comma; and

20 (B) in paragraph (3), by inserting “arrears
21 under” after “enforce”; and

22 (13) by adding at the end the following:

23 “(i) REGISTRATION FOR MODIFICATION.—If there is
24 no individual contestant or child residing in the issuing
25 State, the party or support enforcement agency seeking

1 to modify, or to modify and enforce, a child support order
2 issued in another State shall register that order in a State
3 with jurisdiction over the nonmovant for the purpose of
4 modification.”.

5 **SEC. 9433. STATE LAWS PROVIDING EXPEDITED PROCE-**
6 **DURES.**

7 (a) STATE LAW REQUIREMENTS.—Section 466 (42
8 U.S.C. 666) is amended—

9 (1) in subsection (a)(2), in the first sentence, to
10 read as follows: “Expedited administrative and judi-
11 cial procedures (including the procedures specified in
12 subsection (c)) for establishing paternity and for es-
13 tablishing, modifying, and enforcing support obliga-
14 tions.”; and

15 (2) by adding after subsection (b) the following
16 new subsection:

17 “(c) EXPEDITED PROCEDURES.—The procedures
18 specified in this subsection are the following:

19 “(1) ADMINISTRATIVE ACTION BY STATE AGEN-
20 CY.—Procedures which give the State agency the au-
21 thority (and recognize and enforce the authority of
22 State agencies of other States), without the necessity
23 of obtaining an order from any other judicial or ad-
24 ministrative tribunal (but subject to due process
25 safeguards, including (as appropriate) requirements

1 for notice, opportunity to contest the action, and op-
2 portunity for an appeal on the record to an inde-
3 pendent administrative or judicial tribunal), to take
4 the following actions relating to establishment or en-
5 forcement of orders:

6 “(A) GENETIC TESTING.—To order genetic
7 testing for the purpose of paternity establish-
8 ment as provided in section 466(a)(5).

9 “(B) DEFAULT ORDERS.—To enter a de-
10 fault order, upon a showing of service of proc-
11 ess and any additional showing required by
12 State law—

13 “(i) establishing paternity, in the case
14 of any putative father who refuses to sub-
15 mit to genetic testing; and

16 “(ii) establishing or modifying a sup-
17 port obligation, in the case of a parent (or
18 other obligor or obligee) who fails to re-
19 spond to notice to appear at a proceeding
20 for such purpose.

21 “(C) SUBPOENAS.—To subpoena any fi-
22 nancial or other information needed to estab-
23 lish, modify, or enforce an order, and to sanc-
24 tion failure to respond to any such subpoena.

1 “(D) ACCESS TO PERSONAL AND FINAN-
2 CIAL INFORMATION.—To obtain access, subject
3 to safeguards on privacy and information secu-
4 rity, to the following records (including auto-
5 mated access, in the case of records maintained
6 in automated data bases):

7 “(i) records of other State and local
8 government agencies, including—

9 “(I) vital statistics (including
10 records of marriage, birth, and di-
11 vorce);

12 “(II) State and local tax and rev-
13 enue records (including information
14 on residence address, employer, in-
15 come and assets);

16 “(III) records concerning real
17 and titled personal property;

18 “(IV) records of occupational and
19 professional licenses, and records con-
20 cerning the ownership and control of
21 corporations, partnerships, and other
22 business entities;

23 “(V) employment security
24 records;

1 “(VI) records of agencies admin-
2 istering public assistance programs;

3 “(VII) records of the motor vehi-
4 cle department; and

5 “(VIII) corrections records; and

6 “(ii) certain records held by private
7 entities, including—

8 “(I) customer records of public
9 utilities and cable television compa-
10 nies; and

11 “(II) information (including in-
12 formation on assets and liabilities) on
13 individuals who owe or are owed sup-
14 port (or against or with respect to
15 whom a support obligation is sought)
16 held by financial institutions (subject
17 to limitations on liability of such enti-
18 ties arising from affording such ac-
19 cess).

20 “(E) INCOME WITHHOLDING.—To order
21 income withholding in accordance with sub-
22 section (a)(1) and (b) of section 466.

23 “(F) CHANGE IN PAYEE.—(In cases where
24 support is subject to an assignment under sec-
25 tion 403(b)(1)(E)(i), 471(a)(17), or 1912, or to

1 a requirement to pay through the centralized
2 collections unit under section 454B) upon pro-
3 viding notice to obligor and obligee, to direct
4 the obligor or other payor to change the payee
5 to the appropriate government entity.

6 “(G) SECURE ASSETS TO SATISFY ARREAR-
7 AGES.—For the purpose of securing overdue
8 support—

9 “(i) to intercept and seize any peri-
10 odic or lump-sum payment to the obligor
11 by or through a State or local government
12 agency, including—

13 “(I) unemployment compensa-
14 tion, workers’ compensation, and
15 other benefits;

16 “(II) judgments and settlements
17 in cases under the jurisdiction of the
18 State or local government; and

19 “(III) lottery winnings;

20 “(ii) to attach and seize assets of the
21 obligor held by financial institutions;

22 “(iii) to attach public and private re-
23 tirement funds in appropriate cases, as de-
24 termined by the Secretary; and

1 “(iv) to impose liens in accordance
2 with paragraph (a)(4) and, in appropriate
3 cases, to force sale of property and dis-
4 tribution of proceeds.

5 “(H) INCREASE MONTHLY PAYMENTS.—
6 For the purpose of securing overdue support, to
7 increase the amount of monthly support pay-
8 ments to include amounts for arrearages (sub-
9 ject to such conditions or restrictions as the
10 State may provide).

11 “(I) SUSPENSION OF DRIVERS’ LI-
12 CENSES.—To suspend drivers’ licenses of indi-
13 viduals owing past-due support, in accordance
14 with subsection (a)(16).

15 “(2) SUBSTANTIVE AND PROCEDURAL RULES.—
16 The expedited procedures required under subsection
17 (a)(2) shall include the following rules and author-
18 ity, applicable with respect to all proceedings to es-
19 tablish paternity or to establish, modify, or enforce
20 support orders:

21 “(A) LOCATOR INFORMATION; PRESUMP-
22 TIONS CONCERNING NOTICE.—Procedures
23 under which—

24 “(i) the parties to any paternity or
25 child support proceedings are required

1 (subject to privacy safeguards) to file with
2 the tribunal before entry of an order, and
3 to update as appropriate, information on
4 location and identity (including Social Se-
5 curity number, residential and mailing ad-
6 dresses, telephone number, driver's license
7 number, and name, address, and telephone
8 number of employer); and

9 “(ii) in any subsequent child support
10 enforcement action between the same par-
11 ties, the tribunal shall be authorized, upon
12 sufficient showing that diligent effort has
13 been made to ascertain such party's cur-
14 rent location, to deem due process require-
15 ments for notice and service of process to
16 be met, with respect to such party, by de-
17 livery to the most recent residential or em-
18 ployer address so filed pursuant to clause
19 (i).

20 “(B) STATEWIDE JURISDICTION.—Proce-
21 dures under which—

22 “(i) the State agency and any admin-
23 istrative or judicial tribunal with authority
24 to hear child support and paternity cases
25 exerts statewide jurisdiction over the par-

1 ties, and orders issued in such cases have
2 statewide effect; and

3 “(ii) (in the case of a State in which
4 orders in such cases are issued by local ju-
5 risdictions) a case may be transferred be-
6 tween jurisdictions in the State without
7 need for any additional filing by the peti-
8 tioner, or service of process upon the re-
9 spondent, to retain jurisdiction over the
10 parties.”.

11 (c) EXCEPTIONS FROM STATE LAW REQUIRE-
12 MENTS.—Section 466(d) (42 U.S.C. 666(d)) is amend-
13 ed—

14 (1) by striking “(d) If” and inserting the fol-
15 lowing:

16 “(d) EXEMPTIONS FROM REQUIREMENTS.—

17 “(1) IN GENERAL.—Subject to paragraph (2),
18 if”; and

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

21 “(2) NONEXEMPT REQUIREMENTS.—The Sec-
22 retary shall not grant an exemption from the re-
23 quirements of—

24 “(A) subsection (a)(5) (concerning proce-
25 dures for paternity establishment);

1 “(B) subsection (a)(10) (concerning modi-
2 fication of orders);

3 “(C) subsection (a)(12) (concerning re-
4 cording of orders in the central State case reg-
5 istry);

6 “(D) subsection (a)(13) (concerning re-
7 cording of Social Security numbers);

8 “(E) subsection (a)(14) (concerning inter-
9 state enforcement); or

10 “(F) subsection (c) (concerning expedited
11 procedures), other than paragraph (1)(A) there-
12 of (concerning establishment or modification of
13 support amount).”.

14 (d) AUTOMATION OF STATE AGENCY FUNCTIONS.—
15 Section 454A, as added by section 9415(a)(2) of this Act
16 and as amended by sections 9421 and 9422(c) of this Act,
17 is amended by adding at the end the following new sub-
18 section:

19 “(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—
20 The automated system required under this section shall
21 be used, to the maximum extent feasible, to implement any
22 expedited administrative procedures required under sec-
23 tion 466(c).”.

1 CHAPTER 5—PATERNITY ESTABLISHMENT**2 SEC. 9441. SENSE OF THE CONGRESS.**

3 It is the sense of the Congress that social services
4 should be provided in hospitals to women who have become
5 pregnant as a result of rape or incest.

**6 SEC. 9442. AVAILABILITY OF PARENTING SOCIAL SERVICES
7 FOR NEW FATHERS.**

8 Section 466(a) (42 U.S.C. 666(a)), as amended by
9 sections 9401(a), 9426(a), and 9431 of this Act, is amend-
10 ed by inserting after paragraph (14) the following:

11 “(15) Procedures for providing new fathers
12 with positive parenting counseling that stresses the
13 importance of paying child support in a timely man-
14 ner, in accordance with regulations prescribed by the
15 Secretary.”.

**16 SEC. 9443. COOPERATION REQUIREMENT AND GOOD CAUSE
17 EXCEPTION.**

18 (a) IN GENERAL.—Section 454 (42 U.S.C. 654) is
19 amended—

20 (1) by striking “and” at the end of paragraph
21 (23);

22 (2) by striking the period at the end of para-
23 graph (24) and inserting “; and”; and

24 (3) by inserting after paragraph (24) the fol-
25 lowing:

1 “(25) provide that the State agency administer-
2 ing the plan under this part—

3 “(A) will make the determination specified
4 under paragraph (4), as to whether an individ-
5 ual is cooperating with efforts to establish pa-
6 ternity and secure support (or has good cause
7 not to cooperate with such efforts) for purposes
8 of the requirements of sections 403(b)(1)(E)(i)
9 and 1912;

10 “(B) will advise individuals, both orally
11 and in writing, of the grounds for good cause
12 exceptions to the requirement to cooperate with
13 such efforts;

14 “(C) will take the best interests of the
15 child into consideration in making the deter-
16 mination whether such individual has good
17 cause not to cooperate with such efforts;

18 “(D)(i) will make the initial determination
19 as to whether an individual is cooperating (or
20 has good cause not to cooperate) with efforts to
21 establish paternity within 10 days after such in-
22 dividual is referred to such State agency by the
23 State agency administering the program under
24 part A of title XIX;

1 “(ii) will make redeterminations as to co-
2 operation or good cause at appropriate inter-
3 vals; and

4 “(iii) will promptly notify the individual,
5 and the State agencies administering such pro-
6 grams, of each such determination and redeter-
7 mination;

8 “(E) with respect to any child born on or
9 after the date 10 months after enactment of
10 this provision, will not determine (or redeter-
11 mine) the mother (or other custodial relative) of
12 such child to be cooperating with efforts to es-
13 tablish paternity unless such individual fur-
14 nishes—

15 “(i) the name of the putative father
16 (or fathers); and

17 “(ii) sufficient additional information
18 to enable the State agency, if reasonable
19 efforts were made, to verify the identity of
20 the person named as the putative father
21 (including such information as the putative
22 father’s present address, telephone num-
23 ber, date of birth, past or present place of
24 employment, school previously or currently
25 attended, and names and addresses of par-

1 ents, friends, or relatives able to provide
2 location information, or other information
3 that could enable service of process on
4 such person), and

5 “(F)(i) (where a custodial parent who was
6 initially determined not to be cooperating (or to
7 have good cause not to cooperate) is later deter-
8 mined to be cooperating or to have good cause
9 not to cooperate) will immediately notify the
10 State agencies administering the programs
11 under part A of title XIX that this eligibility
12 condition has been met; and

13 “(ii) (where a custodial parent was initially
14 determined to be cooperating (or to have good
15 cause not to cooperate)) will not later determine
16 such individual not to be cooperating (or not to
17 have good cause not to cooperate) until such in-
18 dividual has been afforded an opportunity for a
19 hearing.”.

20 (b) MEDICAID AMENDMENTS.—Section 1912(a) (42
21 U.S.C. 1396k(a)) is amended—

22 (1) in paragraph (1)(B), by inserting “(except
23 as provided in paragraph (2))” after “to cooperate
24 with the State”;

1 (2) in subparagraphs (B) and (C) of paragraph
2 (1) by striking “, unless” and all that follows and
3 inserting a semicolon; and

4 (3) by redesignating paragraph (2) as para-
5 graph (5), and inserting after paragraph (1) the fol-
6 lowing new paragraphs:

7 “(2) provide that the State agency will imme-
8 diately refer each applicant or recipient requiring
9 paternity establishment services to the State agency
10 administering the program under part D of title IV;

11 “(3) provide that an individual will not be re-
12 quired to cooperate with the State, as provided
13 under paragraph (1), if the individual is found to
14 have good cause for refusing to cooperate, as deter-
15 mined in accordance with standards prescribed by
16 the Secretary, which standards shall take into con-
17 sideration the best interests of the individuals in-
18 volved—

19 “(A) to the satisfaction of the State agency
20 administering the program under part D, as de-
21 termined in accordance with section 454(25),
22 with respect to the requirements to cooperate
23 with efforts to establish paternity and to obtain
24 support (including medical support) from a par-
25 ent; and

1 “(B) to the satisfaction of the State agen-
2 cy administering the program under this title,
3 with respect to other requirements to cooperate
4 under paragraph (1);

5 “(4) provide that (except as provided in para-
6 graph (5)) an applicant requiring paternity estab-
7 lishment services (other than an individual presump-
8 tively eligible pursuant to section 1920) shall not be
9 eligible for medical assistance under this title until
10 such applicant—

11 “(i) has furnished to the agency admin-
12 istering the State plan under part D of title IV
13 the information specified in section 454(25)(E);
14 or

15 “(ii) has been determined by such agency
16 to have good cause not to cooperate; and

17 “(5) provide that the provisions of paragraph
18 (4) shall not apply with respect to an applicant—

19 “(i) if such agency has not, within 10 days
20 after such individual was referred to such agen-
21 cy, provided the notification required by section
22 454(25)(D)(iii), until such notification is re-
23 ceived); and

24 “(ii) if such individual appeals a deter-
25 mination that the individual lacks good cause

1 for noncooperation, until after such determina-
2 tion is affirmed after notice and opportunity for
3 a hearing.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall be effective with respect to applications
6 filed in or after the first calendar quarter beginning 10
7 months or more after the date of the enactment of this
8 Act (or such earlier quarter as the State may select) for
9 assistance under a State plan approved under part A of
10 title IV of the Social Security Act or for medical assistance
11 under a State plan approved under title XIX of such Act.

12 **SEC. 9444. FEDERAL MATCHING PAYMENTS.**

13 (a) INCREASED BASE MATCHING RATE.—Section
14 455(a)(2) (42 U.S.C. 655(a)(2)) is amended to read as
15 follows:

16 “(2) The applicable percent for a quarter for
17 purposes of paragraph (1)(A) is—

18 “(A) for fiscal year 1996, 69 percent;

19 “(B) for fiscal year 1997, 72 percent; and

20 “(C) for fiscal year 1998 and succeeding
21 fiscal years, 75 percent.”.

22 (b) MAINTENANCE OF EFFORT.—Section 455 (42
23 U.S.C. 655) is amended—

1 (1) in subsection (a)(1), in the matter preced-
2 ing subparagraph (A), by striking “From” and in-
3 sserting “Subject to subsection (c), from”; and

4 (2) by inserting after subsection (b) the follow-
5 ing:

6 “(c) MAINTENANCE OF EFFORT.—Notwithstanding
7 subsection (a), total expenditures for the State program
8 under this part for fiscal year 1996 and each succeeding
9 fiscal year, reduced by the percentage specified for such
10 fiscal year under subparagraph (A), (B), or (C)(i) of para-
11 graph (2), shall not be less than such total expenditures
12 for fiscal year 1995, reduced by 66 percent.”.

13 **SEC. 9445. STATE LAWS CONCERNING PATERNITY ESTAB-**
14 **LISHMENT.**

15 (a) STATE LAWS REQUIRED.—Section 466(a)(5) (42
16 U.S.C. 666(a)(5)) is amended—

17 (1) by striking “(5)” and inserting the follow-
18 ing:

19 “(5) PROCEDURES CONCERNING PATERNITY ES-
20 TABLISHMENT.—”;

21 (2) in subparagraph (A)—

22 (A) by striking “(A)(i)” and inserting the
23 following:

1 “(A) ESTABLISHMENT PROCESS AVAIL-
2 ABLE FROM BIRTH UNTIL AGE EIGHTEEN.—
3 (i)”; and

4 (B) by indenting clauses (i) and (ii) so
5 that the left margin of such clauses is 2 ems to
6 the right of the left margin of paragraph (4);
7 (3) in subparagraph (B)—

8 (A) by striking “(B)” and inserting the
9 following:

10 “(B) PROCEDURES CONCERNING GENETIC
11 TESTING.—(i)”;

12 (B) in clause (i), as redesignated, by in-
13 serting before the period “, where such request
14 is supported by a sworn statement (I) by such
15 party alleging paternity setting forth facts es-
16 tablishing a reasonable possibility of the req-
17 uisite sexual contact of the parties, or (II) by
18 such party denying paternity setting forth facts
19 establishing a reasonable possibility of the
20 nonexistence of sexual contact of the parties;”;

21 (C) by inserting after and below clause (i)
22 (as redesignated) the following new clause:

23 “(ii) Procedures which require the State
24 agency, in any case in which such agency orders
25 genetic testing—

1 “(I) to pay costs of such tests, subject
2 to recoupment (where the State so elects)
3 from the putative father if paternity is es-
4 tablished; and

5 “(II) to obtain additional testing in
6 any case where an original test result is
7 disputed, upon request and advance pay-
8 ment by the disputing party.”;

9 (4) by striking subparagraphs (C) and (D) and
10 inserting the following:

11 “(C) PATERNITY ACKNOWLEDGMENT.—(i)
12 Procedures for a simple civil process for volun-
13 tarily acknowledging paternity under which the
14 State must provide that, before a mother and a
15 putative father can sign an acknowledgment of
16 paternity, the putative father and the mother
17 must be given notice, orally, in writing, and in
18 a language that each can understand, of the al-
19 ternatives to, the legal consequences of, and the
20 rights (including, if 1 parent is a minor, any
21 rights afforded due to minority status) and re-
22 sponsibilities that arise from, signing the ac-
23 knowledgment.

24 “(ii) Such procedures must include a hos-
25 pital-based program for the voluntary acknowl-

1 edgment of paternity focusing on the period im-
2 mediately before or after the birth of a child.

3 “(iii) Such procedures must require the
4 State agency responsible for maintaining birth
5 records to offer voluntary paternity establish-
6 ment services.

7 “(iv) The Secretary shall prescribe regula-
8 tions governing voluntary paternity establish-
9 ment services offered by hospitals and birth
10 record agencies. The Secretary shall prescribe
11 regulations specifying the types of other entities
12 that may offer voluntary paternity establish-
13 ment services, and governing the provision of
14 such services, which shall include a requirement
15 that such an entity must use the same notice
16 provisions used by, the same materials used by,
17 provide the personnel providing such services
18 with the same training provided by, and evalu-
19 ate the provision of such services in the same
20 manner as, voluntary paternity establishment
21 programs of hospitals and birth record agen-
22 cies.

23 “(v) Such procedures must require the
24 State and those required to establish paternity
25 to use only the affidavit developed under section

1 452(a)(7) for the voluntary acknowledgment of
2 paternity, and to give full faith and credit to
3 such an affidavit signed in any other State.

4 “(D) STATUS OF SIGNED PATERNITY AC-
5 KNOWLEDGMENT.—(i) Procedures under which
6 a signed acknowledgment of paternity is consid-
7 ered a legal finding of paternity, subject to the
8 right of any signatory to rescind the acknowl-
9 edgment within 60 days.

10 “(ii)(I) Procedures under which, after the
11 60-day period referred to in clause (i), a signed
12 acknowledgment of paternity may be challenged
13 in court only on the basis of fraud, duress, or
14 material mistake of fact, with the burden of
15 proof upon the challenger, and under which the
16 legal responsibilities (including child support
17 obligations) of any signatory arising from the
18 acknowledgment may not be suspended during
19 the challenge, except for good cause shown.

20 “(II) Procedures under which, after the
21 60-day period referred to in clause (i), a minor
22 who signs an acknowledgment of paternity
23 other than in the presence of a parent or court-
24 appointed guardian ad litem may rescind the

1 acknowledgment in a judicial or administrative
2 proceeding, until the earlier of—

3 “(aa) attaining the age of majority; or

4 “(bb) the date of the first judicial or
5 administrative proceeding brought (after
6 the signing) to establish a child support
7 obligation, visitation rights, or custody
8 rights with respect to the child whose pa-
9 ternity is the subject of the acknowledg-
10 ment, and at which the minor is rep-
11 resented by a parent, guardian ad litem, or
12 attorney.”;

13 (5) by striking subparagraph (E) and inserting
14 the following:

15 “(E) BAR ON ACKNOWLEDGMENT RATIFI-
16 CATION PROCEEDINGS.—Procedures under
17 which no judicial or administrative proceedings
18 are required or permitted to ratify an unchal-
19 lenged acknowledgment of paternity.”;

20 (6) by striking subparagraph (F) and inserting
21 the following:

22 “(F) ADMISSIBILITY OF GENETIC TESTING
23 RESULTS.—Procedures—

24 “(i) requiring that the State admit
25 into evidence, for purposes of establishing

1 paternity, results of any genetic test that
2 is—

3 “(I) of a type generally acknowl-
4 edged, by accreditation bodies des-
5 ignated by the Secretary, as reliable
6 evidence of paternity; and

7 “(II) performed by a laboratory
8 approved by such an accreditation
9 body;

10 “(ii) that any objection to genetic
11 testing results must be made in writing not
12 later than a specified number of days be-
13 fore any hearing at which such results may
14 be introduced into evidence (or, at State
15 option, not later than a specified number
16 of days after receipt of such results); and

17 “(iii) that, if no objection is made, the
18 test results are admissible as evidence of
19 paternity without the need for foundation
20 testimony or other proof of authenticity or
21 accuracy.”; and

22 (7) by adding after subparagraph (H) the
23 following new subparagraphs:

1 “(I) NO RIGHT TO JURY TRIAL.—Proce-
2 dures providing that the parties to an action to
3 establish paternity are not entitled to jury trial.

4 “(J) TEMPORARY SUPPORT ORDER BASED
5 ON PROBABLE PATERNITY IN CONTESTED
6 CASES.—Procedures which require that a tem-
7 porary order be issued, upon motion by a party,
8 requiring the provision of child support pending
9 an administrative or judicial determination of
10 parentage, where there is clear and convincing
11 evidence of paternity (on the basis of genetic
12 tests or other evidence).

13 “(K) PROOF OF CERTAIN SUPPORT AND
14 PATERNITY ESTABLISHMENT COSTS.—Proce-
15 dures under which bills for pregnancy, child-
16 birth, and genetic testing are admissible as evi-
17 dence without requiring third-party foundation
18 testimony, and shall constitute prima facie evi-
19 dence of amounts incurred for such services and
20 testing on behalf of the child.

21 “(L) WAIVER OF STATE DEBTS FOR CO-
22 OPERATION.—At the option of the State, proce-
23 dures under which the tribunal establishing pa-
24 ternity and support has discretion to waive
25 rights to all or part of amounts owed to the

1 State (but not to the mother) for costs related
2 to pregnancy, childbirth, and genetic testing
3 and for public assistance paid to the family
4 where the father cooperates or acknowledges
5 paternity before or after genetic testing.

6 “(M) STANDING OF PUTATIVE FATHERS.—
7 Procedures ensuring that the putative father
8 has a reasonable opportunity to initiate a pater-
9 nity action.”.

10 (b) NATIONAL PATERNITY ACKNOWLEDGMENT AFFI-
11 DAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is
12 amended by inserting “, and develop an affidavit to be
13 used for the voluntary acknowledgment of paternity which
14 shall include the social security account number of each
15 parent” before the semicolon.

16 (c) TECHNICAL AMENDMENT.—Section 468 (42
17 U.S.C. 668) is amended by striking “a simple civil process
18 for voluntarily acknowledging paternity and”.

19 **SEC. 9446. OUTREACH FOR VOLUNTARY PATERNITY ESTAB-**
20 **LISHMENT.**

21 (a) STATE PLAN REQUIREMENT.—Section 454(23)
22 (42 U.S.C. 654(23)) is amended by adding at the end the
23 following new subparagraph:

24 “(C) publicize the availability and encour-
25 age the use of procedures for voluntary estab-

1 lishment of paternity and child support through
2 a variety of means, which—

3 “(i) include distribution of written
4 materials at health care facilities (includ-
5 ing hospitals and clinics), and other loca-
6 tions such as schools;

7 “(ii) may include pre-natal programs
8 to educate expectant couples on individual
9 and joint rights and responsibilities with
10 respect to paternity (and may require all
11 expectant recipients of assistance under
12 part A to participate in such pre-natal pro-
13 grams, as an element of cooperation with
14 efforts to establish paternity and child sup-
15 port);

16 “(iii) include, with respect to each
17 child discharged from a hospital after birth
18 for whom paternity or child support has
19 not been established, reasonable follow-up
20 efforts (including at least one contact of
21 each parent whose whereabouts are known,
22 except where there is reason to believe
23 such follow-up efforts would put mother or
24 child at risk), providing—

1 “(I) in the case of a child for
2 whom paternity has not been estab-
3 lished, information on the benefits of
4 and procedures for establishing pater-
5 nity; and

6 “(II) in the case of a child for
7 whom paternity has been established
8 but child support has not been estab-
9 lished, information on the benefits of
10 and procedures for establishing a
11 child support order, and an applica-
12 tion for child support services;”.

13 (b) ENHANCED FEDERAL MATCHING.—Section
14 455(a)(1)(C) (42 U.S.C. 655(a)(1)(C)) is amended—

15 (1) by inserting “(i)” before “laboratory costs”,
16 and

17 (2) by inserting before the semicolon “, and (ii)
18 costs of outreach programs designed to encourage
19 voluntary acknowledgment of paternity”.

20 (c) EFFECTIVE DATES.—(1) The amendments made
21 by subsection (a) shall become effective October 1, 1997.

22 (2) The amendments made by subsection (b) shall be
23 effective with respect to calendar quarters beginning on
24 and after October 1, 1996.

1 **CHAPTER 6—ESTABLISHMENT AND**
2 **MODIFICATION OF SUPPORT ORDERS**

3 **SEC. 9451. NATIONAL CHILD SUPPORT GUIDELINES COM-**
4 **MISSION.**

5 (a) **ESTABLISHMENT.**—There is hereby established a
6 commission to be known as the “National Child Support
7 Guidelines Commission” (in this section referred to as the
8 “Commission”).

9 (b) **GENERAL DUTIES.**—The Commission shall de-
10 velop a national child support guideline for consideration
11 by the Congress that is based on a study of various guide-
12 line models, the benefits and deficiencies of such models,
13 and any needed improvements.

14 (c) **MEMBERSHIP.**—

15 (1) **NUMBER; APPOINTMENT.**—

16 (A) **IN GENERAL.**—The Commission shall
17 be composed of 12 individuals appointed jointly
18 by the Secretary of Health and Human Services
19 and the Congress, not later than January 15,
20 1997, of which—

21 (i) 2 shall be appointed by the Chair-
22 man of the Committee on Finance of the
23 Senate, and 1 shall be appointed by the
24 ranking minority member of the Commit-
25 tee;

1 (ii) 2 shall be appointed by the Chair-
2 man of the Committee on Ways and Means
3 of the House of Representatives, and 1
4 shall be appointed by the ranking minority
5 member of the Committee; and

6 (iii) 6 shall be appointed by the Sec-
7 retary of Health and Human Services.

8 (B) QUALIFICATIONS OF MEMBERS.—
9 Members of the Commission shall have exper-
10 tise and experience in the evaluation and devel-
11 opment of child support guidelines. At least 1
12 member shall represent advocacy groups for
13 custodial parents, at least 1 member shall rep-
14 resent advocacy groups for noncustodial par-
15 ents, and at least 1 member shall be the direc-
16 tor of a State program under part D of title IV
17 of the Social Security Act.

18 (2) TERMS OF OFFICE.—Each member shall be
19 appointed for a term of 2 years. A vacancy in the
20 Commission shall be filled in the manner in which
21 the original appointment was made.

22 (d) COMMISSION POWERS, COMPENSATION, ACCESS
23 TO INFORMATION, AND SUPERVISION.—The first sentence
24 of subparagraph (C), the first and third sentences of sub-
25 paragraph (D), subparagraph (F) (except with respect to

1 the conduct of medical studies), clauses (ii) and (iii) of
2 subparagraph (G), and subparagraph (H) of section
3 1886(e)(6) of the Social Security Act shall apply to the
4 Commission in the same manner in which such provisions
5 apply to the Prospective Payment Assessment Commis-
6 sion.

7 (e) REPORT.—Not later than 2 years after the ap-
8 pointment of members, the Commission shall submit to
9 the President, the Committee on Ways and Means of the
10 House of Representatives, and the Committee on Finance
11 of the Senate, a recommended national child support
12 guideline and a final assessment of issues relating to such
13 a proposed national child support guideline.

14 (f) TERMINATION.—The Commission shall terminate
15 6 months after the submission of the report described in
16 subsection (e).

17 **SEC. 9452. SIMPLIFIED PROCESS FOR REVIEW AND ADJUST-**
18 **MENT OF CHILD SUPPORT ORDERS.**

19 (a) IN GENERAL.—Section 466(a)(10) (42 U.S.C.
20 666(a)(10)) is amended to read as follows:

21 “(10) PROCEDURES FOR MODIFICATION OF
22 SUPPORT ORDERS.—

23 “(A)(i) Procedures under which—

24 “(I) every 3 years, at the request of
25 either parent subject to a child support

1 order, the State shall review and, as appro-
2 priate, adjust the order in accordance with
3 the guidelines established under section
4 467(a) if the amount of the child support
5 award under the order differs from the
6 amount that would be awarded in accord-
7 ance with such guidelines, without a re-
8 quirement for any other change in cir-
9 cumstances; and

10 “(II) upon request at any time of ei-
11 ther parent subject to a child support
12 order, the State shall review and, as appro-
13 priate, adjust the order in accordance with
14 the guidelines established under section
15 467(a) based on a substantial change in
16 the circumstances of either such parent.

17 “(ii) Such procedures shall require both
18 parents subject to a child support order to be
19 notified of their rights and responsibilities pro-
20 vided for under clause (i) at the time the order
21 is issued and in the annual information ex-
22 change form provided under subparagraph (B).

23 “(B) Procedures under which each child
24 support order issued or modified in the State
25 after the effective date of this subparagraph

1 shall require the parents subject to the order to
2 provide each other with a complete statement of
3 their respective financial condition annually on
4 a form which shall be established by the Sec-
5 retary and provided by the State. The Secretary
6 shall establish regulations for the enforcement
7 of such exchange of information.”.

8 **CHAPTER 7—ENFORCEMENT OF SUPPORT**
9 **ORDERS**

10 **SEC. 9461. FEDERAL INCOME TAX REFUND OFFSET.**

11 (a) CHANGED ORDER OF REFUND DISTRIBUTION
12 UNDER INTERNAL REVENUE CODE.—Section 6402(c) of
13 the Internal Revenue Code of 1986 is amended by striking
14 the 3rd sentence.

15 (b) ELIMINATION OF DISPARITIES IN TREATMENT
16 OF ASSIGNED AND NON-ASSIGNED ARREARAGES.—(1)
17 Section 464(a) (42 U.S.C. 664(a)) is amended—

18 (A) by striking “(a)” and inserting “(a) OFF-
19 SET AUTHORIZED.—”;

20 (B) in paragraph (1)—

21 (i) in the first sentence, by striking “which
22 has been assigned to such State pursuant to
23 section 402(a)(26) or section 471(a)(17)”; and

1 (ii) in the second sentence, by striking “in
2 accordance with section 457 (b)(4) or (d)(3)”
3 and inserting “as provided in paragraph (2)”;

4 (C) in paragraph (2), to read as follows:

5 “(2) The State agency shall distribute amounts
6 paid by the Secretary of the Treasury pursuant to
7 paragraph (1)—

8 “(A) in accordance with section 457(a)(4)
9 or (d)(3), in the case of past-due support as-
10 signed to a State pursuant to section
11 403(b)(1)(E)(i) or 471(a)(17); and

12 “(B) to or on behalf of the child to whom
13 the support was owed, in the case of past-due
14 support not so assigned.”;

15 (D) in paragraph (3)—

16 (i) by striking “or (2)” each place it ap-
17 pears; and

18 (ii) in subparagraph (B), by striking
19 “under paragraph (2)” and inserting “on ac-
20 count of past-due support described in para-
21 graph (2)(B)”.

22 (2) Section 464(b) (42 U.S.C. 664(b)) is
23 amended—

24 (A) by striking “(b)(1)” and inserting “(b)
25 REGULATIONS.—”; and

1 (B) by striking paragraph (2).

2 (3) Section 464(c) (42 U.S.C. 664(c)) is
3 amended—

4 (A) by striking “(c)(1) Except as provided
5 in paragraph (2), as” and inserting “(c) DEFINI-
6 TION.—As”; and

7 (B) by striking paragraphs (2) and (3).

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall become effective October 1, 1999.

10 **SEC. 9462. INTERNAL REVENUE SERVICE COLLECTION OF**
11 **ARREARS.**

12 (a) AMENDMENT TO INTERNAL REVENUE CODE.—
13 Section 6305(a) of the Internal Revenue Code of 1986 is
14 amended—

15 (1) in paragraph (1), by inserting “except as
16 provided in paragraph (5)” after “collected”;

17 (2) by striking “and” at the end of paragraph
18 (3);

19 (3) by striking the period at the end of para-
20 graph (4) and inserting a comma;

21 (4) by adding after paragraph (4) the following
22 new paragraph:

23 “(5) no additional fee may be assessed for ad-
24 justments to an amount previously certified pursu-

1 ant to such section 452(b) with respect to the same
2 obligor.”; and

3 (5) by striking “Secretary of Health, Edu-
4 cation, and Welfare” each place it appears and in-
5 serting “Secretary of Health and Human Services”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall become effective October 1, 1997.

8 **SEC. 9463. AUTHORITY TO COLLECT SUPPORT FROM FED-**
9 **ERAL EMPLOYEES.**

10 (a) CONSOLIDATION AND STREAMLINING OF AU-
11 THORITIES.—

12 (1) Section 459 (42 U.S.C. 659) is amended in
13 the caption by inserting “INCOME WITHHOLDING,”
14 before “GARNISHMENT”.

15 (2) Section 459(a) (42 U.S.C. 659(a)) is
16 amended—

17 (A) by striking “(a)” and inserting “(a)
18 CONSENT TO SUPPORT ENFORCEMENT.—

19 (B) by striking “section 207” and insert-
20 ing “section 207 of this Act and 38 U.S.C.
21 5301”; and

22 (C) by striking all that follows “a private
23 person,” and inserting “to withholding in ac-
24 cordance with State law pursuant to subsections
25 (a)(1) and (b) of section 466 and regulations of

1 the Secretary thereunder, and to any other legal
2 process brought, by a State agency administer-
3 ing a program under this part or by an individ-
4 ual obligee, to enforce the legal obligation of
5 such individual to provide child support or ali-
6 mony.”.

7 (3) Section 459(b) (42 U.S.C. 659(b)) is
8 amended to read as follows:

9 “(b) CONSENT TO REQUIREMENTS APPLICABLE TO
10 PRIVATE PERSON.— Except as otherwise provided herein,
11 each entity specified in subsection (a) shall be subject,
12 with respect to notice to withhold income pursuant to sub-
13 section (a)(1) or (b) of section 466, or to any other order
14 or process to enforce support obligations against an indi-
15 vidual (if such order or process contains or is accompanied
16 by sufficient data to permit prompt identification of the
17 individual and the moneys involved), to the same require-
18 ments as would apply if such entity were a private per-
19 son.”.

20 (4) Section 459(c) (42 U.S.C. 659(c)) is redес-
21 ignated and relocated as paragraph (2) of subsection
22 (f), and is amended—

23 (A) by striking “responding to interroga-
24 tories pursuant to requirements imposed by
25 section 461(b)(3)” and inserting “taking ac-

1 tions necessary to comply with the requirements
2 of subsection (A) with regard to any individ-
3 ual”; and

4 (B) by striking “any of his duties” and all
5 that follows and inserting “such duties.”.

6 (5) Section 461 (42 U.S.C. 661) is amended by
7 striking subsection (b), and section 459 (42 U.S.C.
8 659) is amended by inserting after subsection (b)
9 (as added by paragraph (3) of this subsection) the
10 following:

11 “(c) DESIGNATION OF AGENT; RESPONSE TO NOTICE
12 OR PROCESS.—(1) The head of each agency subject to the
13 requirements of this section shall—

14 “(A) designate an agent or agents to receive or-
15 ders and accept service of process; and

16 “(B) publish (i) in the appendix of such regula-
17 tions, (ii) in each subsequent republication of such
18 regulations, and (iii) annually in the Federal Reg-
19 ister, the designation of such agent or agents, identi-
20 fied by title of position, mailing address, and tele-
21 phone number.”.

22 (6) Section 459 (42 U.S.C. 659) is amended by
23 striking subsection (d) and by inserting after sub-
24 section (c)(1) (as added by paragraph (5) of this
25 subsection) the following:

1 “(2) Whenever an agent designated pursuant to para-
2 graph (1) receives notice pursuant to subsection (a)(1) or
3 (b) of section 466, or is effectively served with any order,
4 process, or interrogatories, with respect to an individual’s
5 child support or alimony payment obligations, such agent
6 shall—

7 “(A) as soon as possible (but not later than fif-
8 teen days) thereafter, send written notice of such no-
9 tice or service (together with a copy thereof) to such
10 individual at his duty station or last-known home
11 address;

12 “(B) within 30 days (or such longer period as
13 may be prescribed by applicable State law) after re-
14 ceipt of a notice pursuant to subsection (a)(1) or (b)
15 of section 466, comply with all applicable provisions
16 of such section 466; and

17 “(C) within 30 days (or such longer period as
18 may be prescribed by applicable State law) after ef-
19 fective service of any other such order, process, or
20 interrogatories, respond thereto.”.

21 (7) Section 461 (42 U.S.C. 661) is amended by
22 striking subsection (c), and section 459 (42 U.S.C.
23 659) is amended by inserting after subsection (c) (as
24 added by paragraph (5) and amended by paragraph
25 (6) of this subsection) the following:

1 “(d) PRIORITY OF CLAIMS.—In the event that a gov-
2 ernmental entity receives notice or is served with process,
3 as provided in this section, concerning amounts owed by
4 an individual to more than one person—

5 “(1) support collection under section 466(b)
6 must be given priority over any other process, as
7 provided in section 466(b)(7);

8 “(2) allocation of moneys due or payable to an
9 individual among claimants under section 466(b)
10 shall be governed by the provisions of such section
11 466(b) and regulations thereunder; and

12 “(3) such moneys as remain after compliance
13 with subparagraphs (A) and (B) shall be available to
14 satisfy any other such processes on a first-come,
15 first-served basis, with any such process being satis-
16 fied out of such moneys as remain after the satisfac-
17 tion of all such processes which have been previously
18 served.”.

19 (8) Section 459(e) (42 U.S.C. 659(e)) is
20 amended by striking “(e)” and inserting the follow-
21 ing:

22 “(e) NO REQUIREMENT TO VARY PAY CYCLES.—”.

23 (9) Section 459(f) (42 U.S.C. 659(f)) is amend-
24 ed by striking “(f)” and inserting the following:

25 “(f) RELIEF FROM LIABILITY.—(1)”.

1 (10) Section 461(a) (42 U.S.C. 661(a)) is re-
2 designated and relocated as section 459(g), and is
3 amended—

4 (A) by striking “(g)” and inserting the fol-
5 lowing:

6 “(g) REGULATIONS.—”; and

7 (B) by striking “section 459” and insert-
8 ing “this section”.

9 (11) Section 462 (42 U.S.C. 662) is amended
10 by striking subsection (f), and section 459 (42
11 U.S.C. 659) is amended by inserting the following
12 after subsection (g) (as added by paragraph (10) of
13 this subsection):

14 “(h) MONEYS SUBJECT TO PROCESS.—(1) Subject to
15 subsection (i), moneys paid or payable to an individual
16 which are considered to be based upon remuneration for
17 employment, for purposes of this section—

18 “(A) consist of—

19 “(i) compensation paid or payable for per-
20 sonal services of such individual, whether such
21 compensation is denominated as wages, salary,
22 commission, bonus, pay, allowances, or other-
23 wise (including severance pay, sick pay, and in-
24 centive pay);

1 “(ii) periodic benefits (including a periodic
2 benefit as defined in section 228(h)(3)) or other
3 payments—

4 “(I) under the insurance system es-
5 tablished by title II;

6 “(II) under any other system or fund
7 established by the United States which
8 provides for the payment of pensions, re-
9 tirement or retired pay, annuities, depend-
10 ents’ or survivors’ benefits, or similar
11 amounts payable on account of personal
12 services performed by the individual or any
13 other individual;

14 “(III) as compensation for death
15 under any Federal program;

16 “(IV) under any Federal program es-
17 tablished to provide ‘black lung’ benefits;
18 or

19 “(V) by the Secretary of Veterans Af-
20 fairs as pension, or as compensation for a
21 service-connected disability or death (ex-
22 cept any compensation paid by such Sec-
23 retary to a former member of the Armed
24 Forces who is in receipt of retired or re-
25 tainer pay if such former member has

1 waived a portion of his retired pay in order
2 to receive such compensation); and

3 “(iii) worker’s compensation benefits paid
4 under Federal or State law; but

5 “(B) do not include any payment—

6 “(i) by way of reimbursement or otherwise,
7 to defray expenses incurred by such individual
8 in carrying out duties associated with his em-
9 ployment; or

10 “(ii) as allowances for members of the uni-
11 formed services payable pursuant to chapter 7
12 of title 37, United States Code, as prescribed
13 by the Secretaries concerned (defined by section
14 101(5) of such title) as necessary for the effi-
15 cient performance of duty.”.

16 (12) Section 462(g) (42 U.S.C. 662(g)) is re-
17 designated and relocated as section 459(i) (42
18 U.S.C. 659(i)).

19 (13)(A) Section 462 (42 U.S.C. 662) is amend-
20 ed—

21 (i) in subsection (e)(1), by redesignating
22 subparagraphs (A), (B), and (C) as clauses (i),
23 (ii), and (iii); and

1 (ii) in subsection (e), by redesignating
2 paragraphs (1) and (2) as subparagraphs (A)
3 and (B).

4 (B) Section 459 (42 U.S.C. 659) is amended by
5 adding at the end the following:

6 “(j) DEFINITIONS.—For purposes of this sec-
7 tion—”.

8 (C) Subsections (a) through (e) of section 462
9 (42 U.S.C. 662), as amended by subparagraph (A)
10 of this paragraph, are relocated and redesignated as
11 paragraphs (1) through (4), respectively of section
12 459(j) (as added by subparagraph (B) of this para-
13 graph, (42 U.S.C. 659(j))), and the left margin of
14 each of such paragraphs (1) through (4) is indented
15 2 ems to the right of the left margin of subsection
16 (i) (as added by paragraph (12) of this subsection).

17 (b) CONFORMING AMENDMENTS.—

18 (1) TO PART D OF TITLE IV.—Sections 461 and
19 462 (42 U.S.C. 661), as amended by subsection (a)
20 of this section, are repealed.

21 (2) TO TITLE 5, UNITED STATES CODE.—Sec-
22 tion 5520a of title 5, United States Code, is amend-
23 ed, in subsections (h)(2) and (i), by striking “sec-
24 tions 459, 461, and 462 of the Social Security Act
25 (42 U.S.C. 659, 661, and 662)” and inserting “sec-

1 tion 459 of the Social Security Act (42 U.S.C.
2 659)’’.

3 (c) MILITARY RETIRED AND RETAINER PAY.—(1)
4 DEFINITION OF COURT.—Section 1408(a)(1) of title 10,
5 United States Code, is amended—

6 (A) by striking “and” at the end of subpara-
7 graph (B);

8 (B) by striking the period at the end of sub-
9 paragraph (C) and inserting “; and”; and

10 (C) by adding after subparagraph (C) the fol-
11 lowing new paragraph:

12 “(D) any administrative or judicial tribu-
13 nal of a State competent to enter orders for
14 support or maintenance (including a State
15 agency administering a State program under
16 part D of title IV of the Social Security Act).”;

17 (2) DEFINITION OF COURT ORDER.—Section
18 1408(a)(2) of such title is amended by inserting “or a
19 court order for the payment of child support not included
20 in or accompanied by such a decree or settlement,” before
21 “which—”.

22 (3) PUBLIC PAYEE.—Section 1408(d) of such title is
23 amended—

24 (A) in the heading, by striking “to spouse” and
25 inserting “to (or for benefit of)”; and

1 (B) in paragraph (1), in the first sentence, by
2 inserting “(or for the benefit of such spouse or
3 former spouse to a State central collections unit or
4 other public payee designated by a State, in accord-
5 ance with part D of title IV of the Social Security
6 Act, as directed by court order, or as otherwise di-
7 rected in accordance with such part D)” before “in
8 an amount sufficient”.

9 (4) RELATIONSHIP TO PART D OF TITLE IV.—Sec-
10 tion 1408 of such title is amended by adding at the end
11 the following new subsection:

12 “(j) RELATIONSHIP TO OTHER LAWS.—In any case
13 involving a child support order against a member who has
14 never been married to the other parent of the child, the
15 provisions of this section shall not apply, and the case
16 shall be subject to the provisions of section 459 of the
17 Social Security Act.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall become effective 6 months after the date
20 of the enactment of this Act.

21 **SEC. 9464. ENFORCEMENT OF CHILD SUPPORT OBLIGA-**
22 **TIONS OF MEMBERS OF THE ARMED FORCES.**

23 (a) AVAILABILITY OF LOCATOR INFORMATION.—

24 (1) MAINTENANCE OF ADDRESS INFORMA-
25 TION.—The Secretary of Defense shall establish a

1 centralized personnel locator service that includes
2 the address of each member of the Armed Forces
3 under the jurisdiction of the Secretary. Upon re-
4 quest of the Secretary of Transportation, addresses
5 for members of the Coast Guard shall be included in
6 the centralized personnel locator service.

7 (2) TYPE OF ADDRESS.—

8 (A) RESIDENTIAL ADDRESS.—Except as
9 provided in subparagraph (B), the address for
10 a member of the Armed Forces shown in the lo-
11 cator service shall be the residential address of
12 that member.

13 (B) DUTY ADDRESS.—The address for a
14 member of the Armed Forces shown in the loca-
15 tor service shall be the duty address of that
16 member in the case of a member—

17 (i) who is permanently assigned over-
18 seas, to a vessel, or to a routinely
19 deployable unit; or

20 (ii) with respect to whom the Sec-
21 retary concerned makes a determination
22 that the member's residential address
23 should not be disclosed due to national se-
24 curity or safety concerns.

1 (3) UPDATING OF LOCATOR INFORMATION.—

2 Within 30 days after a member listed in the locator
3 service establishes a new residential address (or a
4 new duty address, in the case of a member covered
5 by paragraph (2)(B)), the Secretary concerned shall
6 update the locator service to indicate the new ad-
7 dress of the member.

8 (4) AVAILABILITY OF INFORMATION.—The Sec-

9 retary of Defense shall make information regarding
10 the address of a member of the Armed Forces listed
11 in the locator service available, on request, to the
12 Federal Parent Locator Service.

13 (b) FACILITATING GRANTING OF LEAVE FOR AT-
14 TENDANCE AT HEARINGS.—

15 (1) REGULATIONS.—The Secretary of each
16 military department, and the Secretary of Transpor-
17 tation with respect to the Coast Guard when it is
18 not operating as a service in the Navy, shall pre-
19 scribe regulations to facilitate the granting of leave
20 to a member of the Armed Forces under the juris-
21 diction of that Secretary in a case in which—

22 (A) the leave is needed for the member to
23 attend a hearing described in paragraph (2);

24 (B) the member is not serving in or with
25 a unit deployed in a contingency operation (as

1 defined in section 101 of title 10, United States
2 Code); and

3 (C) the exigencies of military service (as
4 determined by the Secretary concerned) do not
5 otherwise require that such leave not be grant-
6 ed.

7 (2) COVERED HEARINGS.—Paragraph (1) ap-
8 plies to a hearing that is conducted by a court or
9 pursuant to an administrative process established
10 under State law, in connection with a civil action—

11 (A) to determine whether a member of the
12 Armed Forces is a natural parent of a child; or

13 (B) to determine an obligation of a mem-
14 ber of the Armed Forces to provide child sup-
15 port.

16 (3) DEFINITIONS.—For purposes of this sub-
17 section:

18 (A) The term “court” has the meaning
19 given that term in section 1408(a) of title 10,
20 United States Code.

21 (B) The term “child support” has the
22 meaning given such term in section 462 of the
23 Social Security Act (42 U.S.C. 662).

24 (c) PAYMENT OF MILITARY RETIRED PAY IN COM-
25 PLIANCE WITH CHILD SUPPORT ORDERS.—

1 (1) DATE OF CERTIFICATION OF COURT
2 ORDER.—Section 1408 of title 10, United States
3 Code, is amended—

4 (A) by redesignating subsection (i) as sub-
5 section (j); and

6 (B) by inserting after subsection (h) the
7 following new subsection (i):

8 “(i) CERTIFICATION DATE.—It is not necessary that
9 the date of a certification of the authenticity or complete-
10 ness of a copy of a court order or an order of an adminis-
11 trative process established under State law for child sup-
12 port received by the Secretary concerned for the purposes
13 of this section be recent in relation to the date of receipt
14 by the Secretary.”.

15 (2) PAYMENTS CONSISTENT WITH ASSIGN-
16 MENTS OF RIGHTS TO STATES.—Section 1408(d)(1)
17 of such title is amended by inserting after the first
18 sentence the following: “In the case of a spouse or
19 former spouse who, pursuant to section
20 403(b)(1)(E)(i) of the Social Security Act, assigns
21 to a State the rights of the spouse or former spouse
22 to receive support, the Secretary concerned may
23 make the child support payments referred to in the
24 preceding sentence to that State in amounts consist-
25 ent with that assignment of rights.”.

1 (3) ARREARAGES OWED BY MEMBERS OF THE
2 UNIFORMED SERVICES.—Section 1408(d) of such
3 title is amended by adding at the end the following
4 new paragraph:

5 “(6) In the case of a court order or an order of an
6 administrative process established under State law for
7 which effective service is made on the Secretary concerned
8 on or after the date of the enactment of this paragraph
9 and which provides for payments from the disposable re-
10 tired pay of a member to satisfy the amount of child sup-
11 port set forth in the order, the authority provided in para-
12 graph (1) to make payments from the disposable retired
13 pay of a member to satisfy the amount of child support
14 set forth in a court order or an order of an administrative
15 process established under State law shall apply to payment
16 of any amount of child support arrearages set forth in that
17 order as well as to amounts of child support that currently
18 become due.”.

19 **SEC. 9465. MOTOR VEHICLE LIENS.**

20 Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amend-
21 ed—

22 (1) by striking “(4) Procedures” and inserting
23 the following:

24 “(4) LIENS.—

25 “(A) IN GENERAL.—Procedures”; and

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

3 “(B) MOTOR VEHICLE LIENS.—Procedures
4 for placing liens for arrears of child support on
5 motor vehicle titles of individuals owing such
6 arrears equal to or exceeding two months of
7 support, under which—

8 “(i) any person owed such arrears
9 may place such a lien;

10 “(ii) the State agency administering
11 the program under this part shall system-
12 atically place such liens;

13 “(iii) expedited methods are provided
14 for—

15 “(I) ascertaining the amount of
16 arrears;

17 “(II) affording the person owing
18 the arrears or other titleholder to con-
19 test the amount of arrears or to ob-
20 tain a release upon fulfilling the sup-
21 port obligation;

22 “(iv) such a lien has precedence over
23 all other encumbrances on a vehicle title
24 other than a purchase money security in-
25 terest; and

1 “(v) the individual or State agency
2 owed the arrears may execute on, seize,
3 and sell the property in accordance with
4 State law.”.

5 **SEC. 9466. VOIDING OF FRAUDULENT TRANSFERS.**

6 Section 466(a) (42 U.S.C. 666(a)), as amended by
7 sections 9401(a), 9426(a), 9431, and 9442 of this Act,
8 is amended by inserting after paragraph (15) the follow-
9 ing:

10 “(16) FRAUDULENT TRANSFERS.—Procedures
11 under which—

12 “(A) the State has in effect—

13 “(i) the Uniform Fraudulent Convey-
14 ance Act of 1981,

15 “(ii) the Uniform Fraudulent Trans-
16 fer Act of 1984, or

17 “(iii) another law, specifying indicia of
18 fraud which create a prima facie case that
19 a debtor transferred income or property to
20 avoid payment to a child support creditor,
21 which the Secretary finds affords com-
22 parable rights to child support creditors;
23 and

24 “(B) in any case in which the State knows
25 of a transfer by a child support debtor with re-

1 spect to which such a prima facie case is estab-
2 lished, the State must—

3 “(i) seek to void such transfer; or

4 “(ii) obtain a settlement in the best
5 interests of the child support creditor.”.

6 **SEC. 9467. STATE LAW AUTHORIZING SUSPENSION OF LI-**
7 **CENSES.**

8 Section 466(a) (42 U.S.C. 666(a)), as amended by
9 sections 9401(a), 9426(a), 9431, 9442, and 9466 of this
10 Act, is amended by inserting after paragraph (16) the fol-
11 lowing:

12 “(17) AUTHORITY TO WITHHOLD OR SUSPEND
13 LICENSES.—Procedures under which the State has
14 (and uses in appropriate cases) authority (subject to
15 appropriate due process safeguards) to withhold or
16 suspend, or to restrict the use of driver’s licenses,
17 and professional and occupational licenses of individ-
18 uals owing overdue child support or failing, after re-
19 ceiving appropriate notice, to comply with subpoenas
20 or warrants relating to paternity or child support
21 proceedings.”.

22 **SEC. 9468. REPORTING ARREARAGES TO CREDIT BUREAUS.**

23 Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended
24 to read as follows:

1 “(7) REPORTING ARREARAGES TO CREDIT BU-
2 REAUS.—(A) Procedures (subject to safeguards pur-
3 suant to subparagraph (B)) requiring the State to
4 report periodically to consumer reporting agencies
5 (as defined in section 603(f) of the Fair Credit Re-
6 porting Act (15 U.S.C. 1681a(f)) the name of any
7 absent parent who is delinquent by 90 days or more
8 in the payment of support, and the amount of over-
9 due support owed by such parent.

10 “(B) Procedures ensuring that, in carrying out
11 subparagraph (A), information with respect to an
12 absent parent is reported—

13 “(i) only after such parent has been af-
14 forded all due process required under State law,
15 including notice and a reasonable opportunity
16 to contest the accuracy of such information;
17 and

18 “(ii) only to an entity that has furnished
19 evidence satisfactory to the State that the en-
20 tity is a consumer reporting agency.”.

21 **SEC. 9469. EXTENDED STATUTE OF LIMITATION FOR COL-**
22 **LECTION OF ARREARAGES.**

23 (a) AMENDMENTS.—Section 466(a)(9) (42 U.S.C.
24 666(a)(9)) is amended—

1 (1) by striking “(9) Procedures” and inserting
2 the following:

3 “(9) LEGAL TREATMENT OF ARREARS.—

4 “(A) FINALITY.—Procedures”;

5 (2) by redesignating subparagraphs (A), (B),
6 and (C) as clauses (i), (ii), and (iii), respectively,
7 and by indenting each of such clauses 2 additional
8 ems to the right; and

9 (3) by adding after and below subparagraph
10 (A), as redesignated, the following new subpara-
11 graph:

12 “(B) STATUTE OF LIMITATIONS.—Proce-
13 dures under which the statute of limitations on
14 any arrearages of child support extends at least
15 until the child owed such support is 30 years of
16 age.”.

17 (b) APPLICATION OF REQUIREMENT.—The amend-
18 ment made by this section shall not be read to require
19 any State law to revive any payment obligation which had
20 lapsed prior to the effective date of such State law.

21 **SEC. 9470. CHARGES FOR ARREARAGES.**

22 (a) STATE LAW REQUIREMENT.—Section 466(a) (42
23 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a),
24 9431, 9442, 9466, and 9467 of this Act, is amended by
25 inserting after paragraph (17) the following:

1 “(1) IN GENERAL.—Where the Secretary re-
2 ceives a certification by a State agency in accord-
3 ance with the requirements of section 454(28) that
4 an individual owes arrearages of child support in an
5 amount exceeding \$5,000 or in an amount exceeding
6 24 months’ worth of child support, the Secretary
7 shall transmit such certification to the Secretary of
8 State for action (with respect to denial, revocation,
9 or limitation of passports) pursuant to section
10 9471(b) of the Omnibus Budget Reconciliation Act
11 of 1995.

12 “(2) LIMIT ON LIABILITY.—The Secretary shall
13 not be liable to an individual for any action with re-
14 spect to a certification by a State agency under this
15 section.”.

16 (2) STATE CSE AGENCY RESPONSIBILITY.—Sec-
17 tion 454 (42 U.S.C. 654), as amended by sections
18 9404(a), 9414(b), and 9422(a) of this Act, is
19 amended—

20 (A) by striking “and” at the end of para-
21 graph (26);

22 (B) by striking the period at the end of
23 paragraph (27) and inserting “; and”; and

24 (C) by adding after paragraph (27) the fol-
25 lowing new paragraph:

1 “(28) provide that the State agency will have in
2 effect a procedure (which may be combined with the
3 procedure for tax refund offset under section 464)
4 for certifying to the Secretary, for purposes of the
5 procedure under section 452(l) (concerning denial of
6 passports) determinations that individuals owe ar-
7 rearages of child support in an amount exceeding
8 \$5,000 or in an amount exceeding 24 months’ worth
9 of child support, under which procedure—

10 “(A) each individual concerned is afforded
11 notice of such determination and the con-
12 sequences thereof, and an opportunity to con-
13 test the determination; and

14 “(B) the certification by the State agency
15 is furnished to the Secretary in such format,
16 and accompanied by such supporting docu-
17 mentation, as the Secretary may require.”.

18 (b) STATE DEPARTMENT PROCEDURE FOR DENIAL
19 OF PASSPORTS.—

20 (1) IN GENERAL.—The Secretary of State,
21 upon certification by the Secretary of Health and
22 Human Services, in accordance with section 452(l)
23 of the Social Security Act, that an individual owes
24 arrearages of child support in excess of \$5,000, shall
25 refuse to issue a passport to such individual, and

1 may revoke, restrict, or limit a passport issued pre-
2 viously to such individual.

3 (2) LIMIT ON LIABILITY.—The Secretary of
4 State shall not be liable to an individual for any ac-
5 tion with respect to a certification by a State agency
6 under this section.

7 (c) EFFECTIVE DATE.—This section and the amend-
8 ments made by this section shall become effective October
9 1, 1996.

10 **SEC. 9472. INTERNATIONAL CHILD SUPPORT ENFORCE-**
11 **MENT.**

12 (a) SENSE OF THE CONGRESS THAT THE UNITED
13 STATES SHOULD RATIFY THE UNITED NATIONS CON-
14 VENTION OF 1956.—It is the sense of the Congress that
15 the United States should ratify the United Nations Con-
16 vention of 1956.

17 (b) TREATMENT OF INTERNATIONAL CHILD SUP-
18 PORT CASES AS INTERSTATE CASES.—Section 454 (42
19 U.S.C. 654), as amended by sections 9404(a), 9414(b),
20 9422(a), and 9471(a)(2) of this Act, is amended—

21 (1) by striking “and” at the end of paragraph
22 (27);

23 (2) by striking the period at the end of para-
24 graph (28) and inserting “; and”; and

1 (3) by inserting after paragraph (28) the fol-
2 lowing:

3 “(29) provide that the State must treat inter-
4 national child support cases in the same manner as
5 the State treats interstate child support cases.”.

6 **SEC. 9473. SEIZURE OF LOTTERY WINNINGS, SETTLEMENTS,**
7 **PAYOUTS, AWARDS, AND BEQUESTS, AND**
8 **SALE OF FORFEITED PROPERTY, TO PAY**
9 **CHILD SUPPORT ARREARAGES.**

10 Section 466(a) (42 U.S.C. 666(a)), as amended by
11 sections 9401(a), 9426(a), 9431, 9442, 9466, 9467, and
12 9470(a) of this Act, is amended by inserting after para-
13 graph (18) the following:

14 “(19) Procedures, in addition to other income
15 withholding procedures, under which a lien is im-
16 posed against property with the following effect:

17 “(A) The person required to make a pay-
18 ment under a policy of insurance or a settle-
19 ment of a claim made with respect to the policy
20 shall—

21 “(i) suspend the payment until an in-
22 quiry is made to and a response received
23 from the agency as to whether the person
24 otherwise entitled to the payment owes a
25 child support arrearage; and

1 “(ii) if there is such an arrearage,
2 withhold from the payment the lesser of
3 the amount of the payment or the amount
4 of the arrearage, and pay the amount with-
5 held to the agency for distribution.

6 “(B) The payor of any amount pursuant to
7 an award, judgment, or settlement in any ac-
8 tion brought in Federal or State court shall—

9 “(i) suspend the payment of the
10 amount until an inquiry is made to and a
11 response is received from the agency as to
12 whether the person otherwise entitled to
13 the payment owes a child support arrear-
14 age; and

15 “(ii) if there is such an arrearage,
16 withhold from the payment the lesser of
17 the amount of the payment or the amount
18 of the arrearage, and pay the amount with-
19 held to the agency for distribution.

20 “(C) If the State seizes property forfeited
21 to the State by an individual by reason of a
22 criminal conviction, the State shall—

23 “(i) hold the property until an inquiry
24 is made to and a response is received from

1 the agency as to whether the individual
2 owes a child support arrearage; and

3 “(ii) if there is such an arrearage, sell
4 the property and, after satisfying the
5 claims of all other private or public claim-
6 ants to the property and deducting from
7 the proceeds of the sale the attendant costs
8 (such as for towing, storage, and the sale),
9 pay the lesser of the remaining proceeds or
10 the amount of the arrearage directly to the
11 agency for distribution.

12 “(D) Any person required to make a pay-
13 ment in respect of a decedent shall—

14 “(i) suspend the payment until an in-
15 quiry is made to and a response received
16 from the agency as to whether the person
17 otherwise entitled to the payment owes a
18 child support arrearage; and

19 “(ii) if there is such an arrearage,
20 withhold from the payment the lesser of
21 the amount of the payment or the amount
22 of the arrearage, and pay the amount with-
23 held to the agency for distribution.”.

1 **SEC. 9474. LIABILITY OF GRANDPARENTS FOR FINANCIAL**
2 **SUPPORT OF CHILDREN OF THEIR MINOR**
3 **CHILDREN.**

4 Section 466(a) (42 U.S.C. 666(a)), as amended by
5 sections 9401(a), 9426(a), 9431, 9442, 9466, 9467,
6 9470(a), and 9473 of this Act, is amended by inserting
7 after paragraph (19) the following:

8 “(20) Procedures under which each parent of
9 an individual who has not attained 18 years of age
10 is liable for the financial support of any child of the
11 individual to the extent that the individual is unable
12 to provide such support. The preceding sentence
13 shall not apply to the State if the State plan explic-
14 itly provides for such inapplicability.”.

15 **SEC. 9475. SENSE OF THE CONGRESS REGARDING PRO-**
16 **GRAMS FOR NONCUSTODIAL PARENTS UN-**
17 **ABLE TO MEET CHILD SUPPORT OBLIGA-**
18 **TIONS.**

19 It is the sense of the Congress that the States should
20 develop programs, such as the program of the State of
21 Wisconsin known as the “Children’s First Program”, that
22 are designed to work with noncustodial parents who are
23 unable to meet their child support obligations.

1 **CHAPTER 8—MEDICAL SUPPORT**

2 **SEC. 9481. TECHNICAL CORRECTION TO ERISA DEFINITION**
3 **OF MEDICAL CHILD SUPPORT ORDER.**

4 (a) IN GENERAL.—Section 609(a)(2)(B) of the Em-
5 ployee Retirement Income Security Act of 1974 (29
6 U.S.C. 1169(a)(2)(B)) is amended—

7 (1) by striking “issued by a court of competent
8 jurisdiction”;

9 (2) by striking the period at the end of clause
10 (ii) and inserting a comma; and

11 (3) by adding, after and below clause (ii), the
12 following:

13 “if such judgment, decree, or order (I) is issued
14 by a court of competent jurisdiction or (II) is
15 issued by an administrative adjudicator and has
16 the force and effect of law under applicable
17 State law.”.

18 (b) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendments made by
20 this section shall take effect on the date of the en-
21 actment of this Act.

22 (2) PLAN AMENDMENTS NOT REQUIRED UNTIL
23 JANUARY 1, 1996.—Any amendment to a plan re-
24 quired to be made by an amendment made by this
25 section shall not be required to be made before the

1 first plan year beginning on or after January 1,
2 1996, if—

3 (A) during the period after the date before
4 the date of the enactment of this Act and be-
5 fore such first plan year, the plan is operated
6 in accordance with the requirements of the
7 amendments made by this section, and

8 (B) such plan amendment applies retro-
9 actively to the period after the date before the
10 date of the enactment of this Act and before
11 such first plan year.

12 A plan shall not be treated as failing to be operated
13 in accordance with the provisions of the plan merely
14 because it operates in accordance with this para-
15 graph.

16 **CHAPTER 9—FOOD STAMP PROGRAM**
17 **REQUIREMENTS**

18 **SEC. 9491. COOPERATION WITH CHILD SUPPORT AGENCIES.**

19 Section 6 of the Food Stamp Act of 1977 (7 U.S.C.
20 2015) is amended adding at the end the following:

21 “(i) CUSTODIAL PARENT’S COOPERATION WITH
22 CHILD SUPPORT AGENCIES.—

23 “(1) IN GENERAL.—At the option of a State
24 agency, subject to paragraphs (2) and (3), no natu-
25 ral or adoptive parent or other individual (collec-

1 tively referred to in this subsection as ‘the individ-
2 ual’) who is living with and exercising parental con-
3 trol over a child under the age of 18 who has an ab-
4 sent parent shall be eligible to participate in the food
5 stamp program unless the individual cooperates with
6 the State agency administering the program estab-
7 lished under part D of title IV of the Social Security
8 Act (42 U.S.C. 651 et seq.)—

9 “(A) in establishing the paternity of the
10 child (if the child is born out of wedlock); and

11 “(B) in obtaining support for—

12 “(i) the child; or

13 “(ii) the individual and the child.

14 “(2) GOOD CAUSE FOR NONCOOPERATION.—

15 Paragraph (1) shall not apply to the individual if
16 good cause is found for refusing to cooperate, as de-
17 termined by the State agency in accordance with
18 standards prescribed by the Secretary in consulta-
19 tion with the Secretary of Health and Human Serv-
20 ices. The standards shall take into consideration cir-
21 cumstances under which cooperation may be against
22 the best interests of the child.

23 “(3) FEES.—Paragraph (1) shall not require
24 the payment of a fee or other cost for services pro-

1 vided under part D of title IV of the Social Security
2 Act (42 U.S.C. 651 et seq.).

3 “(j) NON-CUSTODIAL PARENT’S COOPERATION WITH
4 CHILD SUPPORT AGENCIES.—

5 “(1) IN GENERAL.—At the option of a State
6 agency, subject to paragraphs (2) and (3), a puta-
7 tive or identified non-custodial parent of a child
8 under the age of 18 (referred to in this subsection
9 as ‘the individual’) shall not be eligible to participate
10 in the food stamp program if the individual refuses
11 to cooperate with the State agency administering the
12 program established under part D of title IV of the
13 Social Security Act (42 U.S.C. 651 et seq.)—

14 “(A) in establishing the paternity of the
15 child (if the child is born out of wedlock); and

16 “(B) in providing support for the child.

17 “(2) REFUSAL TO COOPERATE.—

18 “(A) GUIDELINES.—The Secretary, in con-
19 sultation with the Secretary of Health and
20 Human Services, shall develop guidelines on
21 what constitutes a refusal to cooperate under
22 paragraph (1).

23 “(B) PROCEDURES.—The State agency
24 shall develop procedures, using guidelines devel-
25 oped under subparagraph (A), for determining

1 whether an individual is refusing to cooperate
2 under paragraph (1).

3 “(3) FEES.—Paragraph (1) shall not require
4 the payment of a fee or other cost for services pro-
5 vided under part D of title IV of the Social Security
6 Act (42 U.S.C. 651 et seq.).

7 “(4) PRIVACY.—The State agency shall provide
8 safeguards to restrict the use of information col-
9 lected by a State agency administering the program
10 established under part D of title IV of the Social Se-
11 curity Act (42 U.S.C. 651 et seq.) to purposes for
12 which the information is collected.”.

13 **SEC. 9492. DISQUALIFICATION FOR CHILD SUPPORT AR-**
14 **REARS.**

15 Section 6 of the Food Stamp Act of 1977 (7 U.S.C.
16 2015), as amended by section 9491 of this Act, is amend-
17 ed by adding at the end the following:

18 “(k) DISQUALIFICATION FOR CHILD SUPPORT AR-
19 REARS.—

20 “(1) IN GENERAL.—At the option of a State
21 agency, except as provided in paragraph (2), no indi-
22 vidual shall be eligible to participate in the food
23 stamp program as a member of any household dur-
24 ing any month that the individual is delinquent in

1 any payment due under a court order for the sup-
2 port of a child of the individual.

3 “(2) EXCEPTIONS.—Paragraph (1) shall not
4 apply if—

5 “(A) a court is allowing the individual to
6 delay payment; or

7 “(B) the individual is complying with a
8 payment plan approved by a court or the State
9 agency designated under part D of title IV of
10 the Social Security Act (42 U.S.C. 651 et seq.)
11 to provide support for the child of the individ-
12 ual.”.

13 **CHAPTER 10—EFFECT OF ENACTMENT**

14 **SEC. 9498. EFFECTIVE DATES.**

15 (a) IN GENERAL.—Except as otherwise specifically
16 provided (but subject to subsections (b) and (c))—

17 (1) provisions of this title requiring enactment
18 or amendment of State laws under section 466 of
19 the Social Security Act, or revision of State plans
20 under section 454 of such Act, shall be effective with
21 respect to periods beginning on and after October 1,
22 1996; and

23 (2) all other provisions of this title shall become
24 effective upon enactment.

1 (b) GRACE PERIOD FOR STATE LAW CHANGES.—The
2 provisions of this title shall become effective with respect
3 to a State on the later of—

4 (1) the date specified in this title, or

5 (2) the effective date of laws enacted by the leg-
6 islature of such State implementing such provisions,
7 but in no event later than the first day of the first cal-
8 endar quarter beginning after the close of the first regular
9 session of the State legislature that begins after the date
10 of enactment of this Act. For purposes of the previous
11 sentence, in the case of a State that has a 2-year legisla-
12 tive session, each year of such session shall be deemed to
13 be a separate regular session of the State legislature.

14 (c) GRACE PERIOD FOR STATE CONSTITUTIONAL
15 AMENDMENT.—A State shall not be found out of compli-
16 ance with any requirement enacted by this title if it is
17 unable to comply without amending the State constitution
18 until the earlier of—

19 (1) the date one year after the effective date of
20 the necessary State constitutional amendment, or

21 (2) the date five years after enactment of this
22 title.

23 **SEC. 9499. SEVERABILITY.**

24 If any provision of this title or the application thereof
25 to any person or circumstance is held invalid, the invalid-

1 ity shall not affect other provisions or applications of this
2 title which can be given effect without regard to the invalid
3 provision or application, and to this end the provisions of
4 this title shall be severable.

5 **Subtitle E—Teen Pregnancy And**
6 **Family Stability**

7 **SEC. 9501. STATE OPTION TO DENY TEMPORARY EMPLOY-**
8 **MENT ASSISTANCE FOR ADDITIONAL CHIL-**
9 **DREN.**

10 (a) IN GENERAL.—Section 402(d)(1), as added by
11 section 9101(a) of this Act, is amended—

12 (1) by striking “(1) DETERMINATION OF
13 NEED.—” and inserting the following:

14 “(1) DETERMINATION OF NEED.—

15 “(A) IN GENERAL.—”; and

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

17 “(B) OPTIONAL DENIAL OF ASSISTANCE
18 TO FAMILIES HAVING ADDITIONAL CHILDREN
19 WHILE RECEIVING ASSISTANCE.—At the option
20 of the State, the State plan may provide that—

21 “(i)(I) a child shall not be considered
22 a needy child if the child is born (other
23 than as a result of rape or incest) to a
24 member of a family—

1 “(aa) while the family was a re-
2 recipient of assistance under the State
3 plan; or

4 “(bb) during the 6-month period
5 ending with the date the family ap-
6 plied for such assistance; and

7 “(II) if the value of assistance to a
8 family under the State plan approved
9 under this part is reduced by reason of
10 subclause (I), each member of the family
11 shall be considered to be receiving such as-
12 sistance for purposes of eligibility for medi-
13 cal assistance under the State plan ap-
14 proved under title XIX for so long as as-
15 sistance to the family under the State plan
16 approved under this part would otherwise
17 not be so reduced; and

18 “(ii) if the State exercises the option,
19 the State may provide the family with
20 vouchers, in amounts not exceeding the
21 amount of any such reduction in assist-
22 ance, that may be used only to pay for
23 particular goods and services specified by
24 the State as suitable for the care of the

1 child of the parent (such as diapers, cloth-
2 ing, or school supplies).”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) of this section shall take effect in the same
5 manner as the amendment made by section 9101(a) takes
6 effect.

7 **SEC. 9502. SUPERVISED LIVING ARRANGEMENTS FOR MI-**
8 **NORS.**

9 (a) IN GENERAL.—Section 402(c), as added by sec-
10 tion 9101(a) of this Act, is amended by adding at the end
11 the following:

12 “(8) SUPERVISED LIVING ARRANGEMENTS FOR
13 MINORS.—The State plan shall provide that—

14 “(A) except as provided in subparagraph
15 (B), in the case of any individual who is under
16 age 18 and has never married, and who has a
17 needy child in his or her care (or is pregnant
18 and is eligible for temporary employment assist-
19 ance under the State plan)—

20 “(i) such individual may receive such
21 assistance for the individual and such child
22 (or for herself in the case of a pregnant
23 woman) only if such individual and child
24 (or such pregnant woman) reside in a
25 place of residence maintained by a parent,

1 legal guardian, or other adult relative of
2 such individual as such parent's, guard-
3 ian's, or adult relative's own home; and

4 “(ii) such assistance (where possible)
5 shall be provided to the parent, legal
6 guardian, or other adult relative on behalf
7 of such individual and child; and

8 “(B)(i) in the case of an individual de-
9 scribed in clause (ii)—

10 “(I) the State agency shall assist such
11 individual in locating an appropriate adult-
12 supervised supportive living arrangement
13 taking into consideration the needs and
14 concerns of the individual, unless the State
15 agency determines that the individual's
16 current living arrangement is appropriate,
17 and thereafter shall require that the indi-
18 vidual (and child, if any) reside in such liv-
19 ing arrangement as a condition of the con-
20 tinued receipt of assistance under the plan
21 (or in an alternative appropriate arrange-
22 ment, should circumstances change and the
23 current arrangement cease to be appro-
24 priate), or

1 “(II) if the State agency is unable,
2 after making diligent efforts, to locate any
3 such appropriate living arrangement, the
4 State agency shall provide for comprehen-
5 sive case management, monitoring, and
6 other social services consistent with the
7 best interests of the individual (and child)
8 while living independently (as determined
9 by the State agency); and

10 “(ii) for purposes of clause (i), an individ-
11 ual is described in this clause if—

12 “(I) such individual has no parent or
13 legal guardian of his or her own who is liv-
14 ing and whose whereabouts are known;

15 “(II) no living parent or legal guard-
16 ian of such individual allows the individual
17 to live in the home of such parent or
18 guardian;

19 “(III) the State agency determines
20 that the physical or emotional health of
21 such individual or any needy child of the
22 individual would be jeopardized if such in-
23 dividual and such needy child lived in the
24 same residence with such individual’s own
25 parent or legal guardian; or

1 “(IV) the State agency otherwise de-
2 termines (in accordance with regulations
3 issued by the Secretary) that it is in the
4 best interest of the needy child to waive
5 the requirement of subparagraph (A) with
6 respect to such individual.”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) of this section shall take effect in the same
9 manner as the amendment made by section 9101(a) takes
10 effect.

11 **SEC. 9503. NATIONAL CLEARINGHOUSE ON ADOLESCENT**
12 **PREGNANCY.**

13 (a) IN GENERAL.—Title XX (42 U.S.C. 1397–
14 1397f), as amended by section 9205(b) of this Act, is
15 amended by adding at the end the following:

16 **“SEC. 2010. NATIONAL CLEARINGHOUSE ON ADOLESCENT**
17 **PREGNANCY.**

18 “(a) NATIONAL CLEARINGHOUSE ON ADOLESCENT
19 PREGNANCY.—

20 “(1) ESTABLISHMENT.—The responsible Fed-
21 eral officials shall establish, through grant or con-
22 tract, a national center for the collection and provi-
23 sion of programmatic information and technical as-
24 sistance that relates to adolescent pregnancy preven-
25 tion programs, to be known as the ‘National Clear-

1 inghouse on Adolescent Pregnancy Prevention Pro-
2 grams’.

3 “(2) FUNCTIONS.—The national center estab-
4 lished under paragraph (1) shall serve as a national
5 information and data clearinghouse, and as a train-
6 ing, technical assistance, and material development
7 source for adolescent pregnancy prevention pro-
8 grams. Such center shall—

9 “(A) develop and maintain a system for
10 disseminating information on all types of ado-
11 lescent pregnancy prevention programs and on
12 the state of adolescent pregnancy prevention
13 program development, including information
14 concerning the most effective model programs;

15 “(B) develop and sponsor a variety of
16 training institutes and curricula for adolescent
17 pregnancy prevention program staff;

18 “(C) identify model programs representing
19 the various types of adolescent pregnancy pre-
20 vention programs;

21 “(D) develop technical assistance materials
22 and activities to assist other entities in estab-
23 lishing and improving adolescent pregnancy
24 prevention programs;

1 “(E) develop networks of adolescent preg-
2 nancy prevention programs for the purpose of
3 sharing and disseminating information; and

4 “(F) conduct such other activities as the
5 responsible Federal officials find will assist in
6 developing and carrying out programs or activi-
7 ties to reduce adolescent pregnancy.

8 “(b) FUNDING.—The responsible Federal officials
9 shall make grants to eligible entities for the establishment
10 and operation of a National Clearinghouse on Adolescent
11 Pregnancy Prevention Programs under subsection (a) so
12 that in the aggregate the expenditures for such grants do
13 not exceed \$2,000,000 for fiscal year 1996, \$4,000,000
14 for fiscal year 1997, \$8,000,000 for fiscal year 1998, and
15 \$10,000,000 for fiscal year 1999 and each subsequent fis-
16 cal year.

17 “(c) DEFINITIONS.—As used in this section:

18 “(1) ADOLESCENTS.—The term ‘adolescents’
19 means youth who are ages 10 through 19.

20 “(2) ELIGIBLE ENTITY.—The term ‘eligible en-
21 tity’ means a partnership that includes—

22 “(A) a local education agency, acting on
23 behalf of one or more schools, together with

1 “(B) one or more community-based organi-
2 zations, institutions of higher education, or
3 public or private agencies or organizations.

4 “(3) ELIGIBLE AREA.—The term ‘eligible area’
5 means a school attendance area in which—

6 “(A) at least 75 percent of the children are
7 from low-income families as that term is used
8 in part A of title I of the Elementary and Sec-
9 ondary Education Act of 1965; or

10 “(B) the number of children receiving as-
11 sistance under a State plan approved under
12 part A of title IV of this Act is substantial as
13 determined by the responsible Federal officials;
14 or

15 “(C) the unmarried adolescent birth rate is
16 high, as determined by the responsible Federal
17 officials.

18 “(4) SCHOOL.—The term ‘school’ means a pub-
19 lic elementary, middle, or secondary school.

20 “(5) RESPONSIBLE FEDERAL OFFICIALS.—The
21 term ‘responsible Federal officials’ means the Sec-
22 retary of Education, the Secretary of Health and
23 Human Services, and the Chief Executive Officer of
24 the Corporation for National and Community Serv-
25 ice.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall become effective January 1, 1996.

3 **SEC. 9504. REQUIRED COMPLETION OF HIGH SCHOOL OR**
4 **OTHER TRAINING FOR TEENAGE PARENTS.**

5 (a) IN GENERAL.—Section 403(b)(1)(D), as added
6 by section 9101(a) of this Act, is amended—

7 (1) by inserting “(i)” after “(D)”; and

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

9 “(ii) in the case of a client who is a custo-
10 dial parent who is under age 18 (or age 19, at
11 the option of the State), has not successfully
12 completed a high-school education (or its equiv-
13 alent), and is required to participate in the
14 Work First program (including an individual
15 who would otherwise be exempt from participa-
16 tion in the program), shall provide that—

17 “(I) such parent participate in—

18 “(aa) educational activities di-
19 rected toward the attainment of a
20 high school diploma or its equivalent
21 on a full-time (as defined by the edu-
22 cational provider) basis; or

23 “(bb) an alternative educational
24 or training program on a full-time (as
25 defined by the provider) basis; and

1 “(II) child care be provided in accordance
2 with section 2009 with respect to the family.”.

3 (b) STATE OPTION TO PROVIDE ADDITIONAL INCEN-
4 TIVES AND PENALTIES TO ENCOURAGE TEEN PARENTS
5 TO COMPLETE HIGH SCHOOL AND PARTICIPATE IN
6 PARENTING ACTIVITIES.—

7 (1) STATE PLAN.—Section 403(b)(1)(D), as
8 amended by subsection (a) of this section, is amend-
9 ed by adding at the end the following:

10 “(iii) at the option of the State, may pro-
11 vide that the client who is a custodial parent or
12 pregnant woman who is under age 19 (or age
13 21, at the option of the State) participate in a
14 program of monetary incentives and penalties
15 which—

16 “(I) may, at the option of the State,
17 require full-time participation by such cus-
18 todial parent or pregnant woman in sec-
19 ondary school or equivalent educational ac-
20 tivities, or participation in a course or pro-
21 gram leading to a skills certificate found
22 appropriate by the State agency or
23 parenting education activities (or any com-
24 bination of such activities and secondary
25 education);

1 “(II) shall require that the needs of
2 such custodial parent or pregnant woman
3 be reviewed and the program assure that,
4 either in the initial development or revision
5 of such individual’s individual responsibil-
6 ity plan, there will be included a descrip-
7 tion of the services that will be provided to
8 the client and the way in which the pro-
9 gram and service providers will coordinate
10 with the educational or skills training ac-
11 tivities in which the client is participating;

12 “(III) shall provide monetary incen-
13 tives (to be treated as assistance under the
14 State plan) for more than minimally ac-
15 ceptable performance of required edu-
16 cational activities;

17 “(IV) shall provide penalties (which
18 may be those required by subsection (e) or,
19 with the approval of the Secretary, other
20 monetary penalties that the State finds will
21 better achieve the objectives of the pro-
22 gram) for less than minimally acceptable
23 performance of required activities;

24 “(V) shall provide that when a mone-
25 tary incentive is payable because of the

1 more than minimally acceptable perform-
2 ance of required educational activities by a
3 custodial parent, the incentive be paid di-
4 rectly to such parent, regardless of wheth-
5 er the State agency makes payment of as-
6 sistance under the State plan directly to
7 such parent; and

8 “(VI) for purposes of any other Fed-
9 eral or federally-assisted program based on
10 need, shall not consider any monetary in-
11 centive paid under the State plan as in-
12 come in determining a family’s eligibility
13 for or amount of benefits under such pro-
14 gram, and if assistance is reduced by rea-
15 son of a penalty under this clause, such
16 other program shall treat the family in-
17 volved as if no such penalty has been ap-
18 plied.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect in the same manner as the
21 amendment made by section 9101(a) takes effect.

1 **SEC. 9505. DENIAL OF FEDERAL HOUSING BENEFITS TO MI-**
2 **NORS WHO BEAR CHILDREN OUT-OF-WED-**
3 **LOCK.**

4 (a) PROHIBITION OF ASSISTANCE.—Notwithstanding
5 any other provision of law, a household whose head of
6 household is an individual who has borne a child out-of-
7 wedlock before attaining 18 years of age may not be pro-
8 vided Federal housing assistance for a dwelling unit until
9 attaining such age, unless—

10 (1) after the birth of the child—

11 (A) the individual marries an individual
12 who has been determined by the relevant State
13 to be the biological father of the child; or

14 (B) the biological parent of the child has
15 legal custody of the child and marries an indi-
16 vidual who legally adopts the child;

17 (2) the individual is a biological and custodial
18 parent of another child who was not born out-of-
19 wedlock; or

20 (3) eligibility for such Federal housing assist-
21 ance is based in whole or in part on any disability
22 or handicap of a member of the household.

23 (b) DEFINITIONS.—For purposes of this section, the
24 following definitions shall apply:

25 (1) COVERED PROGRAM.—The term “covered
26 program” means—

1 (A) the program of rental assistance on be-
2 half of low-income families provided under sec-
3 tion 8 of the United States Housing Act of
4 1937 (42 U.S.C. 1437f);

5 (B) the public housing program under title
6 I of the United States Housing Act of 1937 (42
7 U.S.C. 1437 et seq.);

8 (C) the program of rent supplement pay-
9 ments on behalf of qualified tenants pursuant
10 to contracts entered into under section 101 of
11 the Housing and Urban Development Act of
12 1965 (12 U.S.C. 1701s);

13 (D) the program of interest reduction pay-
14 ments pursuant to contracts entered into by the
15 Secretary of Housing and Urban Development
16 under section 236 of the National Housing Act
17 (12 U.S.C. 1715z-1);

18 (E) the program for mortgage insurance
19 provided pursuant to sections 221(d) (3) or (4)
20 of the National Housing Act (12 U.S.C.
21 1715l(d)) for multifamily housing for low- and
22 moderate-income families;

23 (F) the rural housing loan program under
24 section 502 of the Housing Act of 1949 (42
25 U.S.C. 1472);

1 (G) the rural housing loan guarantee pro-
2 gram under section 502(h) of the Housing Act
3 of 1949 (42 U.S.C. 1472(h));

4 (H) the loan and grant programs under
5 section 504 of the Housing Act of 1949 (42
6 U.S.C. 1474) for repairs and improvements to
7 rural dwellings;

8 (I) the program of loans for rental and co-
9 operative rural housing under section 515 of
10 the Housing Act of 1949 (42 U.S.C. 1485);

11 (J) the program of rental assistance pay-
12 ments pursuant to contracts entered into under
13 section 521(a)(2)(A) of the Housing Act of
14 1949 (42 U.S.C. 1490a(a)(2)(A));

15 (K) the loan and assistance programs
16 under sections 514 and 516 of the Housing Act
17 of 1949 (42 U.S.C. 1484, 1486) for housing for
18 farm labor;

19 (L) the program of grants and loans for
20 mutual and self-help housing and technical as-
21 sistance under section 523 of the Housing Act
22 of 1949 (42 U.S.C. 1490c);

23 (M) the program of grants for preservation
24 and rehabilitation of housing under section 533

1 of the Housing Act of 1949 (42 U.S.C.
2 1490m); and

3 (N) the program of site loans under sec-
4 tion 524 of the Housing Act of 1949 (42
5 U.S.C. 1490d).

6 (2) COVERED PROJECT.—The term “covered
7 project” means any housing for which Federal hous-
8 ing assistance is provided that is attached to the
9 project or specific dwelling units in the project.

10 (3) FEDERAL HOUSING ASSISTANCE.—The term
11 “Federal housing assistance” means—

12 (A) assistance provided under a covered
13 program in the form of any contract, grant,
14 loan, subsidy, cooperative agreement, loan or
15 mortgage guarantee or insurance, or other fi-
16 nancial assistance; or

17 (B) occupancy in a dwelling unit that is—

18 (i) provided assistance under a cov-
19 ered program; or

20 (ii) located in a covered project and
21 subject to occupancy limitations under a
22 covered program that are based on income.

23 (4) STATE.—The term “State” means the
24 States of the United States, the District of Colum-
25 bia, the Commonwealth of Puerto Rico, the Com-

1 monwealth of the Northern Mariana Islands, Guam,
2 the Virgin Islands, American Samoa, and any other
3 territory or possession of the United States.

4 (c) LIMITATIONS ON APPLICABILITY.—Subsection
5 (a) shall not apply to Federal housing assistance provided
6 for a household pursuant to an application or request for
7 such assistance made by such household before the effec-
8 tive date of this Act if the household was receiving such
9 assistance on the effective date of this Act.

10 **SEC. 9506. STATE OPTION TO DENY TEMPORARY EMPLOY-**
11 **MENT ASSISTANCE TO MINOR PARENTS.**

12 (a) IN GENERAL.—Section 402(d)(1), as added by
13 section 9101(a) of this Act and as amended by section
14 9501(a) of this Act, is amended by adding at the end the
15 following:

16 “(C) OPTIONAL DENIAL OF ASSISTANCE
17 TO MINOR PARENTS.—At the option of the
18 State, the State plan may provide that—

19 “(i)(I) in determining the need of a
20 family, the State may disregard the needs
21 of any family member who is a parent and
22 has not attained 18 years of age or such
23 lesser age as the State may prescribe; and

24 “(II) if the value of the assistance
25 provided to a family under the State plan

1 approved under this part is reduced by
2 reason of subclause (I), each member of
3 the family shall be considered to be receiv-
4 ing such assistance for purposes of eligi-
5 bility for medical assistance under the
6 State plan approved under title XIX for so
7 long as such assistance under the State
8 plan approved under this part would other-
9 wise not be so reduced; and

10 “(ii) if the State exercises the option, the
11 State may provide the family with vouchers, in
12 amounts not exceeding the value of any such re-
13 duction in assistance, that may be used only to
14 pay for—

15 “(I) particular goods and services
16 specified by the State as suitable for the
17 care of the child of the parent (such as
18 diapers, clothing, or cribs); and

19 “(II) the costs associated with a ma-
20 ternity home, foster home, or other adult-
21 supervised supportive living arrangement
22 in which the parent and the child live.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 subsection (a) shall take effect in the same manner in

1 which the amendment made by section 9101(a) takes ef-
2 fect.

3 **Subtitle F—SSI Reform**

4 **SEC. 9601. DEFINITION AND ELIGIBILITY RULES.**

5 (a) DEFINITION OF CHILDHOOD DISABILITY.—Sec-
6 tion 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended—

7 (1) in subparagraph (A), by striking “An indi-
8 vidual” and inserting “Except as provided in sub-
9 paragraph (C), an individual”;

10 (2) in subparagraph (A), by striking “(or, in
11 the case of an individual under the age of 18, if he
12 suffers from any medically determinable physical or
13 mental impairment of comparable severity)”;

14 (3) by redesignating subparagraphs (C) through
15 (H) as subparagraphs (D) through (I), respectively;

16 (4) by inserting after subparagraph (B) the fol-
17 lowing new subparagraph:

18 “(C) An individual under the age of 18 shall be con-
19 sidered disabled for the purposes of this title if that indi-
20 vidual has a medically determinable physical or mental im-
21 pairment, which results in marked and severe functional
22 limitations, and which can be expected to result in death
23 or which has lasted or can be expected to last for a contin-
24 uous period of not less than 12 months.”; and

1 (5) in subparagraph (F), as so redesignated by
2 paragraph (3) of this subsection, by striking “(D)”
3 and inserting “(E)”.

4 (b) CHANGES TO CHILDHOOD SSI REGULATIONS.—

5 (1) MODIFICATION TO MEDICAL CRITERIA FOR
6 EVALUATION OF MENTAL AND EMOTIONAL DIS-
7 ORDERS.—The Commissioner of Social Security
8 shall modify sections 112.00C.2. and
9 112.02B.2.c.(2) of appendix 1 to subpart P of part
10 404 of title 20, Code of Federal Regulations, to
11 eliminate references to maladaptive behavior in the
12 domain of personal/behaviorial function.

13 (2) DISCONTINUANCE OF INDIVIDUALIZED
14 FUNCTIONAL ASSESSMENT.—The Commissioner of
15 Social Security shall discontinue the individualized
16 functional assessment for children set forth in sec-
17 tions 416.924d and 416.924e of title 20, Code of
18 Federal Regulations.

19 (c) EFFECTIVE DATE; REGULATIONS; APPLICATION
20 TO CURRENT RECIPIENTS.—

21 (1) IN GENERAL.—The amendments made by
22 subsections (a) and (b) shall apply to applicants for
23 benefits for months beginning on or after the date
24 of the enactment of this Act, without regard to

1 whether regulations have been issued to implement
2 such amendments.

3 (2) REGULATIONS.—The Commissioner of So-
4 cial Security shall issue such regulations as the
5 Commissioner determines to be necessary to imple-
6 ment the amendments made by subsections (a) and
7 (b) not later than 60 days after the date of the en-
8 actment of this Act.

9 (3) APPLICATION TO CURRENT RECIPIENTS.—

10 (A) ELIGIBILITY DETERMINATIONS.—Not
11 later than 1 year after the date of the enact-
12 ment of this Act, the Commissioner of Social
13 Security shall redetermine the eligibility of any
14 individual under age 18 who is receiving supple-
15 mental security income benefits based on a dis-
16 ability under title XVI of the Social Security
17 Act as of the date of the enactment of this Act
18 and whose eligibility for such benefits may ter-
19 minate by reason of the amendments made by
20 subsection (a) or (b). With respect to any rede-
21 termination under this subparagraph—

22 (i) section 1614(a)(4) of the Social
23 Security Act (42 U.S.C. 1382c(a)(4)) shall
24 not apply;

1 (ii) the Commissioner of Social Secu-
2 rity shall apply the eligibility criteria for
3 new applicants for benefits under title XVI
4 of such Act;

5 (iii) the Commissioner shall give such
6 redetermination priority over all continuing
7 eligibility reviews and other reviews under
8 such title; and

9 (iv) such redetermination shall be
10 counted as a review or redetermination
11 otherwise required to be made under sec-
12 tion 208 of the Social Security Independ-
13 ence and Program Improvements Act of
14 1994 or any other provision of title XVI of
15 the Social Security Act.

16 (B) GRANDFATHER PROVISION.—The
17 amendments made by subsections (a) and (b),
18 and the redetermination under subparagraph
19 (A), shall only apply with respect to the benefits
20 of an individual described in subparagraph (A)
21 for months beginning on or after January 1,
22 1997.

23 (C) NOTICE.—Not later than 90 days after
24 the date of the enactment of this Act, the Com-
25 missioner of Social Security shall notify an indi-

1 vidual described in subparagraph (A) of the
2 provisions of this paragraph.

3 **SEC. 9602. ELIGIBILITY REDETERMINATIONS AND CON-**
4 **TINUING DISABILITY REVIEWS.**

5 (a) CONTINUING DISABILITY REVIEWS RELATING TO
6 CERTAIN CHILDREN.—Section 1614(a)(3)(H) (42 U.S.C.
7 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3)
8 of this Act, is amended—

9 (1) by inserting “(i)” after “(H)”; and

10 (2) by adding at the end the following new
11 clause:

12 “(ii)(I) Not less frequently than once every 3 years,
13 the Commissioner shall review in accordance with para-
14 graph (4) the continued eligibility for benefits under this
15 title of each individual who has not attained 18 years of
16 age and is eligible for such benefits by reason of an im-
17 pairment (or combination of impairments) which may im-
18 prove (or, which is unlikely to improve, at the option of
19 the Commissioner).

20 “(II) A parent or guardian of a recipient whose case
21 is reviewed under this clause shall present, at the time
22 of review, evidence demonstrating that the recipient is,
23 and has been, receiving treatment, to the extent consid-
24 ered medically necessary and available, of the condition

1 which was the basis for providing benefits under this
2 title.”.

3 (b) DISABILITY ELIGIBILITY REDETERMINATIONS
4 REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS
5 OF AGE.—

6 (1) IN GENERAL.—Section 1614(a)(3)(H) (42
7 U.S.C. 1382c(a)(3)(H)), as so redesignated by sec-
8 tion 9601(a)(3) of this Act and as amended by sub-
9 section (a) of this section, is amended by adding at
10 the end the following new clause:

11 “(iii) If an individual is eligible for benefits under this
12 title by reason of disability for the month preceding the
13 month in which the individual attains the age of 18 years,
14 the Commissioner shall redetermine such eligibility—

15 “(I) during the 1-year period beginning on the
16 individual’s 18th birthday; and

17 “(II) by applying the criteria used in determin-
18 ing the initial eligibility for applicants who have at-
19 tained the age of 18 years.

20 With respect to a redetermination under this clause, para-
21 graph (4) shall not apply and such redetermination shall
22 be considered a substitute for a review or redetermination
23 otherwise required under any other provision of this sub-
24 paragraph during that 1-year period.”.

1 (2) CONFORMING REPEAL.—Section 207 of the
2 Social Security Independence and Program Improve-
3 ments Act of 1994 (42 U.S.C. 1382 note; 108 Stat.
4 1516) is hereby repealed.

5 (c) CONTINUING DISABILITY REVIEW REQUIRED FOR
6 LOW BIRTH WEIGHT BABIES.—Section 1614(a)(3)(H)
7 (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section
8 9601(a)(3) of this Act and as amended by subsections (a)
9 and (b) of this section, is amended by adding at the end
10 the following new clause:

11 “(iv)(I) Not later than 12 months after the birth of
12 an individual, the Commissioner shall review in accordance
13 with paragraph (4) the continuing eligibility for benefits
14 under this title by reason of disability of such individual
15 whose low birth weight is a contributing factor material
16 to the Commissioner’s determination that the individual
17 is disabled.

18 “(II) A review under subclause (I) shall be considered
19 a substitute for a review otherwise required under any
20 other provision of this subparagraph during that 12-
21 month period.

22 “(III) A parent or guardian of a recipient whose case
23 is reviewed under this clause shall present, at the time
24 of review, evidence demonstrating that the recipient is,
25 and has been, receiving treatment, to the extent consid-

1 ered medically necessary and available, of the condition
2 which was the basis for providing benefits under this
3 title.”.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to benefits for months beginning
6 on or after the date of the enactment of this Act, without
7 regard to whether regulations have been issued to imple-
8 ment such amendments.

9 **SEC. 9603. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.**

10 (a) TIGHTENING OF REPRESENTATIVE PAYEE RE-
11 QUIREMENTS.—

12 (1) CLARIFICATION OF ROLE.—Section
13 1631(a)(2)(B)(ii) (42 U.S.C. 1383(a)(2)(B)(ii)) is
14 amended by striking “and” at the end of subclause
15 (II), by striking the period at the end of subclause
16 (IV) and inserting “; and”, and by adding after
17 subclause (IV) the following new subclause:

18 “(V) advise such person through the notice of
19 award of benefits, and at such other times as the
20 Commissioner of Social Security deems appropriate,
21 of specific examples of appropriate expenditures of
22 benefits under this title and the proper role of a rep-
23 resentative payee.”.

24 (2) DOCUMENTATION OF EXPENDITURES RE-
25 QUIRED.—

1 (A) IN GENERAL.—Subparagraph (C)(i) of
2 section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is
3 amended to read as follows:

4 “(C)(i) In any case where payment is made to a rep-
5 resentative payee of an individual or spouse, the Commis-
6 sioner of Social Security shall—

7 “(I) require such representative payee to docu-
8 ment expenditures and keep contemporaneous
9 records of transactions made using such payment;
10 and

11 “(II) implement statistically valid procedures
12 for reviewing a sample of such contemporaneous
13 records in order to identify instances in which such
14 representative payee is not properly using such pay-
15 ment.”.

16 (B) CONFORMING AMENDMENT WITH RE-
17 SPECT TO PARENT PAYEES.—Clause (ii) of sec-
18 tion 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C))
19 is amended by striking “Clause (i)” and insert-
20 ing “Subclauses (II) and (III) of clause (i)”.

21 (3) EFFECTIVE DATE.—The amendments made
22 by this subsection shall apply to benefits paid after
23 the date of the enactment of this Act.

24 (b) DEDICATED SAVINGS ACCOUNTS.—

1 (1) IN GENERAL.—Section 1631(a)(2)(B) (42
2 U.S.C. 1383(a)(2)(B)) is amended by adding at the
3 end the following:

4 “(xiv) Notwithstanding clause (x), the Commissioner
5 of Social Security may, at the request of the representative
6 payee, pay any lump sum payment for the benefit of a
7 child into a dedicated savings account that could only be
8 used to purchase for such child—

9 “(I) education and job skills training;

10 “(II) special equipment or housing modifica-
11 tions or both specifically related to, and required by
12 the nature of, the child’s disability; and

13 “(III) appropriate therapy and rehabilitation.”.

14 (2) DISREGARD OF TRUST FUNDS.—Section
15 1613(a) (42 U.S.C. 1382b(a)) is amended—

16 (A) by striking “and” at the end of para-
17 graph (10),

18 (B) by striking the period at the end of
19 paragraph (11) and inserting “; and”, and

20 (C) by inserting after paragraph (11) the
21 following:

22 “(12) all amounts deposited in, or interest cred-
23 ited to, a dedicated savings account described in sec-
24 tion 1631(a)(2)(B)(xiv).”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to payments made
3 after the date of the enactment of this Act.

4 **SEC. 9604. DENIAL OF SSI BENEFITS BY REASON OF DIS-**
5 **ABILITY TO DRUG ADDICTS AND ALCOHOL-**
6 **ICS.**

7 (a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C.
8 1382c(a)(3)), as amended by section 9601(a)(3) of this
9 Act, is amended by adding at the end the following:

10 “(J) Notwithstanding subparagraph (A), an individ-
11 ual shall not be considered to be disabled for purposes of
12 this title if alcoholism or drug addiction would (but for
13 this subparagraph) be a contributing factor material to
14 the Commissioner’s determination that the individual is
15 disabled.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Section 1611(e) (42 U.S.C. 1382(e)) is
18 amended by striking paragraph (3).

19 (2) Section 1613(a)(12) (42 U.S.C.
20 1382b(a)(12)) is amended by striking
21 “1631(a)(2)(B)(xiv)” and inserting
22 “1631(a)(2)(B)(xiii)”.

23 (3) Section 1631(a)(2)(A)(ii) (42 U.S.C.
24 1383(a)(2)(A)(ii)) is amended—

25 (A) by striking “(I)”; and

1 (B) by striking subclause (II).

2 (4) Section 1631(a)(2)(B) (42 U.S.C.
3 1383(a)(2)(B)) is amended—

4 (A) by striking clause (vii);

5 (B) in clause (viii), by striking “(ix)” and
6 inserting “(viii)”;

7 (C) in clause (ix)—

8 (i) by striking “(viii)” and inserting
9 “(vii)”;

10 (ii) in subclause (II), by striking all
11 that follows “15 years” and inserting a pe-
12 riod;

13 (D) in clause (xiii)—

14 (i) by striking “(xii)” and inserting
15 “(xi)”;

16 (ii) by striking “(xi)” and inserting
17 “(x)”;

18 (E) in clause (xiv) (as added by section
19 9603(b)(1) of this Act), by striking “(x)” and
20 inserting “(ix)”;

21 (F) by redesignating clauses (viii) through
22 (xiv) as clauses (vii) through (xiii), respectively.

23 (5) Section 1631(a)(2)(D)(i)(II) (42 U.S.C.
24 1383(a)(2)(D)(i)(II)) is amended by striking all that
25 follows “\$25.00 per month” and inserting a period.

1 (6) Section 1634 (42 U.S.C. 1383c) is amended
2 by striking subsection (e).

3 (7) Section 201(c)(1) of the Social Security
4 Independence and Program Improvements Act of
5 1994 (42 U.S.C. 425 note) is amended—

6 (A) by striking “—” and all that follows
7 through “(A)” the 1st place such term appears;

8 (B) by striking “and” the 3rd place such
9 term appears;

10 (C) by striking subparagraph (B);

11 (D) by striking “either subparagraph (A)
12 or subparagraph (B)” and inserting “the pre-
13 ceding sentence”; and

14 (E) by striking “subparagraph (A) or (B)”
15 and inserting “the preceding sentence”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall take effect on October 1, 1995, and shall
18 apply with respect to months beginning on or after such
19 date.

20 (d) FUNDING OF CERTAIN PROGRAMS FOR DRUG
21 ADDICTS AND ALCOHOLICS.—Out of any money in the
22 Treasury of the United States not otherwise appropriated,
23 the Secretary of the Treasury shall pay to the Director
24 of the National Institute on Drug Abuse—

1 (1) \$95,000,000, for each of fiscal years 1997,
2 1998, 1999, and 2000, for expenditure through the
3 Federal Capacity Expansion Program to expand the
4 availability of drug treatment; and

5 (2) \$5,000,000 for each of fiscal years 1997,
6 1998, 1999, and 2000 to be expended solely on the
7 medication development project to improve drug
8 abuse and drug treatment research.

9 **SEC. 9605. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDI-**
10 **VIDUALS FOUND TO HAVE FRAUDULENTLY**
11 **MISREPRESENTED RESIDENCE IN ORDER TO**
12 **OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR**
13 **MORE STATES.**

14 Section 1614(a) (42 U.S.C. 1382c(a)) is amended by
15 adding at the end the following:

16 “(5) An individual shall not be considered an eligible
17 individual for purposes of this title during the 10-year pe-
18 riod beginning on the date the individual is found by a
19 State to have made, or is convicted in Federal or State
20 court of having made, a fraudulent statement or represen-
21 tation with respect to the place of residence of the individ-
22 ual in order to receive benefits simultaneously from 2 or
23 more States under programs that are funded under part
24 A of title IV, or title XIX of this Act, the consolidated
25 program of food assistance under chapter 2 of subtitle E

1 of title XIV of the Omnibus Budget Reconciliation Act of
2 1995, or the Food Stamp Act of 1977 (as in effect before
3 the effective date of such chapter), or benefits in 2 or more
4 States under the supplemental security income program
5 under title XVI of this Act.”.

6 **SEC. 9606. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS**
7 **AND PROBATION AND PAROLE VIOLATORS.**

8 (a) IN GENERAL.—Section 1611(e) (42 U.S.C.
9 1382(e)), as amended by section 9604(b)(1) of this Act,
10 is amended by inserting after paragraph (2) the following:

11 “(3) A person shall not be an eligible individual
12 or eligible spouse for purposes of this title with re-
13 spect to any month if, throughout the month, the
14 person is—

15 “(A) fleeing to avoid prosecution, or cus-
16 tody or confinement after conviction, under the
17 laws of the place from which the person flees,
18 for a crime, or an attempt to commit a crime,
19 which is a felony under the laws of the place
20 from which the person flees, or which, in the
21 case of the State of New Jersey, is a high mis-
22 demeanor under the laws of such State; or

23 “(B) violating a condition of probation or
24 parole imposed under Federal or State law.”.

1 (b) EXCHANGE OF INFORMATION WITH LAW EN-
2 FORCEMENT AGENCIES.—Section 1631(e) of such Act (42
3 U.S.C. 1383(e)) is amended by inserting after paragraph
4 (3) the following:

5 “(4) Notwithstanding any other provision of law, the
6 Commissioner shall furnish any Federal, State, or local
7 law enforcement officer, upon the request of the officer,
8 with the current address of any recipient of benefits under
9 this title, if the officer furnishes the agency with the name
10 of the recipient and notifies the agency that—

11 “(A) the recipient—

12 “(i) is fleeing to avoid prosecution, or cus-
13 tody or confinement after conviction, under the
14 laws of the place from which the person flees,
15 for a crime, or an attempt to commit a crime,
16 which is a felony under the laws of the place
17 from which the person flees, or which, in the
18 case of the State of New Jersey, is a high mis-
19 demeanor under the laws of such State;

20 “(ii) is violating a condition of probation or
21 parole imposed under Federal or State law; or

22 “(iii) has information that is necessary for
23 the officer to conduct the officer’s official du-
24 ties;

1 “(B) the location or apprehension of the recipi-
2 ent is within the official duties of the officer; and

3 “(C) the request is made in the proper exercise
4 of such duties.”.

5 **SEC. 9607. REAPPLICATION REQUIREMENTS FOR ADULTS**
6 **RECEIVING SSI BENEFITS BY REASON OF DIS-**
7 **ABILITY.**

8 (a) IN GENERAL.—Section 1614(a)(3)(H) (42 U.S.C.
9 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3)
10 of this Act and as amended by section 9602 of this Act,
11 is amended by adding at the end the following:

12 “(v) In the case of an individual who has attained
13 18 years of age and for whom a determination has been
14 made of eligibility for a benefit under this title by reason
15 of disability, the following applies:

16 “(I) Subject to the provisions of this clause, the
17 determination of eligibility is effective for the 3-year
18 period beginning on the date of the determination,
19 and the eligibility of the individual lapses unless a
20 determination of continuing eligibility is made before
21 the end of such period, and before the end of each
22 subsequent 3-year period. This subclause ceases to
23 apply to the individual upon the individual attaining
24 65 years of age. This subclause does not apply to
25 the individual if the individual has an impairment

1 that is not expected to improve (or a combination of
2 impairments that are not expected to improve).

3 “(II) With respect to a determination under
4 subclause (I) of whether the individual continues to
5 be eligible for the benefit (in this clause referred to
6 as a ‘redetermination’), the Commissioner may not
7 make the redetermination unless the individual sub-
8 mits to the Commissioner an application requesting
9 the redetermination. If such an application is sub-
10 mitted, the Commissioner shall make the redeter-
11 mination. This subclause is subject to subclause (V).

12 “(III) If as of the date on which this clause
13 takes effect the individual has been receiving the
14 benefit for three years or less, the first period under
15 subclause (I) for the individual is deemed to end on
16 the expiration of the period beginning on the date
17 on which this clause takes effect and continuing
18 through a number of months equal to 12 plus a
19 number equal to 36 minus the number of months
20 the individual has been receiving the benefit.

21 “(IV) If as of the date on which this clause
22 takes effect the individual has been receiving the
23 benefit for five years or less, but for more than three
24 years, the first period under subclause (I) for the in-
25 dividual is deemed to end on the expiration of the

1 1-year period beginning on the date on which this
2 clause takes effect.

3 “(V) If as of the date on which this clause
4 takes effect the individual has been receiving the
5 benefit for more than five years, the Commissioner
6 shall make redeterminations under subclause (I) and
7 may not require the individual to submit applica-
8 tions for the redeterminations. The first 3-year pe-
9 riod under subclause (I) for the individual is deemed
10 to begin upon the expiration of the period beginning
11 on the date on which this clause takes effect and
12 ending upon the termination of a number of years
13 equal to the lowest number (greater than zero) that
14 can be obtained by subtracting the number of years
15 that the individual has been receiving the benefit
16 from a number that is a multiple of three.

17 “(VI) If the individual first attains 18 years of
18 age on or after the date on which this clause takes
19 effect, the first 3-year period under subclause (I) for
20 the individual is deemed to end on the date on which
21 the individual attains such age.

22 “(VII) Not later than one year prior to the date
23 on which a determination under subclause (I) ex-
24 pires, the Commissioner shall (except in the case of
25 an individual to whom subclause (V) applies) provide

1 to the individual a written notice explaining the ap-
2 plicability of this clause to the individual, including
3 an explanation of the effect of failing to submit the
4 application. If the individual submits the application
5 not later than 180 days prior to such date and the
6 Commissioner does not make the redetermination
7 before such date, the Commissioner shall continue to
8 provide the benefit pending the redetermination and
9 shall publish in the Federal Register a notice that
10 the Commissioner was unable to make the redeter-
11 mination by such date.

12 “(VIII) If the individual fails to submit the ap-
13 plication under subclause (II) by the end of the ap-
14 plicable period under subclause (I), the individual
15 may apply for a redetermination. The Commissioner
16 shall make the redetermination for the individual
17 only after making redeterminations for individuals
18 for whom eligibility has not lapsed pursuant to
19 subclause (I).”.

20 (b) LIMITATIONS ON AUTHORIZATION OF APPRO-
21 PRIATIONS.—For redeterminations of eligibility pursuant
22 to section 1614(a)(3)(H)(v) of the Social Security Act,
23 there are authorized to be appropriated to the Commis-
24 sioner of Social Security not more than \$100,000,000 for
25 fiscal years 1996 through 2000.

1 (c) EFFECTIVE DATE.—The amendment made by
2 subsection (a) takes effect upon the expiration of the 9-
3 month period beginning on the date of the enactment of
4 this Act.

5 **SEC. 9608. REDUCTION IN UNEARNED INCOME EXCLUSION.**

6 (a) IN GENERAL.—Section 1612(b)(3)(A) (42 U.S.C.
7 1382a(b)(3)(A)) is amended by striking “\$20” and insert-
8 ing “\$15”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall apply to benefits for months beginning
11 after December 31, 1995.

12 **Subtitle G—Food Assistance**

13 **CHAPTER 1—FOOD STAMP PROGRAM**

14 **SEC. 9701. APPLICATION OF AMENDMENTS.**

15 The amendments made by this chapter shall not
16 apply with respect to certification periods beginning before
17 the effective date of this chapter.

18 **SEC. 9702. AMENDMENTS TO THE FOOD STAMP ACT OF 1977.**

19 (a) CERTIFICATION PERIOD.—(1) Section 3(c) of the
20 Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended
21 to read as follows:

22 “(c) ‘Certification period’ means the period specified
23 by the State agency for which households shall be eligible
24 to receive authorization cards, except that such period
25 shall be—

1 “(1) 24 months for households in which all
2 adult members are elderly or disabled; and

3 “(2) not more than 12 months for all other
4 households.”.

5 (2) Section 6(c)(1)(C) of the Food Stamp Act of
6 1977 (7 U.S.C. 2015(c)(1)(C)) is amended—

7 (A) in clause (ii) by adding “and” at the end;

8 (B) in clause (iii) by striking “; and” at the end
9 and inserting a period; and

10 (C) by striking clause (iv).

11 (b) ENERGY ASSISTANCE COUNTED AS INCOME.—

12 (1) LIMITING EXCLUSION.—Section 5(d)(11) of
13 the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(11))
14 is amended—

15 (A) by striking “(A) under any Federal
16 law, or (B)”;

17 (B) by inserting before the comma at the
18 end the following: “, except that no benefits
19 provided under the State program under part A
20 of title IV of the Social Security Act (42 U.S.C.
21 601 et seq.) shall be excluded under this
22 clause”.

23 (2) CONFORMING AMENDMENTS.—

1 (A) Section 5(e) of the Food Stamp Act of
2 1977 (7 U.S.C. 2014(e)) is amended by striking
3 the ninth through the twelfth sentences.

4 (B) Section 5(k)(2) of the Food Stamp Act
5 of 1977 (7 U.S.C. 2014(k)(2)) is amended by
6 striking subparagraph (C) and redesignating
7 subparagraphs (D) through (H) as subpara-
8 graphs (C) through (G), respectively.

9 (C) Section 5(k) of the Food Stamp Act of
10 1977 (7 U.S.C. 2014(k)) is amended by adding
11 at the end the following:

12 “(4) For purposes of subsection (d)(1), any payments
13 or allowances made under any Federal or State law for
14 the purposes of energy assistance shall be treated as
15 money payable directly to the household.”.

16 (D) Section 2605(f) of the Low-Income
17 Home Energy Assistance Act of 1981 (42
18 U.S.C. 8634(f)) is amended—

19 (i) in paragraph (1), by striking “food
20 stamps”;

21 (ii) by striking “(f)(1) Notwithstand-
22 ing” and inserting “(f) Notwithstanding”;
23 and

24 (iii) by striking paragraph (2).

1 (c) EXCLUSION OF CERTAIN JTPA INCOME.—Sec-
2 tion 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014)
3 is amended—

4 (1) in subsection (d)—

5 (A) by striking “and (16)” and inserting
6 “(16)”; and

7 (B) by inserting before the period at the
8 end the following: “, and (17) income received
9 under the Job Training Partnership Act (29
10 U.S.C. 1501 et seq.) by a household member
11 who is less than 19 years of age”; and

12 (2) in subsection (l), by striking “under section
13 204(b)(1)(C)” and all that follows and inserting
14 “shall be considered earned income for purposes of
15 the food stamp program.”.

16 (d) EXCLUSION OF LIFE INSURANCE POLICIES.—
17 Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C.
18 2014(g)) is amended by adding at the end the following:
19 “(6) The Secretary shall exclude from financial re-
20 sources the cash value of any life insurance policy owned
21 by a member of a household.”.

22 (e) IN-TANDEM EXCLUSIONS FROM INCOME.—Sec-
23 tion 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014)
24 is amended by adding at the end the following:

1 “(n) Whenever a Federal statute enacted after the
2 date of the enactment of this Act excludes funds from in-
3 come for purposes of determining eligibility, benefit levels,
4 or both under State plans approved under part A of title
5 IV of the Social Security Act, then such funds shall be
6 excluded from income for purposes of determining eligi-
7 bility, benefit levels, or both, respectively, under the food
8 stamp program of households all of whose members re-
9 ceive benefits under a State plan approved under part A
10 of title IV of the Social Security Act.”.

11 **SEC. 9703. AUTHORITY TO ESTABLISH AUTHORIZATION**
12 **PERIODS.**

13 Section 9(a)(1) of the Food Stamp Act of 1977 (7
14 U.S.C. 2018(a)(1)) is amended by adding at the end the
15 following: “The Secretary is authorized to issue regula-
16 tions establishing specific time periods during which au-
17 thorization to accept and redeem coupons under the food
18 stamp program shall be valid.”.

19 **SEC. 9704. SPECIFIC PERIOD FOR PROHIBITING PARTICIPA-**
20 **TION OF STORES BASED ON LACK OF BUSI-**
21 **NESS INTEGRITY.**

22 Section 9(a)(1) of the Food Stamp Act of 1977 (7
23 U.S.C. 2018(a)(1)), as amended by section 9703, is
24 amended by adding at the end the following: “The Sec-
25 retary is authorized to issue regulations establishing spe-

1 cific time periods during which a retail food store or
2 wholesale food concern that has an application for ap-
3 proval to accept and redeem coupons denied or that has
4 such an approval withdrawn on the basis of business integ-
5 rity and reputation cannot submit a new application for
6 approval. Such periods shall reflect the severity of business
7 integrity infractions that are the basis of such denials or
8 withdrawals.”.

9 **SEC. 9705. INFORMATION FOR VERIFYING ELIGIBILITY FOR**
10 **AUTHORIZATION.**

11 Section 9(c) of the Food Stamp Act of 1977 (7
12 U.S.C. 2018(c)) is amended—

13 (1) in the first sentence by inserting “, which
14 may include relevant income and sales tax filing doc-
15 uments,” after “submit information” ; and

16 (2) by inserting after the first sentence the fol-
17 lowing: “The regulations may require retail food
18 stores and wholesale food concerns to provide writ-
19 ten authorization for the Secretary to verify all rel-
20 evant tax filings with appropriate agencies and to
21 obtain corroborating documentation from other
22 sources in order that the accuracy of information
23 provided by such stores and concerns may be
24 verified.”.

1 **SEC. 9706. WAITING PERIOD FOR STORES THAT INITIALLY**
2 **FAIL TO MEET AUTHORIZATION CRITERIA.**

3 Section 9(d) of the Food Stamp Act of 1977 (7
4 U.S.C. 2018(d)) is amended by adding at the end the fol-
5 lowing: “Regulations issued pursuant to this Act shall pro-
6 hibit a retail food store or wholesale food concern that has
7 an application for approval to accept and redeem coupons
8 denied because it does not meet criteria for approval estab-
9 lished by the Secretary in regulations from submitting a
10 new application for six months from the date of such
11 denial.”.

12 **SEC. 9707. BASES FOR SUSPENSIONS AND DISQUALIFICA-**
13 **TIONS.**

14 Section 12(a) of the Food Stamp Act of 1977 (7
15 U.S.C. 2021(a)) is amended by adding at the end the fol-
16 lowing: “Regulations issued pursuant to this Act shall pro-
17 vide criteria for the finding of violations and the suspen-
18 sion or disqualification of a retail food store or wholesale
19 food concern on the basis of evidence which may include,
20 but is not limited to, facts established through on-site in-
21 vestigations, inconsistent redemption data, or evidence ob-
22 tained through transaction reports under electronic benefit
23 transfer systems.”.

1 **SEC. 9708. AUTHORITY TO SUSPEND STORES VIOLATING**
2 **PROGRAM REQUIREMENTS PENDING ADMIN-**
3 **ISTRATIVE AND JUDICIAL REVIEW.**

4 (a) Section 12(a) of the Food Stamp Act of 1977 (7
5 U.S.C. 2021(a)), as amended by section 9707, is amended
6 by adding at the end the following: “Such regulations may
7 establish criteria under which the authorization of a retail
8 food store or wholesale food concern to accept and redeem
9 coupons may be suspended at the time such store or con-
10 cern is initially found to have committed violations of pro-
11 gram requirements. Such suspension may coincide with
12 the period of a review as provided in section 14. The Sec-
13 retary shall not be liable for the value of any sales lost
14 during any suspension or disqualification period.”.

15 (b) Section 14(a) of the Food Stamp Act of 1977 (7
16 U.S.C. 2023(a)) is amended—

17 (1) in the first sentence by inserting “sus-
18 pended,” before “disqualified or subjected”;

19 (2) in the fifth sentence by inserting before the
20 period at the end the following: “, except that in the
21 case of the suspension of a retail food store or
22 wholesale food concern pursuant to section 12(a),
23 such suspension shall remain in effect pending any
24 administrative or judicial review of the proposed dis-
25 qualification action, and the period of suspension

1 shall be deemed a part of any period of disqualifica-
2 tion which is imposed.”; and

3 (3) by striking the last sentence.

4 **SEC. 9709. DISQUALIFICATION OF RETAILERS WHO ARE**
5 **DISQUALIFIED FROM THE WIC PROGRAM.**

6 Section 12 of the Food Stamp Act of 1977 (7 U.S.C.
7 2021) is amended by adding at the end the following:

8 “(g) The Secretary shall issue regulations providing
9 criteria for the disqualification of approved retail food
10 stores and wholesale food concerns that are otherwise dis-
11 qualified from accepting benefits under the Special Sup-
12 plemental Nutrition Program for Women, Infants and
13 Children (WIC) authorized under section 17 of the Child
14 Nutrition Act of 1966. Such disqualification—

15 “(1) shall be for the same period as the dis-
16 qualification from the WIC Program;

17 “(2) may begin at a later date; and

18 “(3) notwithstanding section 14 of this Act,
19 shall not be subject to administrative or judicial re-
20 view.”.

1 **SEC. 9710. PERMANENT DEBARMENT OF RETAILERS WHO**
2 **INTENTIONALLY SUBMIT FALSIFIED APPLI-**
3 **CATIONS.**

4 Section 12 of the Food Stamp Act of 1977 (7 U.S.C.
5 2021), as amended by section 9709, is amended by adding
6 at the end the following:

7 “(h) The Secretary shall issue regulations providing
8 for the permanent disqualification of a retail food store
9 or wholesale food concern that is determined to have
10 knowingly submitted an application for approval to accept
11 and redeem coupons which contains false information
12 about one or more substantive matters which were the
13 basis for providing approval. Any disqualification imposed
14 under this subsection shall be subject to administrative
15 and judicial review pursuant to section 14, but such dis-
16 qualification shall remain in effect pending such review.”.

17 **SEC. 9711. EXPANDED CIVIL AND CRIMINAL FORFEITURE**
18 **FOR VIOLATIONS OF THE FOOD STAMP ACT.**

19 (a) **FORFEITURE OF ITEMS EXCHANGED IN FOOD**
20 **STAMP TRAFFICKING.**—Section 15(g) of the Food Stamp
21 Act of 1977 (7 U.S.C. 2024(g)) is amended by striking
22 “or intended to be furnished”.

23 (b) **CIVIL AND CRIMINAL FORFEITURE.**—Section 15
24 of the Food Stamp Act of 1977 (7 U.S.C. 2024)) is
25 amended by adding at the end the following:

1 “(h)(1) CIVIL FORFEITURE FOR FOOD STAMP BENE-
2 FIT VIOLATIONS.—

3 “(A) Any food stamp benefits and any property,
4 real or personal—

5 “(i) constituting, derived from, or traceable
6 to any proceeds obtained directly or indirectly
7 from, or

8 “(ii) used, or intended to be used, to com-
9 mit, or to facilitate,

10 the commission of a violation of subsection (b) or
11 subsection (c) involving food stamp benefits having
12 an aggregate value of not less than \$5,000, shall be
13 subject to forfeiture to the United States.

14 “(B) The provisions of chapter 46 of title 18,
15 United States Code, relating to civil forfeitures shall
16 extend to a seizure or forfeiture under this sub-
17 section, insofar as applicable and not inconsistent
18 with the provisions of this subsection.

19 “(2) CRIMINAL FORFEITURE FOR FOOD STAMP BEN-
20 EFIT VIOLATIONS.—

21 “(A)(i) Any person convicted of violating sub-
22 section (b) or subsection (c) involving food stamp
23 benefits having an aggregate value of not less than
24 \$5,000, shall forfeit to the United States, irrespec-
25 tive of any State law—

1 “(I) any food stamp benefits and any prop-
2 erty constituting, or derived from, or traceable
3 to any proceeds such person obtained directly or
4 indirectly as a result of such violation; and

5 “(II) any food stamp benefits and any of
6 such person’s property used, or intended to be
7 used, in any manner or part, to commit, or to
8 facilitate the commission of such violation.

9 “(ii) In imposing sentence on such person, the
10 court shall order that the person forfeit to the
11 United States all property described in this sub-
12 section.

13 “(B) All food stamp benefits and any property
14 subject to forfeiture under this subsection, any sei-
15 zure and disposition thereof, and any administrative
16 or judicial proceeding relating thereto, shall be gov-
17 erned by subsections (b), (c), (e), and (g) through
18 (p) of section 413 of the Comprehensive Drug Abuse
19 Prevention and Control Act of 1970 (21 U.S.C.
20 853), insofar as applicable and not inconsistent with
21 the provisions of this subsection.

22 “(3) APPLICABILITY.—This subsection shall not
23 apply to property specified in subsection (g) of this sec-
24 tion.

1 316(b) of the Social Security Administrative Reform Act
2 of 1994 (Public Law 103–296; 108 Stat. 1464) is amend-
3 ed—

4 (1) by inserting in subparagraph (A) after “in-
5 strumentality of the United States” the following: “,
6 or State government officers and employees with law
7 enforcement or investigative responsibilities, or State
8 agencies that have the responsibility for administer-
9 ing the Special Supplemental Nutrition Program for
10 Women, Infants and Children (WIC)”;

11 (2) in the last sentence of subparagraph (A) by
12 inserting “or State” after “other Federal”; and

13 (3) in subparagraph (B) by inserting “or a
14 State” after “United States”.

15 **SEC. 9713. EXPANDED DEFINITION OF “COUPON”.**

16 Section 3(d) of the Food Stamp Act of 1977 (7
17 U.S.C. 2012(d)) is amended by striking “or type of certifi-
18 cate” and inserting “type of certificate, authorization
19 cards, cash or checks issued of coupons or access devices,
20 including, but not limited to, electronic benefit transfer
21 cards and personal identification numbers”.

22 **SEC. 9714. DOUBLED PENALTIES FOR VIOLATING FOOD**
23 **STAMP PROGRAM REQUIREMENTS.**

24 Section 6(b)(1) of the Food Stamp Act of 1977 (7
25 U.S.C. 2015(b)(1)) is amended—

- 1 (1) in clause (i)—
- 2 (A) by striking “six months” and inserting
- 3 “1 year”; and
- 4 (B) by adding “and” at the end; and
- 5 (2) striking clauses (ii) and (iii) and inserting
- 6 the following:
- 7 “(ii) permanently upon—
- 8 “(I) the second occasion of any such deter-
- 9 mination; or
- 10 “(II) the first occasion of a finding by a
- 11 Federal, State, or local court of the trading of
- 12 a controlled substance (as defined in section
- 13 102 of the Controlled Substances Act (21
- 14 U.S.C. 802)), firearms, ammunition, or explo-
- 15 sives for coupons.”.

16 **SEC. 9715. MANDATORY CLAIMS COLLECTION METHODS.**

17 (a) Section 11(e)(8) of the Food Stamp Act of 1977

18 (7 U.S.C. 2020(e)(8)) is amended by inserting “or refunds

19 of Federal taxes as authorized pursuant to 31 U.S.C.

20 3720A” before the semicolon at the end.

21 (b) Section 13(d) of the Food Stamp Act of 1977

22 (7 U.S.C. 2022(d)) is amended—

- 23 (1) by striking “may” and inserting “shall”;
- 24 and

1 (2) by inserting “or refunds of Federal taxes as
2 authorized pursuant to 31 U.S.C. 3720A” before the
3 period at the end.

4 (c) Section 6103(1) of the Internal Revenue Code (26
5 U.S.C. 6103(1)) is amended—

6 (1) by striking “officers and employees” in
7 paragraph (10)(A) and inserting “officers, employ-
8 ees or agents, including State agencies”; and

9 (2) by striking “officers and employees” in
10 paragraph (10)(B) and inserting “officers, employ-
11 ees or agents, including State agencies”.

12 **SEC. 9716. PROMOTING EXPANSION OF ELECTRONIC BENE-**
13 **FITS TRANSFER.**

14 Section 7(i) of the Food Stamp Act of 1977 (7 U.S.C.
15 2016(i)(1)) is amended—

16 (1) by amending paragraph (1) to read:

17 “(1)(A) State agencies are encouraged to implement
18 an on-line electronic benefit transfer system in which
19 household benefits determined under section 8(a) are is-
20 sued from and stored in a central data bank and electroni-
21 cally accessed by household members at the point-of-sale.

22 “(B) Subject to paragraph (2), a State agency is au-
23 thorized to procure and implement an electronic benefit
24 transfer system under the terms, conditions, and design
25 that the State agency deems appropriate.

1 “(C) The Secretary shall, upon request of a State
2 agency, waive any provision of this subsection prohibiting
3 the effective implementation of an electronic benefit trans-
4 fer system consistent with the purposes of this Act. The
5 Secretary shall act upon any request for such a waiver
6 within 90 days of receipt of a complete application.”;

7 (2) in paragraph (2), by striking “for the ap-
8 proval”; and

9 (3) in paragraph (3), by striking “the Secretary
10 shall not approve such a system unless” and insert-
11 ing “the State agency shall ensure that”.

12 **SEC. 9717. REDUCTION OF BASIC BENEFIT LEVEL.**

13 Section 3(o) of the Food Stamp Act of 1977 (7
14 U.S.C. 2012(o)) is amended—

15 (1) by striking “and (11)” and inserting
16 “(11)”;

17 (2) in clause (11) by inserting “through Octo-
18 ber 1, 1994” after “each October 1 thereafter”; and

19 (3) by inserting before the period at the end the
20 following:

21 “, and (12) on October 1, 1995, and on each October 1
22 thereafter, adjust the cost of such diet to reflect 100 per-
23 cent of the cost, in the preceding June (without regard
24 to any previous adjustment made under this clause or
25 clauses (4) through (11) of this subsection) and round the

1 result to the nearest lower dollar increment for each
2 household size”.

3 **SEC. 9718. 2-YEAR FREEZE OF STANDARD DEDUCTION.**

4 The second sentence of section 5(e)(4) (7 U.S.C.
5 2014(e)(4)) is amended by inserting “, except October 1,
6 1995, and October 1, 1996” after “thereafter”.

7 **SEC. 9719. PRO-RATING BENEFITS AFTER INTERRUPTIONS**
8 **IN PARTICIPATION.**

9 Section 8(c)(2)(B) of the Food Stamp Act of 1977
10 (7 U.S.C. 2017(c)(2)(B)) is amended by striking “of more
11 than one month”.

12 **SEC. 9720. DISQUALIFICATION FOR PARTICIPATING IN 2 OR**
13 **MORE STATES.**

14 Section 6 of the Food Stamp Act of 1977 (7 U.S.C.
15 2015), as amended by sections 9491 and 9492, is amend-
16 ed by adding at the end the following:

17 “(J) DISQUALIFICATION FOR PARTICIPATING IN 2 OR
18 MORE STATES.—An individual shall be ineligible to par-
19 ticipate in the food stamp program as a member of any
20 household during a 10-year period beginning on the date
21 the individual is found by a State to have made, or is con-
22 victed in Federal or State court of having made, a fraudu-
23 lent statement or representation with respect to the place
24 of residence of the individual to receive benefits simulta-
25 neously from 2 or more States under—

1 “(1) the food stamp program;

2 “(2) a State program funded under part A of
3 title IV of the Social Security Act (42 U.S.C. 601
4 et seq.) or under title XIX of the Act (42 U.S.C.
5 1396 et seq.); or

6 “(3) the supplemental security income program
7 under title XVI of the Act (42 U.S.C. 1381 et
8 seq.).”.

9 **SEC. 9721. DISQUALIFICATION RELATING TO CHILD SUP-**
10 **PORT ARREARS.**

11 Section 6 of the Food Stamp Act of 1977 (7 U.S.C.
12 2015), as amended by sections 9491, 9492, and 9720, is
13 amended by adding at the end the following:

14 “(m) DISQUALIFICATION FOR CHILD SUPPORT AR-
15 REARS.—

16 “(1) IN GENERAL.—At the option of a State
17 agency, except as provided in paragraph (2), no indi-
18 vidual shall be eligible to participate in the food
19 stamp program as a member of any household dur-
20 ing any month that the individual is delinquent in
21 any payment due under a court order for the sup-
22 port of a child of the individual.

23 “(2) EXCEPTIONS.—Paragraph (1) shall not
24 apply if—

1 “(A) a court is allowing the individual to
2 delay payment; or

3 “(B) the individual is complying with a
4 payment plan approved by a court or the State
5 agency designated under part D of title IV of
6 the Social Security Act (42 U.S.C. 651 et seq.)
7 to provide support for the child of the individ-
8 ual.”.

9 **SEC. 9722. STATE AUTHORIZATION TO ASSIST LAW EN-**
10 **FORCEMENT OFFICERS IN LOCATING FUGI-**
11 **TIVE FELONS.**

12 Section 11(e)(8)(B) of the Food Stamp Act of 1977
13 (7 U.S.C. 2020(e)(8)(B)) is amended by striking “Act,
14 and” and inserting “Act or of locating a fugitive felon (as
15 defined by a State), and”.

16 **SEC. 9723. WORK REQUIREMENT FOR ABLE-BODIED RECIPI-**
17 **ENTS.**

18 (a) IN GENERAL.—Section 6 of the Food Stamp Act
19 of 1977 (7 U.S.C. 2015), as amended by sections 9491,
20 9492, 9720, and 9721, is amended by adding at the end
21 the following:

22 “(n) WORK REQUIREMENT.—

23 “(1) DEFINITION OF WORK PROGRAM.—In this
24 subsection, the term ‘work program’ means—

1 “(A) a program under the Job Training
2 Partnership Act (29 U.S.C. 1501 et seq.);

3 “(B) a program under section 236 of the
4 Trade Act of 1974 (19 U.S.C. 2296); or

5 “(C) a program of employment or training
6 operated or supervised by a State or local gov-
7 ernment, as determined appropriate by the Sec-
8 retary.

9 “(2) WORK REQUIREMENT.—No individual
10 shall be eligible to participate in the food stamp pro-
11 gram as a member of any household if, during the
12 preceding 12 months, the individual received food
13 stamp benefits for not less than 6 months during
14 which the individual did not—

15 “(A) work 20 hours or more per week,
16 averaged monthly;

17 “(B) participate in a workfare program
18 under section 20 or a comparable State or local
19 workfare program;

20 “(C) participate in and comply with the re-
21 quirements of an approved employment and
22 training program under subsection (d)(4); or

23 “(D) participate in and comply with the
24 requirements of a work program for 20 hours
25 or more per week.

1 “(3) EXCEPTION.—Paragraph (2) shall not
2 apply to an individual if the individual is—

3 “(A) under 18 or over 50 years of age;

4 “(B) medically certified as physically or
5 mentally unfit for employment;

6 “(C) a parent or other member of a house-
7 hold with a dependent child under 18 years of
8 age; or

9 “(D) otherwise exempt under subsection
10 (d)(2).

11 “(4) WAIVER.—

12 “(A) IN GENERAL.—The Secretary may
13 waive the applicability of paragraph (2) to any
14 group of individuals in the State if the Sec-
15 retary makes a determination that the area in
16 which the individuals reside—

17 “(i) has an unemployment rate of over
18 8 percent; or

19 “(ii) does not have a sufficient num-
20 ber of jobs to provide employment for the
21 individuals.

22 “(B) REPORT.—The Secretary shall report
23 the basis for a waiver under subparagraph (A)
24 to the Committee on Agriculture of the House
25 of Representatives and the Committee on Agri-

1 culture, Nutrition, and Forestry of the Sen-
2 ate.”.

3 (b) WORK AND TRAINING PROGRAMS.—Section
4 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C.
5 2015(d)(4)) is amended by adding at the end the follow-
6 ing:

7 “(O) REQUIRED PARTICIPATION IN WORK
8 AND TRAINING PROGRAMS.—A State agency
9 shall provide an opportunity to participate in
10 the employment and training program under
11 this paragraph to any individual who would oth-
12 erwise become subject to disqualification under
13 subsection (i).

14 “(P) COORDINATING WORK REQUIRE-
15 MENTS.—

16 “(i) IN GENERAL.—Notwithstanding
17 any other provision of this paragraph, a
18 State agency that meets the participation
19 requirements of clause (ii) may operate the
20 employment and training program of the
21 State for individuals who are members of
22 households receiving allotments under this
23 Act as part of a program operated by the
24 State under part F of title IV of the Social

1 Security Act (42 U.S.C. 681 et seq.), sub-
2 ject to the requirements of the Act.

3 “(ii) PARTICIPATION REQUIRE-
4 MENTS.—A State agency may exercise the
5 option under clause (i) if the State agency
6 provides an opportunity to participate in
7 an approved employment and training pro-
8 gram to an individual who is—

9 “(I) subject to subsection (i);

10 “(II) not employed at least an
11 average of 20 hours per week;

12 “(III) not participating in a
13 workfare program under section 20
14 (or a comparable State or local pro-
15 gram); and

16 “(IV) not subject to a waiver
17 under subsection (i)(4).”.

18 (c) ENHANCED EMPLOYMENT AND TRAINING PRO-
19 GRAM.—Section 16(h)(1) of the Food Stamp Act of 1977
20 (7 U.S.C. 2025(h)(1)) is amended—

21 (1) in subparagraph (A), by striking
22 “\$75,000,000 for each of the fiscal years 1991
23 through 1995” and inserting “\$150,000,000 for
24 each of fiscal years 1996 through 2000”;

1 (2) by striking subparagraphs (B), (C), (E),
2 and (F);

3 (3) by redesignating subparagraph (D) as sub-
4 paragraph (B); and

5 (4) in subparagraph (B) (as redesignated by
6 paragraph (3)), by striking “for each” and all that
7 follows through “of \$60,000,000” and inserting “,
8 the Secretary shall allocate funding”.

9 **SEC. 9724. COORDINATION OF EMPLOYMENT AND TRAIN-**
10 **ING PROGRAMS.**

11 Section 8(d) of the Food Stamp Act of 1977 (7
12 U.S.C. 2019(d)) is amended—

13 (1) by striking “(d) A household” and inserting
14 the following:

15 “(d) NONCOMPLIANCE WITH OTHER WELFARE OR
16 WORK PROGRAMS.—

17 “(1) IN GENERAL.—A household”; and

18 (2) by inserting “or a work requirement under
19 a welfare or public assistance program” after “as-
20 sistance program”; and

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

22 “(2) WORK REQUIREMENT.—If a household
23 fails to comply with a work requirement under a
24 State program funded under part A of title IV of the

1 Social Security Act (42 U.S.C. 601 et seq.), for the
2 duration of the reduction—

3 “(A) the household may not receive an in-
4 creased allotment as the result of a decrease in
5 the income of the household to the extent that
6 the decrease is the result of a penalty imposed
7 for the failure to comply; and

8 “(B) the State agency may reduce the al-
9 lotment of the household by not more than 25
10 percent.”.

11 **SEC. 9725. EXTENDING CURRENT CLAIMS RETENTION**
12 **RATES.**

13 Section 16(a) of the Food Stamp Act of 1977 (7
14 U.S.C. 2025(a)) is amended by striking “September 30,
15 1995” each place it appears and inserting “September 30,
16 2002”.

17 **SEC. 9726. NUTRITION ASSISTANCE FOR PUERTO RICO.**

18 Section 19(a)(1)(A) of the Food Stamp Act of 1977
19 (7 U.S.C. 2028(a)(1)(A)) is amended—

20 (1) by striking “1994, and” and inserting
21 “1994,”; and

22 (2) by inserting “and \$1,143,000,000 for fiscal
23 year 1996,” before “to finance”.

1 **SEC. 9727. TREATMENT OF CHILDREN LIVING AT HOME.**

2 The second sentence of section 3(i) of the Food
3 Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by
4 striking “(who are not themselves parents living with their
5 children or married and living with their spouses)”.

6 **CHAPTER 2—COMMODITY DISTRIBUTION**

7 **SEC. 9751. SHORT TITLE.**

8 This chapter may be cited as the “Commodity Dis-
9 tribution Act of 1995”.

10 **SEC. 9752. AVAILABILITY OF COMMODITIES.**

11 (a) Notwithstanding any other provision of law, the
12 Secretary of Agriculture (hereinafter in this chapter re-
13 ferred to as the “Secretary”) is authorized during fiscal
14 years 1996 through 2000 to purchase a variety of nutri-
15 tious and useful commodities and distribute such commod-
16 ities to the States for distribution in accordance with this
17 chapter.

18 (b) In addition to the commodities described in sub-
19 section (a), the Secretary may expend funds made avail-
20 able to carry out the section 32 of the Act of August 24,
21 1935 (7 U.S.C. 612c), which are not expended or needed
22 to carry out such section, to purchase, process, and dis-
23 tribute commodities of the types customarily purchased
24 under such section to the States for distribution in accord-
25 ance to this chapter.

1 (c) In addition to the commodities described in sub-
2 sections (a) and (b), agricultural commodities and the
3 products thereof made available under clause (2) of the
4 second sentence of section 32 of the Act of August 24,
5 1935 (7 U.S.C. 612c), may be made available by the Sec-
6 retary to the States for distribution in accordance with
7 this chapter.

8 (d) In addition to the commodities described in sub-
9 sections (a), (b), and (c), commodities acquired by the
10 Commodity Credit Corporation that the Secretary deter-
11 mines, in the discretion of the Secretary, are in excess of
12 quantities needed to—

13 (1) carry out other domestic donation pro-
14 grams;

15 (2) meet other domestic obligations;

16 (3) meet international market development and
17 food aid commitments, and

18 (4) carry out the farm price and income sta-
19 bilization purposes of the Agricultural Adjustment
20 Act of 1938, the Agricultural Act of 1949, and the
21 Commodity Credit Corporation Charter Act; shall be
22 made available by the Secretary, without charge or
23 credit for such commodities, to the States for dis-
24 tribution in accordance with this chapter.

1 (e) During each fiscal year, the types, varieties, and
2 amounts of commodities to be purchased under this chap-
3 ter shall be determined by the Secretary. In purchasing
4 such commodities, except those commodities purchased
5 pursuant to section 9760, the Secretary shall, to the ex-
6 tent practicable and appropriate, make purchases based
7 on—

8 (1) agricultural market conditions;

9 (2) the preferences and needs of States and dis-
10 tributing agencies; and

11 (3) the preferences of the recipients.

12 **SEC. 9753. STATE, LOCAL AND PRIVATE SUPPLEMENTATION**
13 **OF COMMODITIES.**

14 (a) The Secretary shall establish procedures under
15 which State and local agencies, recipient agencies, or any
16 other entity or person may supplement the commodities
17 distributed under this chapter for use by recipient agen-
18 cies with nutritious and wholesome commodities that such
19 entities or persons donate for distribution, in all or part
20 of the State, in addition to the commodities otherwise
21 made available under this chapter.

22 (b) States and eligible recipient agencies may use—

23 (1) the funds appropriated for administrative
24 cost under section 9759(b);

1 (2) equipment, structures, vehicles, and all
2 other facilities involved in the storage, handling, or
3 distribution of commodities made available under
4 this chapter; and

5 (3) the personnel, both paid or volunteer, in-
6 volved in such storage, handling, or distribution; to
7 store, handle or distribute commodities donated for
8 use under subsection (a).

9 (c) States and recipient agencies shall continue, to
10 the maximum extent practical, to use volunteer workers,
11 and commodities and other foodstuffs donated by chari-
12 table and other organizations, in the distribution of com-
13 modities under this chapter.

14 **SEC. 9754. STATE PLAN.**

15 (a) A State seeking to receive commodities under this
16 chapter shall submit a plan of operation and administra-
17 tion every four years to the Secretary for approval. The
18 plan may be amended at any time, with the approval of
19 the Secretary.

20 (b) The State plan, at a minimum, shall—

21 (1) designate the State agency responsible for
22 distributing the commodities received under this
23 chapter;

24 (2) set forth a plan of operation and adminis-
25 tration to expeditiously distribute commodities under

1 this chapter in quantities requested to eligible recipi-
2 ent agencies in accordance with sections 9756 and
3 9760;

4 (3) set forth the standards of eligibility for re-
5 cipient agencies; and

6 (4) set forth the standards of eligibility for indi-
7 vidual or household recipients of commodities, which
8 at minimum shall require—

9 (A) individuals or households to be com-
10 prised of needy persons; and

11 (B) individual or household members to be
12 residing in the geographic location served by
13 the distributing agency at the time of applica-
14 tion for assistance.

15 (c) The Secretary shall encourage each State receiv-
16 ing commodities under this chapter to establish a State
17 advisory board consisting of representatives of all inter-
18 ested entities, both public and private, in the distribution
19 of commodities received under this chapter in the State.

20 (d) A State agency receiving commodities under this
21 chapter may—

22 (1)(A) enter into cooperative agreements with
23 State agencies of other States to jointly provide
24 commodities received under this chapter to eligible

1 recipient agencies that serve needy persons in a sin-
2 gle geographical area which includes such States; or

3 (B) transfer commodities received under this
4 chapter to any such eligible recipient agency in the
5 other State under such agreement; and

6 (2) advise the Secretary of an agreement en-
7 tered into under this subsection and the transfer of
8 commodities made pursuant to such agreement.

9 **SEC. 9755. ALLOCATION OF COMMODITIES TO STATES.**

10 (a) In each fiscal year, except for those commodities
11 purchased under section 9760, the Secretary shall allocate
12 the commodities distributed under this chapter as follows:

13 (1) 60 percent of such total value of commod-
14 ities shall be allocated in a manner such that the
15 value of commodities allocated to each State bears
16 the same ratio to 60 percent of such total value as
17 the number of persons in households within the
18 State having incomes below the poverty line bears to
19 the total number of persons in households within all
20 States having incomes below such poverty line. Each
21 State shall receive the value of commodities allocated
22 under this paragraph.

23 (2) 40 percent of such total value of commod-
24 ities shall be allocated in a manner such that the
25 value of commodities allocated to each State bears

1 the same ratio to 40 percent of such total value as
2 the average monthly number of unemployed persons
3 within the State bears to the average monthly num-
4 ber of unemployed persons within all States during
5 the same fiscal year. Each State shall receive the
6 value of commodities allocated to the State under
7 this paragraph.

8 (b)(1) The Secretary shall notify each State of the
9 amount of commodities that such State is allotted to re-
10 ceive under subsection (a) or this subsection, if applicable.
11 Each State shall promptly notify the Secretary if such
12 State determines that it will not accept any or all of the
13 commodities made available under such allocation. On
14 such a notification by a State, the Secretary shall reallo-
15 cate and distribute such commodities in a manner the Sec-
16 retary deems appropriate and equitable. The Secretary
17 shall further establish procedures to permit States to de-
18 cline to receive portions of such allocation during each fis-
19 cal year in a manner the State determines is appropriate
20 and the Secretary shall reallocate and distribute such allo-
21 cation as the Secretary deems appropriate and equitable.

22 (2) In the event of any drought, flood, hurricane, or
23 other natural disaster affecting substantial numbers of
24 persons in a State, county, or parish, the Secretary may
25 request that States unaffected by such a disaster consider

1 assisting affected States by allowing the Secretary to re-
2 allocate commodities from such unaffected State to States
3 containing areas adversely affected by the disaster.

4 (c) Purchases of commodities under this chapter shall
5 be made by the Secretary at such times and under such
6 conditions as the Secretary determines appropriate within
7 each fiscal year. All commodities so purchased for each
8 such fiscal year shall be delivered at reasonable intervals
9 to States based on the allocations and reallocations made
10 under subsections (a) and (b), and or carry out section
11 9760, not later than December 31 of the following fiscal
12 year.

13 **SEC. 9756. PRIORITY SYSTEM FOR STATE DISTRIBUTION OF**
14 **COMMODITIES.**

15 (a) In distributing the commodities allocated under
16 subsections (a) and (b) of section 9755, the State agency,
17 under procedures determined by the State agency, shall
18 offer, or otherwise make available, its full allocation of
19 commodities for distribution to emergency feeding organi-
20 zations.

21 (b) If the State agency determines that the State will
22 not exhaust the commodities allocated under subsections
23 (a) and (b) of section 9755 through distribution to organi-
24 zations referred to in subsection (a), its remaining alloca-
25 tion of commodities shall be distributed to charitable insti-

1 tutions described in section 9763(3) not receiving com-
2 modities under subsection (a).

3 (c) If the State agency determines that the State will
4 not exhaust the commodities allocated under subsections
5 (a) and (b) of section 9755 through distribution to organi-
6 zations referred to in subsections (a) and (b), its remain-
7 ing allocation of commodities shall be distributed to any
8 eligible recipient agency not receiving commodities under
9 subsections (a) and (b).

10 **SEC. 9757. INITIAL PROCESSING COSTS.**

11 The Secretary may use funds of the Commodity
12 Credit Corporation to pay the costs of initial processing
13 and packaging of commodities to be distributed under this
14 chapter into forms and in quantities suitable, as deter-
15 mined by the Secretary, for use by the individual house-
16 holds or eligible recipient agencies, as applicable. The Sec-
17 retary may pay such costs in the form of Corporation-
18 owned commodities equal in value to such costs. The Sec-
19 retary shall ensure that any such payments in kind will
20 not displace commercial sales of such commodities.

21 **SEC. 9758. ASSURANCES; ANTICIPATED USE.**

22 (a) The Secretary shall take such precautions as the
23 Secretary deems necessary to ensure that commodities
24 made available under this chapter will not displace com-
25 mercial sales of such commodities or the products thereof.

1 The Secretary shall submit to the Committee on Agri-
2 culture of the House of Representatives and the Commit-
3 tee on Agriculture, Nutrition, and Forestry of the Senate
4 by December 31, 1997, and not less than every two years
5 thereafter, a report as to whether and to what extent such
6 displacements or substitutions are occurring.

7 (b) The Secretary shall determine that commodities
8 provided under this chapter shall be purchased and dis-
9 tributed only in quantities that can be consumed without
10 waste. No eligible recipient agency may receive commod-
11 ities under this chapter in excess of anticipated use, based
12 on inventory records and controls, or in excess of its ability
13 to accept and store such commodities.

14 **SEC. 9759. AUTHORIZATION OF APPROPRIATIONS.**

15 (a) PURCHASE OF COMMODITIES.—To carry out this
16 chapter, there are authorized to be appropriated
17 \$260,000,000 for each of the fiscal years 1996 through
18 2000 to purchase, process, and distribute commodities to
19 the States in accordance with this chapter.

20 (b) ADMINISTRATIVE FUNDS.—

21 (1) There are authorized to be appropriated
22 \$40,000,000 for each of the fiscal years 1996
23 through 2000 for the Secretary to make available to
24 the States for State and local payments for costs as-
25 sociated with the distribution of commodities by eli-

1 gible recipient agencies under this chapter, excluding
2 costs associated with the distribution of those com-
3 modities distributed under section 9760. Funds ap-
4 propriated under this paragraph for any fiscal year
5 shall be allocated to the States on an advance basis
6 dividing such funds among the States in the same
7 proportions as the commodities distributed under
8 this chapter for such fiscal year are allocated among
9 the States. If a State agency is unable to use all of
10 the funds so allocated to it, the Secretary shall re-
11 allocate such unused funds among the other States
12 in a manner the Secretary deems appropriate and
13 equitable.

14 (2)(A) A State shall make available in each fis-
15 cal year to eligible recipient agencies in the State
16 not less than 40 percent of the funds received by the
17 State under paragraph (1) for such fiscal year, as
18 necessary to pay for, or provide advance payments
19 to cover, the allowable expenses of eligible recipient
20 agencies for distributing commodities to needy per-
21 sons, but only to the extent such expenses are actu-
22 ally so incurred by such recipient agencies.

23 (B) As used in this paragraph, the term “allow-
24 able expenses” includes—

1 (i) costs of transporting, storing, handling,
2 repackaging, processing, and distributing com-
3 modities incurred after such commodities are
4 received by eligible recipient agencies;

5 (ii) costs associated with determinations of
6 eligibility, verification, and documentation;

7 (iii) costs of providing information to per-
8 sons receiving commodities under this chapter
9 concerning the appropriate storage and prepa-
10 ration of such commodities; and

11 (iv) costs of recordkeeping, auditing, and
12 other administrative procedures required for
13 participation in the program under this chapter.

14 (C) If a State makes a payment, using State
15 funds, to cover allowable expenses of eligible recipi-
16 ent agencies, the amount of such payment shall be
17 counted toward the amount a State must make
18 available for allowable expenses of recipient agencies
19 under this paragraph.

20 (3) States to which funds are allocated for a
21 fiscal year under this subsection shall submit finan-
22 cial reports to the Secretary, on a regular basis, as
23 to the use of such funds. No such funds may be
24 used by States or eligible recipient agencies for costs
25 other than those involved in covering the expenses

1 related to the distribution of commodities by eligible
2 recipient agencies.

3 (4)(A) Except as provided in subparagraph (B),
4 to be eligible to receive funds under this subsection,
5 a State shall provide in cash or in kind (according
6 to procedures approved by the Secretary for certify-
7 ing these in-kind contributions) from non-Federal
8 sources a contribution equal to the difference be-
9 tween—

10 (i) the amount of such funds so received;

11 and

12 (ii) any part of the amount allocated to the
13 State and paid by the State—

14 (I) to eligible recipient agencies; or

15 (II) for the allowable expenses of such
16 recipient agencies; for use in carrying out
17 this chapter.

18 (B) Funds allocated to a State under this sec-
19 tion may, upon State request, be allocated before
20 States satisfy the matching requirement specified in
21 subparagraph (A), based on the estimated contribu-
22 tion required. The Secretary shall periodically rec-
23 oncile estimated and actual contributions and adjust
24 allocations to the State to correct for overpayments
25 and underpayments.

1 (C) Any funds distributed for administrative
2 costs under section 9760(b) shall not be covered by
3 this paragraph.

4 (5) States may not charge for commodities
5 made available to eligible recipient agencies, and
6 may not pass on to such recipient agencies the cost
7 of any matching requirements, under this chapter.

8 (c) VALUE OF COMMODITIES.—The value of the com-
9 modities made available under subsections (c) and (d) of
10 section 9752, and the funds of the Corporation used to
11 pay the costs of initial processing, packaging (including
12 forms suitable for home use), and delivering commodities
13 to the States shall not be charged against appropriations
14 authorized by this section.

15 **SEC. 9760. COMMODITY SUPPLEMENTAL FOOD PROGRAM.**

16 (a) From the funds appropriated under section
17 9759(a), \$94,500,000 shall be used for each fiscal year
18 to purchase and distribute commodities to supplemental
19 feeding programs serving woman, infants, and children or
20 elderly individuals (hereinafter in this section referred to
21 as the “commodity supplemental food program”), or serv-
22 ing both groups wherever located.

23 (b) Not more than 20 percent of the funds made
24 available under subsection (a) shall be made available to
25 the States for State and local payments of administrative

1 costs associated with the distribution of commodities by
2 eligible recipient agencies under this section. Administra-
3 tive costs for the purposes of the commodity supplemental
4 food program shall include, but not be limited to, expenses
5 for information and referral, operation, monitoring, nutri-
6 tion education, start-up costs, and general administration,
7 including staff, warehouse and transportation personnel,
8 insurance, and administration of the State or local office.

9 (c)(1) During each fiscal year the commodity supple-
10 mental food program is in operation, the types, varieties,
11 and amounts of commodities to be purchased under this
12 section shall be determined by the Secretary, but, if the
13 Secretary proposes to make any significant changes in the
14 types, varieties, or amounts from those that were available
15 or were planned at the beginning of the fiscal year the
16 Secretary shall report such changes before implementation
17 to the Committee on Agriculture of the House of Rep-
18 resentatives and the Committee on Agriculture, Nutrition,
19 and Forestry of the Senate.

20 (2) Notwithstanding any other provision of law, the
21 Commodity Credit Corporation shall, to the extent that
22 the Commodity Credit Corporation inventory levels per-
23 mit, provide not less than 9,000,000 pounds of cheese and
24 not less than 4,000,000 pounds of nonfat dry milk in each
25 of the fiscal years 1996 through 2000 to the Secretary.

1 The Secretary shall use such amounts of cheese and non-
2 fat dry milk to carry out the commodity supplemental food
3 program before the end of each fiscal year.

4 (d) The Secretary shall, in each fiscal year, approve
5 applications of additional sites for the program, including
6 sites that serve only elderly persons, in areas in which the
7 program currently does not operate, to the full extent that
8 applications can be approved within the appropriations
9 available for the program for the fiscal year and without
10 reducing actual participation levels (including participa-
11 tion of elderly persons under subsection (e)) in areas in
12 which the program is in effect.

13 (e) If a local agency that administers the commodity
14 supplemental food program determines that the amount
15 of funds made available to the agency to carry out this
16 section exceeds the amount of funds necessary to provide
17 assistance under such program to women, infants, and
18 children, the agency, with the approval of the Secretary,
19 may permit low-income elderly persons (as defined by the
20 Secretary) to participate in and be served by such pro-
21 gram.

22 (f)(1) If it is necessary for the Secretary to pay a
23 significantly higher than expected price for one or more
24 types of commodities purchased under this section, the
25 Secretary shall promptly determine whether the price is

1 likely to cause the number of persons that can be served
2 in the program in a fiscal year to decline.

3 (2) If the Secretary determines that such a decline
4 would occur, the Secretary shall promptly notify the State
5 agencies charged with operating the program of the de-
6 cline and shall ensure that a State agency notify all local
7 agencies operating the program in the State of the decline.

8 (g) Commodities distributed to States pursuant to
9 this section shall not be considered in determining the
10 commodity allocation to each State under section 9755 or
11 priority of distribution under section 9756.

12 **SEC. 9761. COMMODITIES NOT INCOME.**

13 Notwithstanding any other provision of law, commod-
14 ities distributed under this chapter shall not be considered
15 income or resources for purposes of determining recipient
16 eligibility under any Federal, State, or local means-tested
17 program.

18 **SEC. 9762. PROHIBITION AGAINST CERTAIN STATE**
19 **CHARGES.**

20 Whenever a commodity is made available without
21 charge or credit under this chapter by the Secretary for
22 distribution within the States to eligible recipient agencies,
23 the State may not charge recipient agencies any amount
24 that is in excess of the State's direct costs of storing, and
25 transporting to recipient agencies the commodities minus

1 any amount the Secretary provides the State for the costs
2 of storing and transporting such commodities.

3 **SEC. 9763. DEFINITIONS.**

4 As used in this chapter:

5 (1) The term “average monthly number of un-
6 employed persons” means the average monthly num-
7 ber of unemployed persons within a State in the
8 most recent fiscal year for which such information is
9 available as determined by the Bureau of Labor Sta-
10 tistics of the Department of Labor.

11 (2) The term “elderly persons” means individ-
12 uals 60 years of age or older.

13 (3) The term “eligible recipient agency” means
14 a public or nonprofit organization that admin-
15 isters—

16 (A) an institution providing commodities to
17 supplemental feeding programs serving women,
18 infants, and children or serving elderly persons,
19 or serving both groups;

20 (B) an emergency feeding organization;

21 (C) a charitable institution (including hos-
22 pitals and retirement homes and excluding
23 penal institutions) to the extent that such insti-
24 tution serves needy persons;

1 (D) a summer camp for children, or a
2 child nutrition program providing food service;

3 (E) a nutrition project operating under the
4 Older Americans Act of 1965, including such
5 projects that operate a congregate nutrition site
6 and a project that provides home-delivered
7 meals; or

8 (F) a disaster relief program; and that has
9 been designated by the appropriate State agen-
10 cy, or by the Secretary, and approved by the
11 Secretary for participation in the program es-
12 tablished under this chapter.

13 (4) The term “emergency feeding organization”
14 means a public or nonprofit organization that ad-
15 ministers activities and projects (including the activi-
16 ties and projects of a charitable institution, a food
17 bank, a food pantry, a hunger relief center, a soup
18 kitchen, or a similar public or private nonprofit eligi-
19 ble recipient agency) providing nutrition assistance
20 to relieve situations of emergency and distress
21 through the provision of food to needy persons, in-
22 cluding low-income and unemployed persons.

23 (5) The term “food bank” means a public and
24 charitable institution that maintains an established
25 operation involving the provision of food or edible

1 commodities, or the products thereof, to food pan-
2 tries, soup kitchens, hunger relief centers, or other
3 food or feeding centers that, as an integral part of
4 their normal activities, provide meals or food to feed
5 needy persons on a regular basis.

6 (6) The term “food pantry” means a public or
7 private nonprofit organization that distributes food
8 to low-income and unemployed households, including
9 food from sources other than the Department of
10 Agriculture, to relieve situations of emergency and
11 distress.

12 (7) The term “needy persons” means—

13 (A) individuals who have low incomes or
14 who are unemployed, as determined by the
15 State (in no event shall the income of such indi-
16 vidual or household exceed 185 percent of the
17 poverty line);

18 (B) households certified as eligible to par-
19 ticipate in the food stamp program under the
20 Food Stamp Act of 1977 (7 U.S.C. 2011 et
21 seq.); or

22 (C) individuals or households participating
23 in any other Federal, or federally assisted,
24 means-tested program.

1 (8) The term “poverty line” has the same
2 meaning given such term in section 673(2) of the
3 Community Services Block Grant Act (42 U.S.C.
4 9902(2)).

5 (9) The term “soup kitchen” means a public
6 and charitable institution that, as integral part of its
7 normal activities, maintains an established feeding
8 operation to provide food to needy homeless persons
9 on a regular basis.

10 **SEC. 9764. REGULATIONS.**

11 (a) The Secretary shall issue regulations within 120
12 days to implement this chapter.

13 (b) In administering this chapter, the Secretary shall
14 minimize, to the maximum extent practicable, the regu-
15 latory, recordkeeping, and paperwork requirements im-
16 posed on eligible recipient agencies.

17 (c) The Secretary shall as early as feasible but not
18 later than the beginning of each fiscal year, publish in the
19 Federal Register a nonbinding estimate of the types and
20 quantities of commodities that the Secretary anticipates
21 are likely to be made available under the commodity dis-
22 tribution program under this chapter during the fiscal
23 year.

24 (d) The regulations issued by the Secretary under
25 this section shall include provisions that set standards

1 with respect to liability for commodity losses for the com-
2 modities distributed under this chapter in situations in
3 which there is no evidence of negligence or fraud, and con-
4 ditions for payment to cover such losses. Such provisions
5 shall take into consideration the special needs and cir-
6 cumstances of eligible recipient agencies.

7 **SEC. 9765. FINALITY OF DETERMINATIONS.**

8 Determinations made by the Secretary under this
9 chapter and the facts constituting the basis for any dona-
10 tion of commodities under this chapter, or the amount
11 thereof, when officially determined in conformity with the
12 applicable regulations prescribed by the Secretary, shall
13 be final and conclusive and shall not be reviewable by any
14 other officer or agency of the Government.

15 **SEC. 9766. RELATIONSHIP TO OTHER PROGRAMS.**

16 (a) Section 4(b) of the Food Stamp Act of 1977 (7
17 U.S.C. 2013(b)) shall not apply with respect to the dis-
18 tribution of commodities under this chapter.

19 (b) Except as otherwise provided in section 9757,
20 none of the commodities distributed under this chapter
21 shall be sold or otherwise disposed of in commercial chan-
22 nels in any form.

23 **SEC. 9767. SETTLEMENT AND ADJUSTMENT OF CLAIMS.**

24 (a) The Secretary may—

1 (1) determine the amount of, settle, and adjust
2 any claim arising under this chapter; and

3 (2) waive such a claim if the Secretary deter-
4 mines that to do so will serve the purposes of this
5 chapter.

6 (b) Nothing contained in this section shall be con-
7 strued to diminish the authority of the Attorney General
8 of the United States under section 516 of title 28, United
9 States Code, to conduct litigation on behalf of the United
10 States.

11 **SEC. 9768. REPEALERS; AMENDMENTS.**

12 (a) REPEALER.—The Emergency Food Assistance
13 Act of 1983 (7 U.S.C. 612c note) is repealed.

14 (b) AMENDMENTS.—

15 (1) The Hunger Prevention Act of 1988 (7
16 U.S.C. 612c note) is amended—

17 (A) by striking section 110; and

18 (B) by striking section 502.

19 (2) The Commodity Distribution Reform Act
20 and WIC Amendments of 1987 (7 U.S.C. 612c note)
21 is amended by striking section 4.

22 (3) The Charitable Assistance and Food Bank
23 Act of 1987 (7 U.S.C. 612c note) is amended by
24 striking section 3.

1 (4) The Food Security Act of 1985 (7 U.S.C.
2 612c note) is amended—

3 (A) by striking section 1562(a) and section
4 1571; and

5 (B) in section 1562(d), by striking “sec-
6 tion 4 of the Agricultural and Consumer Pro-
7 tection Act of 1973” and inserting “section
8 9752 of the Commodity Distribution Act of
9 1995”.

10 (5) The Agricultural and Consumer Protection
11 Act of 1973 (7 U.S.C. 612c note) is amended—

12 (A) in section 4(a), by striking “institu-
13 tions (including hospitals and facilities caring
14 for needy infants and children), supplemental
15 feeding programs serving women, infants and
16 children or elderly persons, or both, wherever
17 located, disaster areas, summer camps for chil-
18 dren,”;

19 (B) in subsection 4(c), by striking “the
20 Emergency Food Assistance Act of 1983” and
21 inserting “the Commodity Distribution Act of
22 1995”; and

23 (C) by striking section 5.

1 (6) The Food, Agriculture, Conservation, and
2 Trade Act of 1990 (7 U.S.C. 612c note) is amended
3 by striking section 1773(f).

4 **CHAPTER 3—OTHER PROGRAMS**

5 **SEC. 9781. CHILD AND ADULT CARE FOOD PROGRAM.**

6 (a) PAYMENTS TO SPONSOR EMPLOYEES.—Para-
7 graph (2) of the last sentence of section 17(a) of the Na-
8 tional School Lunch Act (42 U.S.C. 1766(a)) is amend-
9 ed—

10 (1) by striking “and” at the end of subpara-
11 graph (B);

12 (2) by striking the period at the end of sub-
13 paragraph (C) and inserting “; and”; and

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

15 “(D) in the case of a family or group day
16 care home sponsoring organization that employs
17 more than 1 employee, the organization does
18 not base payments to an employee of the orga-
19 nization on the number of family or group day
20 care homes recruited, managed, or monitored.”.

21 (b) IMPROVED TARGETING OF DAY CARE HOME RE-
22 IMBURSEMENTS.—

23 (1) RESTRUCTURED DAY CARE HOME REIM-
24 BURSEMENTS.—Section 17(f)(3) of the National
25 School Lunch Act is amended by striking “(3)(A)

1 Institutions” and all that follows through the end of
2 subparagraph (A) and inserting the following:

3 “(3) REIMBURSEMENT OF FAMILY OR GROUP
4 DAY CARE HOME SPONSORING ORGANIZATIONS.—

5 “(A) REIMBURSEMENT FACTOR.—

6 “(i) IN GENERAL.—An institution
7 that participates in the program under this
8 section as a family or group day care home
9 sponsoring organization shall be provided,
10 for payment to a home of the organization,
11 reimbursement factors in accordance with
12 this subparagraph for the cost of obtaining
13 and preparing food and prescribed labor
14 costs involved in providing meals under
15 this section.

16 “(ii) TIER I FAMILY OR GROUP DAY
17 CARE HOMES.—

18 “(I) DEFINITION.—In this para-
19 graph, the term ‘tier I family or group
20 day care home’ means—

21 “(aa) a family or group day
22 care home that is located in a ge-
23 ographic area, as defined by the
24 Secretary based on census data,
25 in which at least 50 percent of

1 the children residing in the area
2 are members of households whose
3 incomes meet the eligibility
4 standards for free or reduced
5 price meals under section 9;

6 “(bb) a family or group day
7 care home that is located in an
8 area served by a school enrolling
9 elementary students in which at
10 least 50 percent of the total num-
11 ber of children enrolled are cer-
12 tified eligible to receive free or
13 reduced price school meals under
14 this Act or the Child Nutrition
15 Act of 1966 (42 U.S.C. 1771 et
16 seq.); or

17 “(cc) a family or group day
18 care home that is operated by a
19 provider whose household meets
20 the eligibility standards for free
21 or reduced price meals under sec-
22 tion 9 and whose income is veri-
23 fied by a sponsoring organization
24 under regulations established by
25 the Secretary.

1 “(II) REIMBURSEMENT.—Except
2 as provided in subclause (III), a tier
3 I family or group day care home shall
4 be provided reimbursement factors
5 under this clause without a require-
6 ment for documentation of the costs
7 described in clause (i), except that re-
8 imbursement shall not be provided
9 under this subclause for meals or sup-
10 plements served to the children of a
11 person acting as a family or group
12 day care home provider unless the
13 children meet the eligibility standards
14 for free or reduced price meals under
15 section 9.

16 “(III) FACTORS.—Except as pro-
17 vided in subclause (IV), the reim-
18 bursement factors applied to a home
19 referred to in subclause (II) shall be
20 the factors in effect on the date of en-
21 actment of this subclause.

22 “(IV) ADJUSTMENTS.—The re-
23 imbursement factors under this sub-
24 paragraph shall be adjusted on Au-
25 gust 1, 1996, July 1, 1997, and each

1 July 1 thereafter, to reflect changes in
2 the Consumer Price Index for food at
3 home for the most recent 12-month
4 period for which the data are avail-
5 able. The reimbursement factors
6 under this subparagraph shall be
7 rounded to the nearest lower cent in-
8 crement and based on the unrounded
9 adjustment for the preceding 12-
10 month period.

11 “(iii) TIER II FAMILY OR GROUP DAY
12 CARE HOMES.—

13 “(I) IN GENERAL.—

14 “(aa) FACTORS.—Except as
15 provided in subclause (II), with
16 respect to meals or supplements
17 served under this clause by a
18 family or group day care home
19 that does not meet the criteria
20 set forth in clause (ii)(I), the re-
21 mbursement factors shall be \$1
22 for lunches and suppers, 40 cents
23 for breakfasts, and 20 cents for
24 supplements.

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“(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

“(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home pro-

1 vider unless the children meet the
2 eligibility standards for free or
3 reduced price meals under section
4 9.

5 “(II) OTHER FACTORS.—A fam-
6 ily or group day care home that does
7 not meet the criteria set forth in
8 clause (ii)(I) may elect to be provided
9 reimbursement factors determined in
10 accordance with the following require-
11 ments:

12 “(aa) CHILDREN ELIGIBLE
13 FOR FREE OR REDUCED PRICE
14 MEALS.—In the case of meals or
15 supplements served under this
16 subsection to children who are
17 members of households whose in-
18 comes meet the eligibility stand-
19 ards for free or reduced price
20 meals under section 9, the family
21 or group day care home shall be
22 provided reimbursement factors
23 set by the Secretary in accord-
24 ance with clause (ii)(III).

1 “(bb) INELIGIBLE CHIL-
2 DREN.—In the case of meals or
3 supplements served under this
4 subsection to children who are
5 members of households whose in-
6 comes do not meet the eligibility
7 standards, the family or group
8 day care home shall be provided
9 reimbursement factors in accord-
10 ance with subclause (I).

11 “(III) INFORMATION AND DE-
12 TERMINATIONS.—

13 “(aa) IN GENERAL.—If a
14 family or group day care home
15 elects to claim the factors de-
16 scribed in subclause (II), the
17 family or group day care home
18 sponsoring organization serving
19 the home shall collect the nec-
20 essary income information, as de-
21 termined by the Secretary, from
22 any parent or other caretaker to
23 make the determinations speci-
24 fied in subclause (II) and shall
25 make the determinations in ac-

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cordance with rules prescribed by the Secretary.

“(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 9 to be a child who is a member of a household whose income meets the eligibility standards under section 9.

“(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III)

1 solely for the children participat-
2 ing in a program referred to in
3 item (bb) if the home elects not
4 to have income statements col-
5 lected from parents or other care-
6 takers.

7 “(IV) SIMPLIFIED MEAL COUNT-
8 ING AND REPORTING PROCEDURES.—
9 The Secretary shall prescribe sim-
10 plified meal counting and reporting
11 procedures for use by a family or
12 group day care home that elects to
13 claim the factors under subclause (II)
14 and by a family or group day care
15 home sponsoring organization that
16 serves the home. The procedures the
17 Secretary prescribes may include 1 or
18 more of the following:

19 “(aa) Setting an annual per-
20 centage for each home of the
21 number of meals served that are
22 to be reimbursed in accordance
23 with the reimbursement factors
24 prescribed under clause (ii)(III)
25 and an annual percentage of the

1 number of meals served that are
2 to be reimbursed in accordance
3 with the reimbursement factors
4 prescribed under subclause (I),
5 based on the family income of
6 children enrolled in the home in a
7 specified month or other period.

8 “(bb) Placing a home into 1
9 of 2 or more reimbursement cat-
10 gories annually based on the
11 percentage of children in the
12 home whose households have in-
13 comes that meet the eligibility
14 standards under section 9, with
15 each such reimbursement cat-
16 egory carrying a set of reim-
17 bursement factors such as the
18 factors prescribed under clause
19 (ii)(III) or subclause (I) or fac-
20 tors established within the range
21 of factors prescribed under clause
22 (ii)(III) and subclause (I).

23 “(cc) Such other simplified
24 procedures as the Secretary may
25 prescribe.

1 “(V) MINIMUM VERIFICATION
2 REQUIREMENTS.—The Secretary may
3 establish any necessary minimum ver-
4 ification requirements.”.

5 (2) SPONSOR PAYMENTS.—Section 17(f)(3)(B)
6 of the National School Lunch Act is amended—

7 (A) by striking the period at the end of the
8 second sentence and all that follows through the
9 end of the subparagraph and inserting the fol-
10 lowing:“, except that the adjustment that other-
11 wise would occur on July 1, 1996, shall be
12 made on August 1, 1996. The maximum allow-
13 able levels for administrative expense payments
14 shall be rounded to the nearest lower dollar in-
15 crement and based on the unrounded adjust-
16 ment for the preceding 12-month period.”;

17 (B) by striking “(B)” and inserting
18 “(B)(i)”; and

19 (C) by adding at the end the following new
20 clause:

21 “(ii) The maximum allowable level of administrative
22 expense payments shall be adjusted by the Secretary—

23 “(I) to increase by 7.5 percent the monthly pay-
24 ment to family or group day care home sponsoring
25 organizations both for tier I family or group day

1 care homes and for those tier II family or group day
2 care homes for which the sponsoring organization
3 administers a means test as provided under subpara-
4 graph (A)(iii); and

5 “(II) to decrease by 7.5 percent the monthly
6 payment to family or group day care home sponsor-
7 ing organizations for family or group day care
8 homes that do not meet the criteria for tier I homes
9 and for which a means test is not administered.”.

10 (3) GRANTS TO STATES TO PROVIDE ASSIST-
11 ANCE TO FAMILY OR GROUP DAY CARE HOMES.—
12 Section 17(f)(3) of the Act is amended by adding at
13 the end the following:

14 “(D) GRANTS TO STATES TO PROVIDE AS-
15 SISTANCE TO FAMILY OR GROUP DAY CARE
16 HOMES.—

17 “(i) IN GENERAL.—

18 “(I) RESERVATION.—From
19 amounts made available to carry out
20 this section, the Secretary shall re-
21 serve \$5,000,000 of the amount made
22 available for fiscal year 1996.

23 “(II) PURPOSE.—The Secretary
24 shall use the funds made available
25 under subclause (I) to provide grants

1 to States for the purpose of provid-
2 ing—

3 “(aa) assistance, including
4 grants, to family and day care
5 home sponsoring organizations
6 and other appropriate organiza-
7 tions, in securing and providing
8 training, materials, automated
9 data processing assistance, and
10 other assistance for the staff of
11 the sponsoring organizations; and

12 “(bb) training and other as-
13 sistance to family and group day
14 care homes in the implementation
15 of the amendments to subpara-
16 graph (A) made by section
17 574(b)(1) of the Family Self-Suf-
18 ficiency Act of 1995.

19 “(ii) ALLOCATION.—The Secretary
20 shall allocate from the funds reserved
21 under clause (i)(II)—

22 “(I) \$30,000 in base funding to
23 each State; and

24 “(II) any remaining amount
25 among the States, based on the num-

1 ber of family day care homes partici-
2 pating in the program in a State in
3 1994 as a percentage of the number
4 of all family day care homes partici-
5 pating in the program in 1994.

6 “(iii) RETENTION OF FUNDS.—Of the
7 amount of funds made available to a State
8 for a fiscal year under clause (i), the State
9 may retain not to exceed 30 percent of the
10 amount to carry out this subparagraph.

11 “(iv) ADDITIONAL PAYMENTS.—Any
12 payments received under this subpara-
13 graph shall be in addition to payments
14 that a State receives under subparagraph
15 (A) (as amended by section 134(b)(1) of
16 the Family Self-Sufficiency Act of 1995).”.

17 (4) PROVISION OF DATA.—Section 17(f)(3) of
18 the National School Lunch Act (as amended by
19 paragraph (3)) is further amended by adding at the
20 end the following:

21 “(E) PROVISION OF DATA TO FAMILY OR
22 GROUP DAY CARE HOME SPONSORING ORGANI-
23 ZATIONS.—

24 “(i) CENSUS DATA.—The Secretary
25 shall provide to each State agency admin-

1 istering a child and adult care food pro-
2 gram under this section data from the
3 most recent decennial census survey or
4 other appropriate census survey for which
5 the data are available showing which areas
6 in the State meet the requirements of sub-
7 paragraph (A)(ii)(I)(aa). The State agency
8 shall provide the data to family or group
9 day care home sponsoring organizations lo-
10 cated in the State.

11 “(ii) SCHOOL DATA.—

12 “(I) IN GENERAL.—A State
13 agency administering the program
14 under this section shall annually pro-
15 vide to a family or group day care
16 home sponsoring organizations that
17 request the data, a list of schools
18 serving elementary school children in
19 the State in which at least 50 percent
20 of the children enrolled are certified to
21 receive free or reduced price meals.
22 State agencies administering the
23 school lunch program under this Act
24 or the school breakfast program under
25 the Child Nutrition Act of 1966 (42

1 U.S.C. 1771 et seq.) shall collect such
2 data annually and provide such data
3 on a timely basis to the State agency
4 administering the program under this
5 section.

6 “(II) USE OF DATA FROM PRE-
7 CEDING SCHOOL YEAR.—In determin-
8 ing for a fiscal year or other annual
9 period whether a home qualifies as a
10 tier I family or group day care home
11 under subparagraph (A)(ii)(I), the
12 State agency administering the pro-
13 gram under this section, and a family
14 or group day care home sponsoring
15 organization, shall use the most cur-
16 rent available data at the time of the
17 determination.

18 “(iii) DURATION OF DETERMINA-
19 TION.—For purposes of this section, a de-
20 termination that a family or group day
21 care home is located in an area that quali-
22 fies the home as a tier I family or group
23 day care home (as the term is defined in
24 subparagraph (A)(ii)(I)), shall be in effect
25 for 3 years (unless the determination is

1 made on the basis of census data, in which
2 case the determination shall remain in ef-
3 fect until more recent census data are
4 available) unless the State agency deter-
5 mines that the area in which the home is
6 located no longer qualifies the home as a
7 tier I family or group day care home.”.

8 (5) CONFORMING AMENDMENTS.—Section 17(c)
9 of the National School Lunch Act is amended by in-
10 serting “except as provided in subsection (f)(3),”
11 after “For purposes of this section,” each place it
12 appears in paragraphs (1), (2), and (3).

13 (c) DISALLOWING MEAL CLAIMS.—The fourth sen-
14 tence of section 17(f)(4) of the National School Lunch Act
15 is amended by inserting “(including institutions that are
16 not family or group day care home sponsoring organiza-
17 tions)” after “institutions”.

18 (d) ELIMINATION OF STATE PAPERWORK AND OUT-
19 REACH BURDEN.—Section 17 of the National School
20 Lunch Act is amended by striking subsection (k) and in-
21 serting the following:

22 “(k) TRAINING AND TECHNICAL ASSISTANCE.—A
23 State participating in the program established under this
24 section shall provide sufficient training, technical assist-
25 ance, and monitoring to facilitate effective operation of the

1 program. The Secretary shall assist the State in develop-
2 ing plans to fulfill the requirements of this subsection.”.

3 (e) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the amendments made by this section
6 shall become effective on the date of enactment of
7 this Act.

8 (2) IMPROVED TARGETING OF DAY CARE HOME
9 REIMBURSEMENTS.—The amendments made by
10 paragraphs (1), (3), and (4) of subsection (b) shall
11 become effective on August 1, 1996.

12 (3) IMPLEMENTATION.—The Secretary of Agri-
13 culture shall issue regulations to implement the
14 amendments made by paragraphs (1), (2), (3), and
15 (4) of subsection (b) and the provisions of section
16 17(f)(3)(C) of the National School Lunch Act (42
17 U.S.C. 1766(f)(3)(C)) not later than February 1,
18 1996. If such regulations are issued in interim form,
19 final regulations shall be issued not later than Au-
20 gust 1, 1996.

21 **SEC. 9782. RESUMPTION OF DISCRETIONARY FUNDING FOR**
22 **NUTRITION EDUCATION AND TRAINING PRO-**
23 **GRAM.**

24 Section 19(i)(2)(A) of the Child Nutrition Act of
25 1966 (42 U.S.C. 1788(i)(2)(A)) is amended—

1 (1) by striking “Out of” and all that follows
2 through “and \$10,000,000” and inserting “To carry
3 out the provisions of this section, there is hereby au-
4 thorized to be appropriated not to exceed
5 \$10,000,000”; and

6 (2) by striking the last sentence.

7 **Subtitle H—Treatment of Aliens**

8 **SEC. 9801. EXTENSION OF DEEMING OF INCOME AND RE-** 9 **SOURCES UNDER TEA, SSI, AND FOOD STAMP** 10 **PROGRAMS.**

11 (a) IN GENERAL.—Except as provided in subsections
12 (b) and (c), in applying sections 407 and 1621 of the So-
13 cial Security Act and section 5(i) of the Food Stamp Act
14 of 1977, the period in which each respective section other-
15 wise applies with respect to an alien shall be extended
16 through the date (if any) on which the alien becomes a
17 citizen of the United States (under chapter 2 of title III
18 of the Immigration and Nationality Act).

19 (b) EXCEPTION.—Subsection (a) shall not apply to
20 an alien if—

21 (1) the alien has been lawfully admitted to the
22 United States for permanent residence, has attained
23 75 years of age, and has resided in the United
24 States for at least 5 years;

25 (2) the alien—

1 (A) is a veteran (as defined in section 101
2 of title 38, United States Code) with a dis-
3 charge characterized as an honorable discharge,

4 (B) is on active duty (other than active
5 duty for training) in the Armed Forces of the
6 United States, or

7 (C) is the spouse or unmarried dependent
8 child of an individual described in subparagraph
9 (A) or (B);

10 (3) the alien is the subject of domestic violence
11 by the alien's spouse and a divorce between the alien
12 and the alien's spouse has been initiated through the
13 filing of an appropriate action in an appropriate
14 court; or

15 (4) there has been paid with respect to the self-
16 employment income or employment of the alien, or
17 of a parent or spouse of the alien, taxes under chap-
18 ter 2 or chapter 21 of the Internal Revenue Code
19 of 1986 in each of 20 different calendar quarters.

20 (c) HOLD HARMLESS FOR MEDICAID ELIGIBILITY.—
21 Subsection (a) shall not apply with respect to determina-
22 tions of eligibility for benefits under a State plan approved
23 under part A of title IV of the Social Security Act or under
24 the supplemental income security program under title XVI
25 of such Act but only insofar as such determinations pro-

1 vide for eligibility for medical assistance under title XIX
2 of such Act.

3 (d) RULES REGARDING INCOME AND RESOURCE
4 DEEMING UNDER TEA PROGRAM.—Subpart 1 of part A
5 of title IV of the Social Security Act, as added by section
6 9101(a) of this Act, is amended by adding at the end the
7 following:

8 **“SEC. 407. ATTRIBUTION OF SPONSOR’S INCOME AND RE-**
9 **SOURCES TO ALIEN.**

10 “(a) For purposes of determining eligibility for and
11 the amount of assistance under a State plan approved
12 under this part for an individual who is an alien lawfully
13 admitted for permanent residence or otherwise perma-
14 nently residing in the United States under color of law
15 (including any alien who is lawfully present in the United
16 States as a result of the application of the provisions of
17 section 207(c) of the Immigration and Nationality Act (or
18 of section 203(a)(7) of such Act prior to April 1, 1980),
19 or as a result of the application of the provisions of section
20 208 or 212(d)(5) of such Act), the income and resources
21 of any person who (as a sponsor of such individual’s entry
22 into the United States) executed an affidavit of support
23 or similar agreement with respect to such individual, and
24 the income and resources of the sponsor’s spouse, shall
25 be deemed to be the unearned income and resources of

1 such individual (in accordance with subsections (b) and
2 (c)) for a period of three years after the individual's entry
3 into the United States, except that this section is not ap-
4 plicable if such individual is a dependent child and such
5 sponsor (or such sponsor's spouse) is the parent of such
6 child.

7 “(b)(1) The amount of income of a sponsor (and his
8 spouse) which shall be deemed to be the unearned income
9 of an alien for any month shall be determined as follows:

10 “(A) the total amount of earned and unearned
11 income of such sponsor and such sponsor's spouse
12 (if such spouse is living with the sponsor) shall be
13 determined for such month;

14 “(B) the amount determined under subpara-
15 graph (A) shall be reduced by an amount equal to
16 the sum of—

17 “(i) the lesser of (I) 20 percent of the total
18 of any amounts received by the sponsor and his
19 spouse in such month as wages or salary or as
20 net earnings from self-employment, plus the full
21 amount of any costs incurred by them in pro-
22 ducing self-employment income in such month,
23 or (II) \$175;

24 “(ii) the cash needs standard established
25 by the State under its plan for a family of the

1 same size and composition as the sponsor and
2 those other individuals living in the same house-
3 hold as the sponsor who are claimed by him as
4 dependents for purposes of determining his
5 Federal personal income tax liability but whose
6 needs are not taken into account in making a
7 determination under section 402(d);

8 “(iii) any amounts paid by the sponsor (or
9 his spouse) to individuals not living in such
10 household who are claimed by him as depend-
11 ents for purposes of determining his Federal
12 personal income tax liability; and

13 “(iv) any payments of alimony or child
14 support with respect to individuals not living in
15 such household.

16 “(2) The amount of resources of a sponsor (and his
17 spouse) which shall be deemed to be the resources of an
18 alien for any month shall be determined as follows:

19 “(A) the total amount of the resources (deter-
20 mined as if the sponsor were applying for assistance
21 under the State plan approved under this part) of
22 such sponsor and such sponsor’s spouse (if such
23 spouse is living with the sponsor) shall be deter-
24 mined; and

1 “(B) the amount determined under subpara-
2 graph (A) shall be reduced by \$1,500.

3 “(c)(1) Any individual who is an alien and whose
4 sponsor was a public or private agency shall be ineligible
5 for assistance under a State plan approved under this part
6 during the period of three years after his or her entry into
7 the United States, unless the State agency administering
8 such plan determines that such sponsor either no longer
9 exists or has become unable to meet such individual’s
10 needs; and such determination shall be made by the State
11 agency based upon such criteria as it may specify in the
12 State plan, and upon such documentary evidence as it may
13 therein require. Any such individual, and any other indi-
14 vidual who is an alien (as a condition of his or her eligi-
15 bility for assistance under a State plan approved under
16 this part during the period of three years after his or her
17 entry into the United States), shall be required to provide
18 to the State agency administering such plan such informa-
19 tion and documentation with respect to his sponsor as may
20 be necessary in order for the State agency to make any
21 determination required under this section, and to obtain
22 any cooperation from such sponsor necessary for any such
23 determination. Such alien shall also be required to provide
24 to the State agency such information and documentation

1 as it may request and which such alien or his sponsor pro-
2 vided in support of such alien's immigration application.

3 “(2) The Secretary shall enter into agreements with
4 the Secretary of State and the Attorney General whereby
5 any information available to them and required in order
6 to make any determination under this section will be pro-
7 vided by them to the Secretary (who may, in turn, make
8 such information available, upon request, to a concerned
9 State agency), and whereby the Secretary of State and
10 Attorney General will inform any sponsor of an alien, at
11 the time such sponsor executes an affidavit of support or
12 similar agreement, of the requirements imposed by this
13 section.

14 “(d) Any sponsor of an alien, and such alien, shall
15 be jointly and severally liable for an amount equal to any
16 overpayment of assistance under the State plan made to
17 such alien during the period of three years after such
18 alien's entry into the United States, on account of such
19 sponsor's failure to provide correct information under the
20 provisions of this section, except where such sponsor was
21 without fault, or where good cause of such failure existed.
22 Any such overpayment which is not repaid to the State
23 or recovered in accordance with the procedures generally
24 applicable under the State plan to the recoupment of over-
25 payments shall be withheld from any subsequent payment

1 to which such alien or such sponsor is entitled under any
2 provision of this Act.

3 “(e)(1) In any case where a person is the sponsor
4 of two or more alien individuals who are living in the same
5 home, the income and resources of such sponsor (and his
6 spouse), to the extent they would be deemed the income
7 and resources of any one of such individuals under the
8 preceding provisions of this section, shall be divided into
9 two or more equal shares (the number of shares being the
10 same as the number of such alien individuals) and the in-
11 come and resources of each such individual shall be
12 deemed to include one such share.

13 “(2) Income and resources of a sponsor (and his
14 spouse) which are deemed under this section to be the in-
15 come and resources of any alien individual in a family
16 shall not be considered in determining the need of other
17 family members except to the extent such income or re-
18 sources are actually available to such other members.

19 “(f) The provisions of this section shall not apply
20 with respect to any alien who is—

21 “(1) admitted to the United States as a result
22 of the application, prior to April 1, 1980, of the pro-
23 visions of section 203(a)(7) of the Immigration and
24 Nationality Act;

1 “(2) admitted to the United States as a result
2 of the application, after March 31, 1980, of the pro-
3 visions of section 207(c) of such Act;

4 “(3) paroled into the United States as a refugee
5 under section 212(d)(5) of such Act;

6 “(4) granted political asylum by the Attorney
7 General under section 208 of such Act; or

8 “(5) a Cuban and Haitian entrant, as defined
9 in section 501(e) of the Refugee Education Assist-
10 ance Act of 1980 (Public Law 96-422).’.

11 **SEC. 9802. REQUIREMENTS FOR SPONSOR’S AFFIDAVITS OF**
12 **SUPPORT.**

13 (a) IN GENERAL.—Title II of the Immigration and
14 Nationality Act is amended by inserting after section 213
15 the following new section:

16 “REQUIREMENTS FOR SPONSOR’S AFFIDAVIT OF SUPPORT
17 “SEC. 213A. (a) ENFORCEABILITY.—

18 “(1) IN GENERAL.—No affidavit of support
19 may be accepted by the Attorney General or by any
20 consular officer to establish that an alien is not ex-
21 cludable under section 212(a)(4) unless such affida-
22 vit is executed as a contract—

23 “(A) which is legally enforceable against
24 the sponsor by the Federal Government, by a
25 State, or by any political subdivision of a State,
26 providing cash benefits under a public cash as-

1 sistance program (as defined in subsection
2 (f)(2)), but not later than 5 years after the date
3 the alien last receives any such cash benefit;
4 and

5 “(B) in which the sponsor agrees to submit
6 to the jurisdiction of any Federal or State court
7 for the purpose of actions brought under sub-
8 section (e)(2).

9 “(2) EXPIRATION OF LIABILITY.—Such con-
10 tract shall only apply with respect to cash benefits
11 described in paragraph (1)(A) provided to an alien
12 before the earliest of the following:

13 “(A) CITIZENSHIP.—The date the alien be-
14 comes a citizen of the United States under
15 chapter 2 of title III.

16 “(B) VETERAN.—The first date the alien
17 is described in section 9801(b)(2)(A) of the
18 Omnibus Budget Reconciliation Act of 1995.

19 “(C) PAYMENT OF SOCIAL SECURITY
20 TAXES.—The first date as of which the condi-
21 tion described in section 9801(b)(4) of the Om-
22 nibus Budget Reconciliation Act of 1995 is met
23 with respect to the alien.

24 “(3) NONAPPLICATION DURING CERTAIN PERI-
25 ODS.—Such contract also shall not apply with re-

1 spect to cash benefits described in paragraph (1)(A)
2 provided during any period in which the alien is de-
3 scribed in section 9801(b)(2)(B) or 9801(b)(2)(C) of
4 the Omnibus Budget Reconciliation Act of 1995.

5 “(b) FORMS.—Not later than 90 days after the date
6 of enactment of this section, the Attorney General, in con-
7 sultation with the Secretary of State and the Secretary
8 of Health and Human Services, shall formulate an affida-
9 vit of support consistent with the provisions of this sec-
10 tion.

11 “(c) NOTIFICATION OF CHANGE OF ADDRESS.—

12 “(1) REQUIREMENT.—The sponsor shall notify
13 the Federal Government and the State in which the
14 sponsored alien is currently resident within 30 days
15 of any change of address of the sponsor during the
16 period specified in subsection (a)(1)(A).

17 “(2) ENFORCEMENT.—Any person subject to
18 the requirement of paragraph (1) who fails to satisfy
19 such requirement shall be subject to a civil penalty
20 of—

21 “(A) not less than \$250 or more than
22 \$2,000, or

23 “(B) if such failure occurs with knowledge
24 that the sponsored alien has received any bene-
25 fit under any means-tested public benefits pro-

1 gram, not less than \$2,000 or more than
2 \$5,000.

3 “(d) REIMBURSEMENT OF GOVERNMENT EX-
4 PENSES.—

5 “(1) REQUEST FOR REIMBURSEMENT.—

6 “(A) IN GENERAL.—Upon notification that
7 a sponsored alien has received any cash benefits
8 described in subsection (a)(1)(A), the appro-
9 priate Federal, State, or local official shall re-
10 quest reimbursement by the sponsor in the
11 amount of such cash benefits.

12 “(B) REGULATIONS.—The Attorney Gen-
13 eral, in consultation with the Secretary of
14 Health and Human Services, shall prescribe
15 such regulations as may be necessary to carry
16 out subparagraph (A).

17 “(2) INITIATION OF ACTION.—If within 45 days
18 after requesting reimbursement, the appropriate
19 Federal, State, or local agency has not received a re-
20 sponse from the sponsor indicating a willingness to
21 commence payments, an action may be brought
22 against the sponsor pursuant to the affidavit of sup-
23 port.

24 “(3) FAILURE TO ABIDE BY REPAYMENT
25 TERMS.—If the sponsor fails to abide by the repay-

1 ment terms established by such agency, the agency
2 may, within 60 days of such failure, bring an action
3 against the sponsor pursuant to the affidavit of sup-
4 port.

5 “(4) LIMITATION ON ACTIONS.—No cause of
6 action may be brought under this subsection later
7 than 5 years after the date the alien last received
8 any cash benefit described in subsection (a)(1)(A).

9 “(f) DEFINITIONS.—For the purposes of this section:

10 “(1) SPONSOR.—The term ‘sponsor’ means an
11 individual who—

12 “(A) is a citizen or national of the United
13 States or an alien who is lawfully admitted to
14 the United States for permanent residence;

15 “(B) is 18 years of age or over; and

16 “(C) is domiciled in any State.

17 “(2) PUBLIC CASH ASSISTANCE PROGRAM.—

18 The term ‘public cash assistance program’ means a
19 program of the Federal Government or of a State or
20 political subdivision of a State that provides direct
21 cash assistance for the purpose of income mainte-
22 nance and in which the eligibility of an individual,
23 household, or family eligibility unit for cash benefits
24 under the program, or the amount of such cash ben-
25 efits, or both are determined on the basis of income,

1 resources, or financial need of the individual, house-
2 hold, or unit. Such term does not include any pro-
3 gram insofar as it provides medical, housing, edu-
4 cation, job training, food, or in-kind assistance or
5 social services.”.

6 (b) CLERICAL AMENDMENT.—The table of contents
7 of such Act is amended by inserting after the item relating
8 to section 213 the following:

“Sec. 213A. Requirements for sponsor’s affidavit of support.”.

9 (c) EFFECTIVE DATE.—Subsection (a) of section
10 213A of the Immigration and Nationality Act, as inserted
11 by subsection (a) of this section, shall apply to affidavits
12 of support executed on or after a date specified by the
13 Attorney General, which date shall be not earlier than 60
14 days (and not later than 90 days) after the date the Attor-
15 ney General formulates the form for such affidavits under
16 subsection (b) of such section 213A.

17 **SEC. 9803. EXTENDING REQUIREMENT FOR AFFIDAVITS OF**
18 **SUPPORT TO FAMILY-RELATED AND DIVER-**
19 **SITY IMMIGRANTS.**

20 (a) IN GENERAL.—Section 212(a)(4) of the Immi-
21 gration and Nationality Act (8 U.S.C. 1182(a)(4)) is
22 amended to read as follows:

23 “(4) PUBLIC CHARGE AND AFFIDAVITS OF SUP-
24 PORT.—

1 “(A) PUBLIC CHARGE.—Any alien who, in
2 the opinion of the consular officer at the time
3 of application for a visa, or in the opinion of
4 the Attorney General at the time of application
5 for admission or adjustment of status, is likely
6 at any time to become a public charge is exclud-
7 able.

8 “(B) AFFIDAVITS OF SUPPORT.—Any im-
9 migrant who seeks admission or adjustment of
10 status as any of the following is excludable un-
11 less there has been executed with respect to the
12 immigrant an affidavit of support pursuant to
13 section 213A:

14 “(i) As an immediate relative (under
15 section 201(b)(2)).

16 “(ii) As a family-sponsored immigrant
17 under section 203(a) (or as the spouse or
18 child under section 203(d) of such an im-
19 migrant).

20 “(iii) As the spouse or child (under
21 section 203(d)) of an employment-based
22 immigrant under section 203(b).

23 “(iv) As a diversity immigrant under
24 section 203(c) (or as the spouse or child

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1 under section 203(d) of such an immi-
2 grant).”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply to aliens with respect to whom
5 an immigrant visa is issued (or adjustment of status is
6 granted) after the date specified by the Attorney General
7 under section 9802(c)

8 **Subtitle I—Earned Income Tax**
9 **Credit**

10 **SEC. 9901. EARNED INCOME TAX CREDIT DENIED TO INDI-**
11 **VIDUALS NOT AUTHORIZED TO BE EM-**
12 **PLOYED IN THE UNITED STATES..**

13 (a) IN GENERAL.—Section 32(c)(1) of the Internal
14 Revenue Code of 1986 (relating to individuals eligible to
15 claim the earned income tax credit) is amended by adding
16 at the end the following new subparagraph:

17 “(F) IDENTIFICATION NUMBER REQUIRE-
18 MENT.—The term ‘eligible individual’ does not
19 include any individual who does not include on
20 the return of tax for the taxable year—

21 “(i) such individual’s taxpayer identi-
22 fication number, and

23 “(ii) if the individual is married (with-
24 in the meaning of section 7703), the tax-

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1 payer identification number of such indi-
2 vidual's spouse.”

3 (b) SPECIAL IDENTIFICATION NUMBER.—Section 32
4 of such Code is amended by adding at the end the follow-
5 ing new subsection:

6 “(l) IDENTIFICATION NUMBERS.—Solely for pur-
7 poses of subsections (c)(1)(F) and (c)(3)(D), a taxpayer
8 identification number means a social security number is-
9 sued to an individual by the Social Security Administra-
10 tion (other than a social security number issued pursuant
11 to clause (II) (or that portion of clause (III) that relates
12 to clause (II)) of section 205(c)(2)(B)(i) of the Social Se-
13 curity Act).”

14 (c) EXTENSION OF PROCEDURES APPLICABLE TO
15 MATHEMATICAL OR CLERICAL ERRORS.—Section
16 6213(g)(2) of such Code (relating to the definition of
17 mathematical or clerical errors) is amended by striking
18 “and’ at the end of subparagraph (D), by striking the pe-
19 riod at the end of subparagraph (E) and inserting a
20 comma, and by inserting after subparagraph (E) the fol-
21 lowing new subparagraphs:

22 “(F) an omission of a correct taxpayer
23 identification number required under section 32
24 (relating to the earned income tax credit) to be
25 included on a return, and

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1 “(G) an entry on a return claiming the
2 credit under section 32 with respect to net
3 earnings from self-employment described in sec-
4 tion 32(c)(2)(A) to the extent the tax imposed
5 by section 1401 (relating to self-employment
6 tax) on such net earnings has not been paid.”

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 1995.

10 **TITLE X—REDUCTIONS IN COR-**
11 **PORATE TAX SUBSIDIES AND**
12 **OTHER REFORMS**

13 **SEC. 10001. SHORT TITLE.**

14 This title may be cited as the “Revenue Reconcili-
15 ation Act of 1995”.

16 **Subtitle A—Tax Treatment of**
17 **Expatriation**

18 **SEC. 10101. REVISION OF TAX RULES ON EXPATRIATION.**

19 (a) IN GENERAL.—Subpart A of part II of sub-
20 chapter N of chapter 1 of the Internal Revenue Code of
21 1986 is amended by inserting after section 877 the follow-
22 ing new section:

23 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

24 “(a) GENERAL RULES.—For purposes of this sub-
25 title—

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1 “(1) MARK TO MARKET.—Except as provided in
2 subsection (f)(2), all property held by an expatriate
3 immediately before the expatriation date shall be
4 treated as sold at such time for its fair market
5 value.

6 “(2) RECOGNITION OF GAIN OR LOSS.—In the
7 case of any sale under paragraph (1)—

8 “(A) notwithstanding any other provision
9 of this title, any gain arising from such sale
10 shall be taken into account for the taxable year
11 of the sale unless such gain is excluded from
12 gross income under part III of subchapter B,
13 and

14 “(B) any loss arising from such sale shall
15 be taken into account for the taxable year of
16 the sale to the extent otherwise provided by this
17 title, except that section 1091 shall not apply
18 (and section 1092 shall apply) to any such loss.

19 “(3) ELECTION TO CONTINUE TO BE TAXED AS
20 UNITED STATES CITIZEN.—

21 “(A) IN GENERAL.—If an expatriate elects
22 the application of this paragraph with respect
23 to any property—

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1 “(i) this section (other than this para-
2 graph) shall not apply to such property,
3 but

4 “(ii) such property shall be subject to
5 tax under this title in the same manner as
6 if the individual were a United States
7 citizen.

8 “(B) LIMITATION ON AMOUNT OF ESTATE,
9 GIFT, AND GENERATION-SKIPPING TRANSFER
10 TAXES.—The aggregate amount of taxes im-
11 posed under subtitle B with respect to any
12 transfer of property by reason of an election
13 under subparagraph (A) shall not exceed the
14 amount of income tax which would be due if the
15 property were sold for its fair market value im-
16 mediately before the time of the transfer or
17 death (taking into account the rules of sub-
18 section (a)(2)).

19 “(C) REQUIREMENTS.—Subparagraph (A)
20 shall not apply to an individual unless the indi-
21 vidual—

22 “(i) provides security for payment of
23 tax in such form and manner, and in such
24 amount, as the Secretary may require,

1 “(ii) consents to the waiver of any
2 right of the individual under any treaty of
3 the United States which would preclude as-
4 sessment or collection of any tax which
5 may be imposed by reason of this para-
6 graph, and

7 “(iii) complies with such other re-
8 quirements as the Secretary may prescribe.

9 “(D) ELECTION.—An election under sub-
10 paragraph (A) shall apply only to the property
11 described in the election and, once made, shall
12 be irrevocable.

13 “(b) EXCLUSION FOR CERTAIN GAIN.—The amount
14 which would (but for this subsection) be includible in the
15 gross income of any individual by reason of subsection (a)
16 shall be reduced (but not below zero) by \$600,000.

17 “(c) PROPERTY TREATED AS HELD.—For purposes
18 of this section, except as otherwise provided by the Sec-
19 retary, an individual shall be treated as holding—

20 “(1) all property which would be includible in
21 his gross estate under chapter 11 if such individual
22 were a citizen or resident of the United States (with-
23 in the meaning of chapter 11) who died at the time
24 the property is treated as sold,

1 “(2) any other interest in a trust which the in-
2 dividual is treated as holding under the rules of sub-
3 section (f)(1), and

4 “(3) any other interest in property specified by
5 the Secretary as necessary or appropriate to carry
6 out the purposes of this section.

7 “(d) EXCEPTIONS.—The following property shall not
8 be treated as sold for purposes of this section:

9 “(1) UNITED STATES REAL PROPERTY INTER-
10 ESTS.—Any United States real property interest (as
11 defined in section 897(c)(1)), other than stock of a
12 United States real property holding corporation
13 which does not, on the expatriation date, meet the
14 requirements of section 897(c)(2).

15 “(2) INTEREST IN CERTAIN RETIREMENT
16 PLANS.—

17 “(A) IN GENERAL.—Any interest in a
18 qualified retirement plan (as defined in section
19 4974(c)), other than any interest attributable to
20 contributions which are in excess of any limita-
21 tion or which violate any condition for tax-
22 favored treatment.

23 “(B) FOREIGN PENSION PLANS.—

24 “(i) IN GENERAL.—Under regulations
25 prescribed by the Secretary, interests in

1 foreign pension plans or similar retirement
2 arrangements or programs.

3 “(ii) LIMITATION.—The value of prop-
4 erty which is treated as not sold by reason
5 of this subparagraph shall not exceed
6 \$500,000.

7 “(e) DEFINITIONS.—For purposes of this section—

8 “(1) EXPATRIATE.—The term ‘expatriate’
9 means—

10 “(A) any United States citizen who relin-
11 quishes his citizenship, or

12 “(B) any long-term resident of the United
13 States who—

14 “(i) ceases to be a lawful permanent
15 resident of the United States (within the
16 meaning of section 7701(b)(6)), or

17 “(ii) commences to be treated as a
18 resident of a foreign country under the
19 provisions of a tax treaty between the
20 United States and the foreign country and
21 who does not waive the benefits of such
22 treaty applicable to residents of the foreign
23 country.

24 An individual shall not be treated as an expatriate
25 for purposes of this section by reason of the individ-

1 ual relinquishing United States citizenship before at-
2 taining the age of 18½ if the individual has been
3 a resident of the United States (as defined in section
4 7701(b)(1)(A)(ii)) for less than 5 taxable years be-
5 fore the date of relinquishment.

6 “(2) EXPATRIATION DATE.—The term ‘expa-
7 triation date’ means—

8 “(A) the date an individual relinquishes
9 United States citizenship, or

10 “(B) in the case of a long-term resident of
11 the United States, the date of the event de-
12 scribed in clause (i) or (ii) of paragraph (1)(B).

13 “(3) RELINQUISHMENT OF CITIZENSHIP.—A
14 citizen shall be treated as relinquishing his United
15 States citizenship on the earliest of—

16 “(A) the date the individual renounces his
17 United States nationality before a diplomatic or
18 consular officer of the United States pursuant
19 to paragraph (5) of section 349(a) of the Immi-
20 gration and Nationality Act (8 U.S.C.
21 1481(a)(5)),

22 “(B) the date the individual furnishes to
23 the United States Department of State a signed
24 statement of voluntary relinquishment of
25 United States nationality confirming the per-

1 formance of an act of expatriation specified in
2 paragraph (1), (2), (3), or (4) of section 349(a)
3 of the Immigration and Nationality Act (8
4 U.S.C. 1481(a) (1)–(4)),

5 “(C) the date the United States Depart-
6 ment of State issues to the individual a certifi-
7 cate of loss of nationality, or

8 “(D) the date a court of the United States
9 cancels a naturalized citizen’s certificate of nat-
10 uralization.

11 Subparagraph (A) or (B) shall not apply to any indi-
12 vidual unless the renunciation or voluntary relin-
13 quishment is subsequently approved by the issuance
14 to the individual of a certificate of loss of nationality
15 by the United States Department of State.

16 “(4) LONG-TERM RESIDENT.—

17 “(A) IN GENERAL.—The term ‘long-term
18 resident’ means any individual (other than a
19 citizen of the United States) who is a lawful
20 permanent resident of the United States in at
21 least 8 taxable years during the period of 15
22 taxable years ending with the taxable year dur-
23 ing which the sale under subsection (a)(1) is
24 treated as occurring. For purposes of the pre-
25 ceding sentence, an individual shall not be

1 treated as a lawful permanent resident for any
2 taxable year if such individual is treated as a
3 resident of a foreign country for the taxable
4 year under the provisions of a tax treaty be-
5 tween the United States and the foreign coun-
6 try and does not waive the benefits of such
7 treaty applicable to residents of the foreign
8 country.

9 “(B) SPECIAL RULE.—For purposes of
10 subparagraph (A), there shall not be taken into
11 account—

12 “(i) any taxable year during which
13 any prior sale is treated under subsection
14 (a)(1) as occurring, or

15 “(ii) any taxable year prior to the tax-
16 able year referred to in clause (i).

17 “(f) SPECIAL RULES APPLICABLE TO BENE-
18 FICIARIES’ INTERESTS IN TRUST.—

19 “(1) DETERMINATION OF BENEFICIARIES’ IN-
20 TEREST IN TRUST.—For purposes of this section—

21 “(A) GENERAL RULE.—A beneficiary’s in-
22 terest in a trust shall be based upon all relevant
23 facts and circumstances, including the terms of
24 the trust instrument and any letter of wishes or
25 similar document, historical patterns of trust

1 distributions, and the existence of and functions
2 performed by a trust protector or any similar
3 advisor.

4 “(B) SPECIAL RULE.—The remaining in-
5 terests in the trust not determined under sub-
6 paragraph (A) to be held by any beneficiary
7 shall be allocated first to the grantor, if a bene-
8 ficiary, and then to other beneficiaries under
9 rules prescribed by the Secretary similar to the
10 rules of intestate succession.

11 “(C) CONSTRUCTIVE OWNERSHIP.—If a
12 beneficiary of a trust is a corporation, partner-
13 ship, trust, or estate, the shareholders, part-
14 ners, or beneficiaries shall be deemed to be the
15 trust beneficiaries for purposes of this section.

16 “(D) TAXPAYER RETURN POSITION.—A
17 taxpayer shall clearly indicate on its income tax
18 return—

19 “(i) the methodology used to deter-
20 mine that taxpayer’s trust interest under
21 this section, and

22 “(ii) if the taxpayer knows (or has
23 reason to know) that any other beneficiary
24 of such trust is using a different methodol-

1 ogy to determine such beneficiary's trust
2 interest under this section.

3 “(2) DEEMED SALE IN CASE OF TRUST INTER-
4 EST.—If an individual who is an expatriate is treat-
5 ed under paragraph (1) as holding an interest in a
6 trust for purposes of this section—

7 “(A) the individual shall not be treated as
8 having sold such interest,

9 “(B) such interest shall be treated as a
10 separate share in the trust, and

11 “(C)(i) such separate share shall be treat-
12 ed as a separate trust consisting of the assets
13 allocable to such share,

14 “(ii) the separate trust shall be treated as
15 having sold its assets immediately before the ex-
16 patriation date for their fair market value and
17 as having distributed all of its assets to the in-
18 dividual as of such time, and

19 “(iii) the individual shall be treated as hav-
20 ing recontributed the assets to the separate
21 trust.

22 Subsection (a)(2) shall apply to any income, gain, or
23 loss of the individual arising from a distribution de-
24 scribed in subparagraph (C)(ii).

1 “(g) TERMINATION OF DEFERRALS, ETC.—On the
2 date any property held by an individual is treated as sold
3 under subsection (a), notwithstanding any other provision
4 of this title—

5 “(1) any period during which recognition of in-
6 come or gain is deferred shall terminate, and

7 “(2) any extension of time for payment of tax
8 shall cease to apply and the unpaid portion of such
9 tax shall be due and payable at the time and in the
10 manner prescribed by the Secretary.

11 “(h) RULES RELATING TO PAYMENT OF TAX.—

12 “(1) IMPOSITION OF TENTATIVE TAX.—

13 “(A) IN GENERAL.—If an individual is re-
14 quired to include any amount in gross income
15 under subsection (a) for any taxable year, there
16 is hereby imposed, immediately before the expa-
17 triation date, a tax in an amount equal to the
18 amount of tax which would be imposed if the
19 taxable year were a short taxable year ending
20 on the expatriation date.

21 “(B) DUE DATE.—The due date for any
22 tax imposed by subparagraph (A) shall be the
23 90th day after the expatriation date.

24 “(C) TREATMENT OF TAX.—Any tax paid
25 under subparagraph (A) shall be treated as a

1 payment of the tax imposed by this chapter for
2 the taxable year to which subsection (a) applies.

3 “(2) DEFERRAL OF TAX.—The payment of any
4 tax attributable to amounts included in gross income
5 under subsection (a) may be deferred to the same
6 extent, and in the same manner, as any tax imposed
7 by chapter 11, except that the Secretary may extend
8 the period for extension of time for paying tax under
9 section 6161 to such number of years as the Sec-
10 retary determines appropriate.

11 “(3) RULES RELATING TO SECURITY INTER-
12 ESTS.—

13 “(A) ADEQUACY OF SECURITY INTER-
14 ESTS.—In determining the adequacy of any se-
15 curity to be provided under this section, the
16 Secretary may take into account the principles
17 of section 2056A.

18 “(B) SPECIAL RULE FOR TRUST.—If a
19 taxpayer is required by this section to provide
20 security in connection with any tax imposed by
21 reason of this section with respect to the hold-
22 ing of an interest in a trust and any trustee of
23 such trust is an individual citizen of the United
24 States or a domestic corporation, such trustee
25 shall be required to provide such security upon

1 notification by the taxpayer of such
2 requirement.

3 “(i) COORDINATION WITH ESTATE AND GIFT
4 TAXES.—If subsection (a) applies to property held by an
5 individual for any taxable year and—

6 “(1) such property is includible in the gross es-
7 tate of such individual solely by reason of section
8 2107, or

9 “(2) section 2501 applies to a transfer of such
10 property by such individual solely by reason of sec-
11 tion 2501(a)(3),

12 then there shall be allowed as a credit against the addi-
13 tional tax imposed by section 2101 or 2501, whichever is
14 applicable, solely by reason of section 2107 or 2501(a)(3)
15 an amount equal to the increase in the tax imposed by
16 this chapter for such taxable year by reason of this
17 section.

18 “(j) REGULATIONS.—The Secretary shall prescribe
19 such regulations as may be necessary or appropriate to
20 carry out the purposes of this section, including regula-
21 tions to prevent double taxation by ensuring that—

22 “(1) appropriate adjustments are made to basis
23 to reflect gain recognized by reason of subsection (a)
24 and the exclusion provided by subsection (b),

1 “(2) no interest in property is treated as held
2 for purposes of this section by more than one tax-
3 payer, and

4 “(3) any gain by reason of a deemed sale under
5 subsection (a) of an interest in a corporation, part-
6 nership, trust, or estate is reduced to reflect that
7 portion of such gain which is attributable to an in-
8 terest in a trust which a shareholder, partner, or
9 beneficiary is treated as holding directly under sub-
10 section (f)(1)(C).

11 “(k) CROSS REFERENCE.—

**“For income tax treatment of individuals who ter-
minate United States citizenship, see section
7701(a)(47).”**

12 (b) DEFINITION OF TERMINATION OF UNITED
13 STATES CITIZENSHIP.—Section 7701(a) of the Internal
14 Revenue Code of 1986 is amended by adding at the end
15 the following new paragraph:

16 “(47) TERMINATION OF UNITED STATES CITI-
17 ZENSHIP.—An individual shall not cease to be treat-
18 ed as a United States citizen before the date on
19 which the individual’s citizenship is treated as relin-
20 quished under section 877A(e)(3).”

21 (c) CONFORMING AMENDMENTS.—

22 (1) Section 877 of the Internal Revenue Code
23 of 1986 is amended by adding at the end the follow-
24 ing new subsection:

1 “(f) APPLICATION.—This section shall not apply to
2 any individual who relinquishes (within the meaning of
3 section 877A(e)(3)) United States citizenship on or after
4 February 6, 1995.”

5 (2) Section 2107(c) of such Code is amended by
6 adding at the end the following new paragraph:

7 “(3) CROSS REFERENCE.—For credit against
8 the tax imposed by subsection (a) for expatriation
9 tax, see section 877A(i).”

10 (3) Section 2501(a)(3) of such Code is amended
11 by adding at the end the following new flush
12 sentence:

13 “For credit against the tax imposed under this sec-
14 tion by reason of this paragraph, see section
15 877A(i).”

16 (4) Section 6851 of such Code is amended by
17 striking subsection (d) and by redesignating sub-
18 section (e) as subsection (d).

19 (5) Paragraph (10) of section 7701(b) of such
20 Code is amended by adding at the end the following
21 new sentence: “This paragraph shall not apply to
22 any long-term resident of the United States who is
23 an expatriate (as defined in section 877A(e)(1)).”

24 (d) CLERICAL AMENDMENT.—The table of sections
25 for subpart A of part II of subchapter N of chapter 1

1 of the Internal Revenue Code of 1986 is amended by in-
2 serting after the item relating to section 877 the following
3 new item:

“Sec. 877A. Tax responsibilities of expatriation.”

4 (e) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by
6 this section shall apply to expatriates (within the
7 meaning of section 877A(e) of the Internal Revenue
8 Code of 1986, as added by this section) whose expa-
9 triation date (as so defined) occurs on or after Feb-
10 ruary 6, 1995.

11 (2) DUE DATE FOR TENTATIVE TAX.—The due
12 date under section 877A(h)(1)(B) of such Code shall
13 in no event occur before the 90th day after the date
14 of the enactment of this Act.

15 **SEC. 10102. BASIS OF ASSETS OF NONRESIDENT ALIEN IN-**
16 **DIVIDUALS BECOMING CITIZENS OR RESI-**
17 **DENTS.**

18 (a) IN GENERAL.—Part IV of subchapter O of chap-
19 ter 1 of the Internal Revenue Code of 1986 (relating to
20 special rules for gain or loss on disposition of property)
21 is amended by redesignating section 1061 as section 1062
22 and by inserting after section 1060 the following new
23 section:

1 **“SEC. 1061. BASIS OF ASSETS OF NONRESIDENT ALIEN INDI-**
2 **VIDUALS BECOMING CITIZENS OR RESI-**
3 **DENTS.**

4 “(a) GENERAL RULE.—If a nonresident alien individ-
5 ual becomes a citizen or resident of the United States,
6 gain or loss on the disposition of any property held on
7 the date the individual becomes such a citizen or resident
8 shall be determined by substituting, as of the applicable
9 date, the fair market value of such property (on the appli-
10 cable date) for its cost basis.

11 “(b) EXCEPTION FOR DEPRECIATION.—Any deduc-
12 tion under this chapter for depreciation, depletion, or am-
13 ortization shall be determined without regard to the appli-
14 cation of this section.

15 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
16 poses of this section—

17 “(1) APPLICABLE DATE.—The term ‘applicable
18 date’ means, with respect to any property to which
19 subsection (a) applies, the earlier of—

20 “(A) the date the individual becomes a citi-
21 zen or resident of the United States, or

22 “(B) the date the property first becomes
23 subject to tax under this subtitle by reason of
24 being used in a United States trade or business
25 or by reason of becoming a United States real

1 property interest (within the meaning of section
2 897(c)(1)).

3 “(2) RESIDENT.—The term ‘resident’ does not
4 include an individual who is treated as a resident of
5 a foreign country under the provisions of a tax trea-
6 ty between the United States and a foreign country
7 and who does not waive the benefits of such treaty
8 applicable to residents of the foreign country.

9 “(3) TRUSTS.—A trust shall not be treated as
10 an individual.

11 “(4) ELECTION NOT TO HAVE SECTION
12 APPLY.—An individual may elect not to have this
13 section apply solely for purposes of determining gain
14 with respect to any property. Such election shall
15 apply only to property specified in the election and,
16 once made, shall be irrevocable.

17 “(5) SECTION ONLY TO APPLY ONCE.—This
18 section shall apply only with respect to the first time
19 the individual becomes either a citizen or resident of
20 the United States.

21 “(d) REGULATIONS.—The Secretary shall prescribe
22 regulations for purposes of this section, including regula-
23 tions—

1 **Subtitle B—Modification to Earned**
2 **Income Credit**

3 **SEC. 10201. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS WITH SUBSTANTIAL CAPITAL GAIN NET INCOME.**

6 (a) IN GENERAL.—Paragraph (2) of section 32(i) of
7 the Internal Revenue Code of 1986 (relating to denial of
8 credit for individuals having excessive investment income)
9 is amended—

10 (1) by striking “and” at the end of subpara-
11 graph (B),

12 (2) by striking the period at the end of sub-
13 paragraph (C) and inserting “, and”, and

14 (3) by adding at the end the following new sub-
15 paragraph:

16 “(D) capital gain net income for the tax-
17 able year.”

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to taxable years beginning after
20 December 31, 1995.

1 **Subtitle C—Alternative Minimum**
2 **Tax on Corporations Importing**
3 **Products into the United States**
4 **at Artificially Inflated Prices**

5 **SEC. 10301. ALTERNATIVE MINIMUM TAX ON CORPORA-**
6 **TIONS IMPORTING PRODUCTS INTO THE**
7 **UNITED STATES AT ARTIFICIALLY INFLATED**
8 **PRICES.**

9 (a) IN GENERAL.—Subchapter A of chapter 1 of the
10 Internal Revenue Code of 1986 (relating to determination
11 of tax liability) is amended by adding at the end the fol-
12 lowing new part:

13 **“PART VIII—ALTERNATIVE MINIMUM TAX ON**
14 **CORPORATIONS IMPORTING PRODUCTS**
15 **INTO THE UNITED STATES AT ARTIFICIALLY**
16 **INFLATED PRICES**

“Sec. 59B. Alternative minimum tax on corporations importing products into
the United States at artificially inflated prices.

17 **“SEC. 59B. ALTERNATIVE MINIMUM TAX ON CORPORA-**
18 **TIONS IMPORTING PRODUCTS INTO THE**
19 **UNITED STATES AT ARTIFICIALLY INFLATED**
20 **PRICES.**

21 “(a) IMPOSITION OF TAX.—In the case of a corpora-
22 tion to which this section applies, there is hereby imposed

1 an alternative minimum tax equal to 4 percent of net busi-
2 ness receipts of the corporation for the taxable year.

3 “(b) TAXPAYERS TO WHICH SECTION APPLIES.—

4 This section shall apply to any corporation, foreign or do-
5 mestic, if—

6 “(1) gross sales in the United States during the
7 tax year of parts or products manufactured by the
8 corporation, or any subsidiary or affiliate controlled
9 by the corporation, exceeded \$10,000,000,

10 “(2) during that same tax year parts or prod-
11 ucts manufactured by the corporation, or any sub-
12 sidiary or affiliate controlled by the corporation, with
13 a customs value in excess of \$10,000,000 were im-
14 ported into the United States, and

15 “(3) its tax obligation under this section ex-
16 ceeds its total tax obligation under all other sections
17 of the Internal Revenue Code of 1986.

18 “(c) CREDIT FOR TAXES PAID.—There shall be a
19 nonrefundable credit against the taxes owed under this
20 section equal to the total of all other taxes paid by the
21 corporation under the Internal Revenue Code of 1986.

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

23 “(1) NET BUSINESS RECEIPTS.—The term ‘net
24 business receipts’ means the value of all parts or
25 products sold in the United States, excluding—

1 “(A) the value of parts or products sold for
2 export,

3 “(B) expenses paid for parts or products
4 produced in the United States,

5 “(C) expenses paid for services performed
6 in the United States, and

7 “(D) amounts paid for income, sales or use
8 taxes imposed by any State, or political subdivi-
9 sion thereof, or by the District of Columbia,
10 Puerto Rico, Guam or the Virgin Islands.

11 “(2) SUBSIDIARY OR AFFILIATE CONTROLLED
12 BY THE CORPORATION.—An entity shall be consid-
13 ered to be a ‘subsidiary or affiliate controlled by the
14 corporation’ if the corporation owns 5 percent or
15 more of any class of stock of the entity or if the cor-
16 poration exercises control over a majority of the
17 board of directors of the entity.”

18 (b) CLERICAL AMENDMENT.—The table of parts for
19 such subchapter A is amended by adding at the end there-
20 of the following new item:

 “Part VIII. Alternative minimum tax on corporations importing
 products into the United States at artificially in-
 flated prices.”

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 1995.

1 **Subtitle D—Tax Treatment of**
2 **Certain Extraordinary Dividends**

3 **SEC. 10401. TAX TREATMENT OF CERTAIN EXTRAORDINARY**
4 **DIVIDENDS.**

5 (a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN
6 EXCESS OF BASIS.—Paragraph (2) of section 1059(a) of
7 the Internal Revenue Code of 1986 (relating to corporate
8 shareholder’s basis in stock reduced by nontaxed portion
9 of extraordinary dividends) is amended to read as follows:

10 “(2) AMOUNTS IN EXCESS OF BASIS.—If the
11 nontaxed portion of such dividends exceeds such
12 basis, such excess shall be treated as gain from the
13 sale or exchange of such stock for the taxable year
14 in which the extraordinary dividend is received.”

15 (b) TREATMENT OF REDEMPTIONS WHERE OPTIONS
16 INVOLVED.—Paragraph (1) of section 1059(e) of such
17 Code (relating to treatment of partial liquidations and
18 non-pro rata redemptions) is amended to read as follows:

19 “(1) TREATMENT OF PARTIAL LIQUIDATIONS
20 AND CERTAIN REDEMPTIONS.—Except as otherwise
21 provided in regulations—

22 “(A) REDEMPTIONS.—In the case of any
23 redemption of stock—

1 “(i) which is part of a partial liquida-
2 tion (within the meaning of section 302(e))
3 of the redeeming corporation,

4 “(ii) which is not pro rata as to all
5 shareholders, or

6 “(iii) which would not have been
7 treated (in whole or in part) as a dividend
8 if any options had not been taken into ac-
9 count under section 318(a)(4),

10 any amount treated as a dividend with respect
11 to such redemption shall be treated as an ex-
12 traordinary dividend to which paragraphs (1)
13 and (2) of subsection (a) apply without regard
14 to the period the taxpayer held such stock. In
15 the case of a redemption described in clause
16 (iii), only the basis in the stock redeemed shall
17 be taken into account under subsection (a).

18 “(B) REORGANIZATIONS, ETC.—An ex-
19 change described in section 356(a)(1) which is
20 treated as a dividend under section 356(a)(2)
21 shall be treated as a redemption of stock for
22 purposes of applying subparagraph (A).”

23 (c) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to distributions after May 3,
3 1995.

4 (2) TRANSITION RULE.—The amendments
5 made by this section shall not apply to any distribu-
6 tion made pursuant to the terms of—

7 (A) a written binding contract in effect on
8 May 3, 1995, and at all times thereafter before
9 such distribution, or

10 (B) a tender offer outstanding on May 3,
11 1995.

12 (3) CERTAIN DIVIDENDS NOT PURSUANT TO
13 CERTAIN REDEMPTIONS.—In determining whether
14 the amendment made by subsection (a) applies to
15 any extraordinary dividend other than a dividend
16 treated as an extraordinary dividend under section
17 1059(e)(1) of the Internal Revenue Code of 1986
18 (as amended by this Act), paragraphs (1) and (2)
19 shall be applied by substituting “September 13,
20 1995” for “May 3, 1995”.

1 **Subtitle E—Foreign Trust Tax**
2 **Compliance**

3 **SEC. 10501. IMPROVED INFORMATION REPORTING ON FOR-**
4 **EIGN TRUSTS.**

5 (a) IN GENERAL.—Section 6048 of the Internal Rev-
6 enue Code of 1986 (relating to returns as to certain for-
7 eign trusts) is amended to read as follows:

8 **“SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN**
9 **FOREIGN TRUSTS.**

10 “(a) NOTICE OF CERTAIN EVENTS.—

11 “(1) GENERAL RULE.—On or before the 90th
12 day (or such later day as the Secretary may pre-
13 scribe) after any reportable event, the responsible
14 party shall provide written notice of such event to
15 the Secretary in accordance with paragraph (2).

16 “(2) CONTENTS OF NOTICE.—The notice re-
17 quired by paragraph (1) shall contain such informa-
18 tion as the Secretary may prescribe, including—

19 “(A) the amount of money or other prop-
20 erty (if any) transferred to the trust in connec-
21 tion with the reportable event, and

22 “(B) the identity of the trust and of each
23 trustee and beneficiary (or class of bene-
24 ficiaries) of the trust.

1 “(3) REPORTABLE EVENT.—For purposes of
2 this subsection—

3 “(A) IN GENERAL.—The term ‘reportable
4 event’ means—

5 “(i) the creation of any foreign trust
6 by a United States person,

7 “(ii) the transfer of any money or
8 property (directly or indirectly) to a for-
9 eign trust by a United States person, in-
10 cluding a transfer by reason of death, and

11 “(iii) the death of a citizen or resident
12 of the United States if—

13 “(I) the decedent was treated as
14 the owner of any portion of a foreign
15 trust under the rules of subpart E of
16 part I of subchapter J of chapter 1,
17 or

18 “(II) any portion of a foreign
19 trust was included in the gross estate
20 of the decedent.

21 “(B) EXCEPTIONS.—

22 “(i) FAIR MARKET VALUE SALES.—
23 Subparagraph (A)(ii) shall not apply to
24 any transfer of property to a trust in ex-
25 change for consideration of at least the fair

1 market value of the transferred property.
2 For purposes of the preceding sentence,
3 consideration other than cash shall be
4 taken into account at its fair market value
5 and the rules of section 679(a)(3) shall
6 apply.

7 “(ii) PENSION AND CHARITABLE
8 TRUSTS.—Subparagraph (A) shall not
9 apply with respect to a trust which is—

10 “(I) described in section
11 404(a)(4) or 404A, or

12 “(II) determined by the Sec-
13 retary to be described in section
14 501(c)(3).

15 “(4) RESPONSIBLE PARTY.—For purposes of
16 this subsection, the term ‘responsible party’
17 means—

18 “(A) the grantor in the case of the cre-
19 ation of an inter vivos trust,

20 “(B) the transferor in the case of a report-
21 able event described in paragraph (3)(A)(ii)
22 other than a transfer by reason of death, and

23 “(C) the executor of the decedent’s estate
24 in any other case.

1 “(b) UNITED STATES GRANTOR OF FOREIGN
2 TRUST.—

3 “(1) IN GENERAL.—If, at any time during any
4 taxable year of a United States person, such person
5 is treated as the owner of any portion of a foreign
6 trust under the rules of subpart E of part I of sub-
7 chapter J of chapter 1, such person shall be respon-
8 sible to ensure that—

9 “(A) such trust makes a return for such
10 year which sets forth a full and complete ac-
11 counting of all trust activities and operations
12 for the year, the name of the United States
13 agent for such trust, and such other informa-
14 tion as the Secretary may prescribe, and

15 “(B) such trust furnishes such information
16 as the Secretary may prescribe to each United
17 States person (i) who is treated as the owner of
18 any portion of such trust or (ii) who receives
19 (directly or indirectly) any distribution from the
20 trust.

21 “(2) TRUSTS NOT HAVING UNITED STATES
22 AGENT.—

23 “(A) IN GENERAL.—If the rules of this
24 subsection apply to any foreign trust, the deter-
25 mination of amounts required to be taken into

1 account with respect to such trust by a United
2 States person under the rules of subpart E of
3 part I of subchapter J of chapter 1 shall be de-
4 termined by the Secretary in the Secretary's
5 sole discretion from the Secretary's own knowl-
6 edge or from such information as the Secretary
7 may obtain through testimony or otherwise.

8 “(B) UNITED STATES AGENT REQUIRED.—
9 The rules of this subsection shall apply to any
10 foreign trust to which paragraph (1) applies un-
11 less such trust agrees (in such manner, subject
12 to such conditions, and at such time as the Sec-
13 retary shall prescribe) to authorize a United
14 States person to act as such trust's limited
15 agent solely for purposes of applying sections
16 7602, 7603, and 7604 with respect to—

17 “(i) any request by the Secretary to
18 examine records or produce testimony re-
19 lated to the proper treatment of amounts
20 required to be taken into account under
21 the rules referred to in subparagraph (A),
22 or

23 “(ii) any summons by the Secretary
24 for such records or testimony.

1 The appearance of persons or production of
2 records by reason of a United States person
3 being such an agent shall not subject such per-
4 sons or records to legal process for any purpose
5 other than determining the correct treatment
6 under this title of the amounts required to be
7 taken into account under the rules referred to
8 in subparagraph (A). A foreign trust which ap-
9 points an agent described in this subparagraph
10 shall not be considered to have an office or a
11 permanent establishment in the United States,
12 or to be engaged in a trade or business in the
13 United States, solely because of the activities of
14 such agent pursuant to this subsection.

15 “(C) OTHER RULES TO APPLY.—Rules
16 similar to the rules of paragraphs (2) and (4)
17 of section 6038A(e) shall apply for purposes of
18 this paragraph.

19 “(c) REPORTING BY UNITED STATES BENEFICIARIES
20 OF FOREIGN TRUSTS.—

21 “(1) IN GENERAL.—If any United States per-
22 son receives (directly or indirectly) during any tax-
23 able year of such person any distribution from a for-
24 eign trust, such person shall make a return with re-
25 spect to such trust for such year which includes—

1 “(A) the name of such trust,

2 “(B) the aggregate amount of the distribu-
3 tions so received from such trust during such
4 taxable year, and

5 “(C) such other information as the Sec-
6 retary may prescribe.

7 “(2) INCLUSION IN INCOME IF RECORDS NOT
8 PROVIDED.—If adequate records are not provided to
9 the Secretary to determine the proper treatment of
10 any distribution from a foreign trust, such distribu-
11 tion shall be treated as an accumulation distribution
12 includible in the gross income of the distributee
13 under chapter 1. To the extent provided in regula-
14 tions, the preceding sentence shall not apply if the
15 foreign trust elects to be subject to rules similar to
16 the rules of subsection (b)(2)(B).

17 “(d) SPECIAL RULES.—

18 “(1) DETERMINATION OF WHETHER UNITED
19 STATES PERSON RECEIVES DISTRIBUTION.—For
20 purposes of this section, in determining whether a
21 United States person receives a distribution from a
22 foreign trust, the fact that a portion of such trust
23 is treated as owned by another person under the
24 rules of subpart E of part I of subchapter J of chap-
25 ter 1 shall be disregarded.

1 “(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVI-
2 TIES.—To the extent provided in regulations, a trust
3 which is a United States person shall be treated as
4 a foreign trust for purposes of this section and sec-
5 tion 6677 if such trust has substantial activities, or
6 holds substantial property, outside the United
7 States.

8 “(3) TIME AND MANNER OF FILING INFORMA-
9 TION.—Any notice or return required under this sec-
10 tion shall be made at such time and in such manner
11 as the Secretary shall prescribe.

12 “(4) MODIFICATION OF RETURN REQUIRE-
13 MENTS.—The Secretary is authorized to suspend or
14 modify any requirement of this section if the Sec-
15 retary determines that the United States has no sig-
16 nificant tax interest in obtaining the required infor-
17 mation.”

18 (b) INCREASED PENALTIES.—Section 6677 of such
19 Code (relating to failure to file information returns with
20 respect to certain foreign trusts) is amended to read as
21 follows:

1 **“SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT**
2 **TO CERTAIN FOREIGN TRUSTS.**

3 “(a) CIVIL PENALTY.—In addition to any criminal
4 penalty provided by law, if any notice or return required
5 to be filed by section 6048—

6 “(1) is not filed on or before the time provided
7 in such section, or

8 “(2) does not include all the information re-
9 quired pursuant to such section or includes incorrect
10 information,

11 the person required to file such notice or return shall pay
12 a penalty equal to 35 percent of the gross reportable
13 amount. If any failure described in the preceding sentence
14 continues for more than 90 days after the day on which
15 the Secretary mails notice of such failure to the person
16 required to pay such penalty, such person shall pay a pen-
17 alty (in addition to the amount determined under the pre-
18 ceding sentence) of \$10,000 for each 30-day period (or
19 fraction thereof) during which such failure continues after
20 the expiration of such 90-day period.

21 “(b) SPECIAL RULES FOR RETURNS UNDER SEC-
22 TION 6048(b).—In the case of a return required under
23 section 6048(b)—

24 “(1) the United States person referred to in
25 such section shall be liable for the penalty imposed
26 by subsection (a), and

1 “(2) subsection (a) shall be applied by sub-
2 stituting ‘5 percent’ for ‘35 percent’.

3 “(c) GROSS REPORTABLE AMOUNT.—For purposes
4 of subsection (a), the term ‘gross reportable amount’
5 means—

6 “(1) the gross value of the property involved in
7 the event (determined as of the date of the event)
8 in the case of a failure relating to section 6048(a),

9 “(2) the gross value of the portion of the trust’s
10 assets at the close of the year treated as owned by
11 the United States person in the case of a failure re-
12 lating to section 6048(b)(1), and

13 “(3) the gross amount of the distributions in
14 the case of a failure relating to section 6048(c).

15 “(d) REASONABLE CAUSE EXCEPTION.—No penalty
16 shall be imposed by this section on any failure which is
17 shown to be due to reasonable cause and not due to willful
18 neglect. The fact that a foreign jurisdiction would impose
19 a civil or criminal penalty on the taxpayer (or any other
20 person) for disclosing the required information is not rea-
21 sonable cause.

22 “(e) DEFICIENCY PROCEDURES NOT TO APPLY.—
23 Subchapter B of chapter 63 (relating to deficiency proce-
24 dures for income, estate, gift, and certain excise taxes)

1 shall not apply in respect of the assessment or collection
2 of any penalty imposed by subsection (a).”

3 (c) CONFORMING AMENDMENTS.—

4 (1) Paragraph (2) of section 6724(d) of such
5 Code is amended by striking “or” at the end of sub-
6 paragraph (S), by striking the period at the end of
7 subparagraph (T) and inserting “, or”, and by in-
8 serting after subparagraph (T) the following new
9 subparagraph:

10 “(U) section 6048(b)(1)(B) (relating to
11 foreign trust reporting requirements).”

12 (2) The table of sections for subpart B of part
13 III of subchapter A of chapter 61 of such Code is
14 amended by striking the item relating to section
15 6048 and inserting the following new item:

“Sec. 6048. Information with respect to certain foreign trusts.”

16 (3) The table of sections for part I of sub-
17 chapter B of chapter 68 of such Code is amended
18 by striking the item relating to section 6677 and in-
19 serting the following new item:

“Sec. 6677. Failure to file information with respect to certain for-
eign trusts.”

20 (d) EFFECTIVE DATES.—

21 (1) REPORTABLE EVENTS.—To the extent re-
22 lated to subsection (a) of section 6048 of the Inter-
23 nal Revenue Code of 1986, as amended by this sec-

1 tion, the amendments made by this section shall
2 apply to reportable events (as defined in such section
3 6048) occurring after the date of the enactment of
4 this Act.

5 (2) GRANTOR TRUST REPORTING.—To the ex-
6 tent related to subsection (b) of such section 6048,
7 the amendments made by this section shall apply to
8 taxable years of United States persons beginning
9 after the date of the enactment of this Act.

10 (3) REPORTING BY UNITED STATES BENE-
11 FIICIARIES.—To the extent related to subsection (c)
12 of such section 6048, the amendments made by this
13 section shall apply to distributions received after the
14 date of the enactment of this Act.

15 **SEC. 10502. MODIFICATIONS OF RULES RELATING TO FOR-**
16 **EIGN TRUSTS HAVING ONE OR MORE UNITED**
17 **STATES BENEFICIARIES.**

18 (a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

19 (1) Paragraph (2) of section 679(a) of the In-
20 ternal Revenue Code of 1986 is amended by striking
21 subparagraph (B) and inserting the following:

22 “(B) TRANSFERS AT FAIR MARKET
23 VALUE.—To any transfer of property to a trust
24 in exchange for consideration of at least the fair
25 market value of the transferred property. For

1 purposes of the preceding sentence, consider-
2 ation other than cash shall be taken into ac-
3 count at its fair market value.”

4 (2) Subsection (a) of section 679 of such Code
5 (relating to foreign trusts having one or more Unit-
6 ed States beneficiaries) is amended by adding at the
7 end the following new paragraph:

8 “(3) CERTAIN OBLIGATIONS NOT TAKEN INTO
9 ACCOUNT UNDER FAIR MARKET VALUE EXCEP-
10 TION.—

11 “(A) IN GENERAL.—In determining wheth-
12 er paragraph (2)(B) applies to any transfer by
13 a person described in clause (ii) or (iii) of sub-
14 paragraph (C), there shall not be taken into ac-
15 count—

16 “(i) any obligation of a person de-
17 scribed in subparagraph (C), and

18 “(ii) to the extent provided in regula-
19 tions, any obligation which is guaranteed
20 by a person described in subparagraph (C).

21 “(B) TREATMENT OF PRINCIPAL PAY-
22 MENTS ON OBLIGATION.—Principal payments
23 by the trust on any obligation referred to in
24 subparagraph (A) shall be taken into account
25 on and after the date of the payment in deter-

1 mining the portion of the trust attributable to
2 the property transferred.

3 “(C) PERSONS DESCRIBED.—The persons
4 described in this subparagraph are—

5 “(i) the trust,

6 “(ii) any grantor or beneficiary of the
7 trust, and

8 “(iii) any person who is related (with-
9 in the meaning of section 643(i)(3)) to any
10 grantor or beneficiary of the trust.”

11 (b) EXEMPTION OF TRANSFERS TO CHARITABLE
12 TRUSTS.—Subsection (a) of section 679 of such Code is
13 amended by striking “section 404(a)(4) or 404A” and in-
14 serting “section 6048(a)(3)(B)(ii)”.

15 (c) OTHER MODIFICATIONS.—Subsection (a) of sec-
16 tion 679 of such Code is amended by adding at the end
17 the following new paragraphs:

18 “(4) SPECIAL RULES APPLICABLE TO FOREIGN
19 GRANTOR WHO LATER BECOMES A UNITED STATES
20 PERSON.—

21 “(A) IN GENERAL.—If a nonresident alien
22 individual has a residency starting date within
23 5 years after directly or indirectly transferring
24 property to a foreign trust, this section and sec-
25 tion 6048 shall be applied as if such individual

1 transferred to such trust on the residency start-
2 ing date an amount equal to the portion of such
3 trust attributable to the property transferred by
4 such individual to such trust in such transfer.

5 “(B) TREATMENT OF UNDISTRIBUTED IN-
6 COME.—For purposes of this section, undistrib-
7 uted net income for periods before such individ-
8 ual’s residency starting date shall be taken into
9 account in determining the portion of the trust
10 which is attributable to property transferred by
11 such individual to such trust but shall not oth-
12 erwise be taken into account.

13 “(C) RESIDENCY STARTING DATE.—For
14 purposes of this paragraph, an individual’s resi-
15 dency starting date is the residency starting
16 date determined under section 7701(b)(2)(A).

17 “(5) OUTBOUND TRUST MIGRATIONS.—If—

18 “(A) an individual who is a citizen or resi-
19 dent of the United States transferred property
20 to a trust which was not a foreign trust, and

21 “(B) such trust becomes a foreign trust
22 while such individual is alive,

23 then this section and section 6048 shall be applied
24 as if such individual transferred to such trust on the
25 date such trust becomes a foreign trust an amount

1 equal to the portion of such trust attributable to the
2 property previously transferred by such individual to
3 such trust. A rule similar to the rule of paragraph
4 (4)(B) shall apply for purposes of this paragraph.”

5 (d) MODIFICATIONS RELATING TO WHETHER TRUST
6 HAS UNITED STATES BENEFICIARIES.—Subsection (c) of
7 section 679 of such Code is amended by adding at the
8 end the following new paragraphs:

9 “(3) CERTAIN UNITED STATES BENEFICIARIES
10 DISREGARDED.—A beneficiary shall not be treated
11 as a United States person in applying this section
12 with respect to any transfer of property to foreign
13 trust if such beneficiary first became a United
14 States person more than 5 years after the date of
15 such transfer.

16 “(4) TREATMENT OF FORMER UNITED STATES
17 PERSONS.—To the extent provided by the Secretary,
18 for purposes of this subsection, the term ‘United
19 States person’ includes any person who was a
20 United States person at any time during the exist-
21 ence of the trust.”

22 (e) TECHNICAL AMENDMENT.—Subparagraph (A) of
23 section 679(c)(2) of such Code is amended to read as fol-
24 lows:

1 “(A) in the case of a foreign corporation,
2 such corporation is a controlled foreign corpora-
3 tion (as defined in section 957(a)),”.

4 (f) REGULATIONS.—Section 679 of such Code is
5 amended by adding at the end the following new sub-
6 section:

7 “(d) REGULATIONS.—The Secretary shall prescribe
8 such regulations as may be necessary or appropriate to
9 carry out the purposes of this section.”

10 (g) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to transfers of property after Feb-
12 ruary 6, 1995.

13 **SEC. 10503. FOREIGN PERSONS NOT TO BE TREATED AS**
14 **OWNERS UNDER GRANTOR TRUST RULES.**

15 (a) GENERAL RULE.—

16 (1) Subsection (f) of section 672 of the Internal
17 Revenue Code of 1986 (relating to special rule where
18 grantor is foreign person) is amended to read as fol-
19 lows:

20 “(f) SUBPART NOT TO RESULT IN FOREIGN OWNER-
21 SHIP.—

22 “(1) IN GENERAL.—Notwithstanding any other
23 provision of this subpart, this subpart shall apply
24 only to the extent such application results in an
25 amount being currently taken into account (directly

1 or through 1 or more entities) under this chapter in
2 computing the income of a citizen or resident of the
3 United States or a domestic corporation.

4 “(2) EXCEPTIONS.—

5 “(A) CERTAIN REVOCABLE AND IRREV-
6 OCABLE TRUSTS.—

7 “(i) IN GENERAL.—Except as pro-
8 vided in clause (ii), paragraph (1) shall not
9 apply to any trust if—

10 “(I) the power to revest abso-
11 lutely in the grantor title to the trust
12 property is exercisable solely by the
13 grantor without the approval or con-
14 sent of any other person or with the
15 consent of a related or subordinate
16 party who is subservient to the grant-
17 or, or

18 “(II) the only amounts distribut-
19 able from such trust (whether income
20 or corpus) during the lifetime of the
21 grantor are amounts distributable to
22 the grantor or the spouse of the
23 grantor.

24 “(ii) EXCEPTION.—Clause (i) shall
25 not apply to any trust which has a bene-

1 fiary who is a United States person to
2 the extent such beneficiary has made
3 transfers of property by gift (directly or in-
4 directly) to a foreign person who is the
5 grantor of such trust. For purposes of the
6 preceding sentence, any gift shall not be
7 taken into account to the extent such gift
8 is excluded from taxable gifts under sec-
9 tion 2503(b).

10 “(B) COMPENSATORY TRUSTS.—Except as
11 provided in regulations, paragraph (1) shall not
12 apply to any portion of a trust distributions
13 from which are taxable as compensation for
14 services rendered.

15 “(3) SPECIAL RULES.—Except as otherwise
16 provided in regulations prescribed by the Sec-
17 retary—

18 “(A) a controlled foreign corporation (as
19 defined in section 957) shall be treated as a do-
20 mestic corporation for purposes of paragraph
21 (1), and

22 “(B) paragraph (1) shall not apply for
23 purposes of applying part III of subchapter G
24 (relating to foreign personal holding companies)
25 and part VI of subchapter P (relating to treat-

1 ment of certain passive foreign investment com-
2 panies).

3 “(4) RECHARACTERIZATION OF PURPORTED
4 GIFTS.—In the case of any transfer directly or indi-
5 rectly from a partnership or foreign corporation
6 which the transferee treats as a gift or bequest, the
7 Secretary may recharacterize such transfer in such
8 circumstances as the Secretary determines to be ap-
9 propriate to prevent the avoidance of the purposes of
10 this subsection.

11 “(5) REGULATIONS.—The Secretary shall pre-
12 scribe such regulations as may be necessary or ap-
13 propriate to carry out the purposes of this sub-
14 section, including regulations providing that para-
15 graph (1) shall not apply in appropriate cases.”

16 (2) The last sentence of subsection (c) of sec-
17 tion 672 of such Code is amended by inserting “sub-
18 section (f) and” before “sections 674”.

19 (b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of
20 section 665(d) of such Code is amended by adding at the
21 end the following new sentence: “Under rules or regula-
22 tions prescribed by the Secretary, in the case of any for-
23 eign trust of which the settlor or another person would
24 be treated as owner of any portion of the trust under sub-
25 part E but for section 672(f), the term ‘taxes imposed on

1 the trust' includes the allocable amount of any income,
2 war profits, and excess profits taxes imposed by any for-
3 eign country or possession of the United States on the
4 settlor or such other person in respect of trust gross in-
5 come.”

6 (c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS
7 THROUGH NOMINEES.—

8 (1) Section 643 of such Code is amended by
9 adding at the end the following new subsection:

10 “(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS
11 THROUGH NOMINEES.—For purposes of this part, any
12 amount paid to a United States person which is derived
13 directly or indirectly from a foreign trust of which the
14 payor is not the grantor shall be deemed in the year of
15 payment to have been directly paid by the foreign trust
16 to such United States person.”

17 (2) Section 665 of such Code is amended by
18 striking subsection (c).

19 (d) EFFECTIVE DATE.—

20 (1) IN GENERAL.—Except as provided by para-
21 graph (2), the amendments made by this section
22 shall take effect on the date of the enactment of this
23 Act.

1 (2) EXCEPTION FOR CERTAIN TRUSTS.—The
2 amendments made by this section shall not apply to
3 any trust—

4 (A) which is treated as owned by the
5 grantor or another person under section 676 or
6 677 (other than subsection (a)(3) thereof) of
7 the Internal Revenue Code of 1986, and

8 (B) which is in existence on September 19,
9 1995.

10 The preceding sentence shall not apply to the por-
11 tion of any such trust attributable to any transfer to
12 such trust after September 19, 1995.

13 (e) TRANSITIONAL RULE.—If—

14 (1) by reason of the amendments made by this
15 section, any person other than a United States per-
16 son ceases to be treated as the owner of a portion
17 of a domestic trust, and

18 (2) before January 1, 1997, such trust becomes
19 a foreign trust, or the assets of such trust are trans-
20 ferred to a foreign trust,

21 no tax shall be imposed by section 1491 of the Internal
22 Revenue Code of 1986 by reason of such trust becoming
23 a foreign trust or the assets of such trust being trans-
24 ferred to a foreign trust.

1 **SEC. 10504. INFORMATION REPORTING REGARDING FOR-**
2 **EIGN GIFTS.**

3 (a) IN GENERAL.—Subpart A of part III of sub-
4 chapter A of chapter 61 of the Internal Revenue Code of
5 1986 is amended by inserting after section 6039E the fol-
6 lowing new section:

7 **“SEC. 6039F. NOTICE OF GIFTS RECEIVED FROM FOREIGN**
8 **PERSONS.**

9 “(a) IN GENERAL.—If the value of the aggregate for-
10 eign gifts received by a United States person (other than
11 an organization described in section 501(c) and exempt
12 from tax under section 501(a)) during any taxable year
13 exceeds \$10,000, such United States person shall furnish
14 (at such time and in such manner as the Secretary shall
15 prescribe) such information as the Secretary may pre-
16 scribe regarding each foreign gift received during such
17 year.

18 “(b) FOREIGN GIFT.—For purposes of this section,
19 the term ‘foreign gift’ means any amount received from
20 a person other than a United States person which the re-
21 cipient treats as a gift or bequest. Such term shall not
22 include any qualified transfer (within the meaning of sec-
23 tion 2503(e)(2)).

24 “(c) PENALTY FOR FAILURE TO FILE INFORMA-
25 TION.—

1 “(1) IN GENERAL.—If a United States person
2 fails to furnish the information required by sub-
3 section (a) with respect to any foreign gift within
4 the time prescribed therefor (including extensions)—

5 “(A) the tax consequences of the receipt of
6 such gift shall be determined by the Secretary
7 in the Secretary’s sole discretion from the Sec-
8 retary’s own knowledge or from such informa-
9 tion as the Secretary may obtain through testi-
10 mony or otherwise, and

11 “(B) such United States person shall pay
12 (upon notice and demand by the Secretary and
13 in the same manner as tax) an amount equal to
14 5 percent of the amount of such foreign gift for
15 each month for which the failure continues (not
16 to exceed 25 percent of such amount in the ag-
17 gregate).

18 “(2) REASONABLE CAUSE EXCEPTION.—Para-
19 graph (1) shall not apply to any failure to report a
20 foreign gift if the United States person shows that
21 the failure is due to reasonable cause and not due
22 to willful neglect.

23 “(d) REGULATIONS.—The Secretary shall prescribe
24 such regulations as may be necessary or appropriate to
25 carry out the purposes of this section.”

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for such subpart is amended by inserting after the item
3 relating to section 6039E the following new item:

“Sec. 6039F. Notice of large gifts received from foreign persons.”

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to amounts received after the date
6 of the enactment of this Act in taxable years ending after
7 such date.

8 **SEC. 10505. MODIFICATION OF RULES RELATING TO FOR-**
9 **EIGN TRUSTS WHICH ARE NOT GRANTOR**
10 **TRUSTS.**

11 (a) MODIFICATION OF INTEREST CHARGE ON ACCU-
12 MULATION DISTRIBUTIONS.—Subsection (a) of section
13 668 of the Internal Revenue Code of 1986 (relating to
14 interest charge on accumulation distributions from foreign
15 trusts) is amended to read as follows:

16 “(a) GENERAL RULE.—For purposes of the tax de-
17 termined under section 667(a)—

18 “(1) INTEREST DETERMINED USING
19 UNDERPAYMENT RATES.—The interest charge deter-
20 mined under this section with respect to any dis-
21 tribution is the amount of interest which would be
22 determined on the partial tax computed under sec-
23 tion 667(b) for the period described in paragraph
24 (2) using the rates and the method under section
25 6621 applicable to underpayments of tax.

1 “(2) PERIOD.—For purposes of paragraph (1),
2 the period described in this paragraph is the period
3 which begins on the date which is the applicable
4 number of years before the date of the distribution
5 and which ends on the date of the distribution.

6 “(3) APPLICABLE NUMBER OF YEARS.—For
7 purposes of paragraph (2)—

8 “(A) IN GENERAL.—The applicable num-
9 ber of years with respect to a distribution is the
10 number determined by dividing—

11 “(i) the sum of the products described
12 in subparagraph (B) with respect to each
13 undistributed income year, by

14 “(ii) the aggregate undistributed net
15 income.

16 The quotient determined under the preceding
17 sentence shall be rounded under procedures
18 prescribed by the Secretary.

19 “(B) PRODUCT DESCRIBED.—For pur-
20 poses of subparagraph (A), the product de-
21 scribed in this subparagraph with respect to
22 any undistributed income year is the product
23 of—

24 “(i) the undistributed net income for
25 such year, and

1 “(ii) the sum of the number of taxable
2 years between such year and the taxable
3 year of the distribution (counting in each
4 case the undistributed income year but not
5 counting the taxable year of the distribu-
6 tion).

7 “(4) **UNDISTRIBUTED INCOME YEAR.**—For pur-
8 poses of this subsection, the term ‘undistributed in-
9 come year’ means any prior taxable year of the trust
10 for which there is undistributed net income, other
11 than a taxable year during all of which the bene-
12 ficiary receiving the distribution was not a citizen or
13 resident of the United States.

14 “(5) **DETERMINATION OF UNDISTRIBUTED NET**
15 **INCOME.**—Notwithstanding section 666, for pur-
16 poses of this subsection, an accumulation distribu-
17 tion from the trust shall be treated as reducing pro-
18 portionately the undistributed net income for prior
19 taxable years.

20 “(6) **PERIODS BEFORE 1996.**—Interest for the
21 portion of the period described in paragraph (2)
22 which occurs before January 1, 1996, shall be deter-
23 mined—

24 “(A) by using an interest rate of 6 percent,
25 and

1 “(B) without compounding until January
2 1, 1996.”

3 (b) ABUSIVE TRANSACTIONS.—Section 643(a) of
4 such Code is amended by inserting after paragraph (6)
5 the following new paragraph:

6 “(7) ABUSIVE TRANSACTIONS.—The Secretary
7 shall prescribe such regulations as may be necessary
8 or appropriate to carry out the purposes of this part,
9 including regulations to prevent avoidance of such
10 purposes.”

11 (c) TREATMENT OF USE OF TRUST PROPERTY.—

12 (1) IN GENERAL.—Section 643 of such Code
13 (relating to definitions applicable to subparts A, B,
14 C, and D) is amended by adding at the end the fol-
15 lowing new subsection:

16 “(i) USE OF FOREIGN TRUST PROPERTY.—For pur-
17 poses of subparts B, C, and D—

18 “(1) GENERAL RULE.—If a foreign trust makes
19 a loan of cash or marketable securities directly or in-
20 directly to—

21 “(A) any grantor or beneficiary of such
22 trust who is a United States person, or

23 “(B) any United States person not de-
24 scribed in subparagraph (A) who is related to
25 such grantor or beneficiary,

1 the amount of such loan shall be treated as a dis-
2 tribution by such trust to such grantor or bene-
3 ficiary (as the case may be).

4 “(2) USE OF OTHER PROPERTY.—Except as
5 provided in regulations prescribed by the Secretary,
6 any direct or indirect use of trust property (other
7 than cash or marketable securities) by a person re-
8 ferred to in subparagraph (A) or (B) of paragraph
9 (1) shall be treated as a distribution to the grantor
10 or beneficiary (as the case may be) equal to the fair
11 market value of the use of such property. The Sec-
12 retary may prescribe regulations treating a loan
13 guarantee by the trust as a use of trust property
14 equal to the value of the guarantee.

15 “(3) DEFINITIONS AND SPECIAL RULES.—For
16 purposes of this subsection—

17 “(A) CASH.—The term ‘cash’ includes for-
18 eign currencies and cash equivalents.

19 “(B) RELATED PERSON.—

20 “(i) IN GENERAL.—A person is relat-
21 ed to another person if the relationship be-
22 tween such persons would result in a dis-
23 allowance of losses under section 267 or
24 707(b). In applying section 267 for pur-
25 poses of the preceding sentence, section

1 267(c)(4) shall be applied as if the family
2 of an individual includes the spouses of the
3 members of the family.

4 “(ii) ALLOCATION OF USE.—If any
5 person described in paragraph (1)(B) is re-
6 lated to more than one person, the grantor
7 or beneficiary to whom the treatment
8 under this subsection applies shall be de-
9 termined under regulations prescribed by
10 the Secretary.

11 “(C) EXCLUSION OF TAX-EXEMPTS.—The
12 term ‘United States person’ does not include
13 any entity exempt from tax under this chapter.

14 “(D) TRUST NOT TREATED AS SIMPLE
15 TRUST.—Any trust which is treated under this
16 subsection as making a distribution shall be
17 treated as not described in section 651.

18 “(4) SUBSEQUENT TRANSACTIONS REGARDING
19 LOAN PRINCIPAL.—If any loan is taken into account
20 under paragraph (1), any subsequent transaction be-
21 tween the trust and the original borrower regarding
22 the principal of the loan (by way of complete or par-
23 tial repayment, satisfaction, cancellation, discharge,
24 or otherwise) shall be disregarded for purposes of
25 this title.”

1 (2) TECHNICAL AMENDMENT.—Paragraph (8)
2 of section 7872(f) of such Code is amended by in-
3 sserting “, 643(i),” before “or 1274” each place it
4 appears.

5 (d) EFFECTIVE DATES.—

6 (1) INTEREST CHARGE.—The amendment made
7 by subsection (a) shall apply to distributions after
8 the date of the enactment of this Act.

9 (2) ABUSIVE TRANSACTIONS.—The amendment
10 made by subsection (b) shall take effect on the date
11 of the enactment of this Act.

12 (3) USE OF TRUST PROPERTY.—The amend-
13 ment made by subsection (c) shall apply to—

14 (A) loans of cash or marketable securities
15 after September 19, 1995, and

16 (B) uses of other trust property after De-
17 cember 31, 1995.

18 **SEC. 10506. RESIDENCE OF ESTATES AND TRUSTS, ETC.**

19 (a) TREATMENT AS UNITED STATES PERSON.—

20 (1) IN GENERAL.—Paragraph (30) of section
21 7701(a) of the Internal Revenue Code of 1986 is
22 amended by striking subparagraph (D) and by in-
23 sserting after subparagraph (C) the following:

24 “(D) any estate or trust if—

1 “(i) a court within the United States
2 is able to exercise primary supervision over
3 the administration of the estate or trust,
4 and

5 “(ii) in the case of a trust, one or
6 more United States fiduciaries have the
7 authority to control all substantial deci-
8 sions of the trust.”

9 (2) CONFORMING AMENDMENT.—Paragraph
10 (31) of section 7701(a) of such Code is amended to
11 read as follows:

12 “(31) FOREIGN ESTATE OR TRUST.—The term
13 ‘foreign estate’ or ‘foreign trust’ means any estate or
14 trust other than an estate or trust described in sec-
15 tion 7701(a)(30)(D).”

16 (3) EFFECTIVE DATE.—The amendments made
17 by this subsection shall apply—

18 (A) to taxable years beginning after De-
19 cember 31, 1996, or

20 (B) at the election of the trustee of a
21 trust, to taxable years ending after the date of
22 the enactment of this Act.

23 Such an election, once made, shall be irrevocable.

24 (b) DOMESTIC TRUSTS WHICH BECOME FOREIGN
25 TRUSTS.—

1 Puerto Rico and possession tax credit) is amended by re-
2 designating subparagraphs (B) and (C) as subparagraphs
3 (C) and (D), respectively, and by striking subparagraph
4 (A) and inserting the following new subsections:

5 “(A) CREDIT FOR ACTIVE BUSINESS IN-
6 COME.—The amount of the credit determined
7 under paragraph (1)(A) for any taxable year
8 shall not exceed 60 percent of the aggregate
9 amount of the possession corporation’s qualified
10 possession wages for such taxable year.

11 “(B) CREDIT FOR INVESTMENT INCOME.—

12 “(i) IN GENERAL.—If—

13 “(I) the QPSII assets of the pos-
14 session corporation for any taxable
15 year, exceed

16 “(II) 80 percent of such posses-
17 sion corporation’s qualified tangible
18 business investment for such taxable
19 year,

20 the credit determined under paragraph
21 (1)(B) for such taxable year shall be re-
22 duced by the amount determined under
23 clause (ii).

24 “(ii) AMOUNT OF REDUCTION.—The
25 reduction determined under this clause for

1 any taxable year is an amount which bears
 2 the same ratio to the credit determined
 3 under paragraph (1)(B) for such taxable
 4 year (determined without regard to this
 5 subparagraph) as—

6 “(I) the excess determined under
 7 clause (i), bears to

8 “(II) the QPSII assets of the
 9 possession corporation for such tax-
 10 able year.”

11 (b) PHASEDOWN OF CREDIT.—The table contained
 12 in clause (ii) of section 936(a)(4)(C) of such Code, as re-
 13 designated by subsection (a), is amended to read as fol-
 14 lows:

“In the case of taxable years beginning in:	The percentage is:
1994	60
1995	55
1996	40
1997	20
1998 and thereafter	0.”

15 (c) DEFINITIONS AND SPECIAL RULES.—Subsection
 16 (i) of section 936 of such Code is amended to read as fol-
 17 lows:

18 “(i) DEFINITIONS AND SPECIAL RULES RELATING
 19 TO LIMITATIONS OF SUBSECTION (a)(4).—

20 “(1) QUALIFIED POSSESSION WAGES.—For
 21 purposes of this section—

1 “(A) IN GENERAL.—The term ‘qualified
2 possession wages’ means wages paid or incurred
3 by the possession corporation during the tax-
4 able year to any employee for services per-
5 formed in a possession of the United States,
6 but only if such services are performed while
7 the principal place of employment of such em-
8 ployee is within such possession.

9 “(B) LIMITATION ON AMOUNT OF WAGES
10 TAKEN INTO ACCOUNT.—

11 “(i) IN GENERAL.—The amount of
12 wages which may be taken into account
13 under subparagraph (A) with respect to
14 any employee for any taxable year shall
15 not exceed the contribution and benefit
16 base determined under section 230 of the
17 Social Security Act for the calendar year
18 in which such taxable year begins.

19 “(ii) TREATMENT OF PART-TIME EM-
20 PLOYEES, ETC.—If—

21 “(I) any employee is not em-
22 ployed by the possession corporation
23 on a substantially full-time basis at all
24 times during the taxable year, or

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1 “(II) the principal place of em-
2 ployment of any employee with the
3 possession corporation is not within a
4 possession at all times during the tax-
5 able year,

6 the limitation applicable under clause (i)
7 with respect to such employee shall be the
8 appropriate portion (as determined by the
9 Secretary) of the limitation which would
10 otherwise be in effect under clause (i).

11 “(C) TREATMENT OF CERTAIN EMPLOY-
12 EES.—The term ‘qualified possession wages’
13 shall not include any wages paid to employees
14 who are assigned by the employer to perform
15 services for another person, unless the principal
16 trade or business of the employer is to make
17 employees available for temporary periods to
18 other persons in return for compensation. All
19 possession corporations treated as 1 corporation
20 under paragraph (4) shall be treated as 1 em-
21 ployer for purposes of the preceding sentence.

22 “(D) WAGES.—

23 “(i) IN GENERAL.—Except as pro-
24 vided in clause (ii), the term ‘wages’ has
25 the meaning given to such term by sub-

1 section (b) of section 3306 (determined
2 without regard to any dollar limitation
3 contained in such section). For purposes of
4 the preceding sentence, such subsection (b)
5 shall be applied as if the term ‘United
6 States’ included all possessions of the
7 United States.

8 “(ii) SPECIAL RULE FOR AGRICUL-
9 TURAL LABOR AND RAILWAY LABOR.—In
10 any case to which subparagraph (A) or (B)
11 of paragraph (1) of section 51(h) applies,
12 the term ‘wages’ has the meaning given to
13 such term by section 51(h)(2).

14 “(2) QPSII ASSETS.—For purposes of this sec-
15 tion—

16 “(A) IN GENERAL.—The QPSII assets of a
17 possession corporation for any taxable year is
18 the average of the amounts of the possession
19 corporation’s qualified investment assets as of
20 the close of each quarter of such taxable year.

21 “(B) QUALIFIED INVESTMENT ASSETS.—
22 The term ‘qualified investment assets’ means
23 the aggregate adjusted bases of the assets
24 which are held by the possession corporation
25 and the income from which qualifies as quali-

1 fied possession source investment income. For
2 purposes of the preceding sentence, the ad-
3 justed basis of any asset shall be its adjusted
4 basis as determined for purposes of computing
5 earnings and profits.

6 “(3) QUALIFIED TANGIBLE BUSINESS INVEST-
7 MENT.—For purposes of this section—

8 “(A) IN GENERAL.—The qualified tangible
9 business investment of any possession corpora-
10 tion for any taxable year is the average of the
11 amounts of the possession corporation’s quali-
12 fied possession investments as of the close of
13 each quarter of such taxable year.

14 “(B) QUALIFIED POSSESSION INVEST-
15 MENTS.—The term ‘qualified possession invest-
16 ments’ means the aggregate adjusted bases of
17 tangible property used by the possession cor-
18 poration in a possession of the United States in
19 the active conduct of a trade or business within
20 such possession. For purposes of the preceding
21 sentence, the adjusted basis of any property
22 shall be its adjusted basis as determined for
23 purposes of computing earnings and profits.

24 “(4) RELOCATED BUSINESSES.—

25 “(A) IN GENERAL.—In determining—

1 “(i) the possession corporation’s quali-
2 fied possession wages for any taxable year,
3 and

4 “(ii) the possession corporation’s
5 qualified tangible business investment for
6 such taxable year,

7 there shall be excluded all wages and all quali-
8 fied possession investments which are allocable
9 to a disqualified relocated business.

10 “(B) DISQUALIFIED RELOCATED BUSI-
11 NESS.—For purposes of subparagraph (A), the
12 term ‘disqualified relocated business’ means any
13 trade or business commenced by the possession
14 corporation after October 12, 1995, or any ad-
15 dition after such date to an existing trade or
16 business of such possession corporation un-
17 less—

18 “(i) the possession corporation cer-
19 tifies that the commencement of such trade
20 or business or such addition will not result
21 in a decrease in employment at an existing
22 business operation located in the United
23 States, and

24 “(ii) there is no reason to believe that
25 such commencement or addition was done

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1 with the intention of closing down oper-
2 ations of an existing business located in
3 the United States.

4 “(5) ELECTION TO COMPUTE CREDIT ON CON-
5 SOLIDATED BASIS.—

6 “(A) IN GENERAL.—Any affiliated group
7 may elect to treat all possession corporations
8 which would be members of such group but for
9 section 1504(b)(4) as 1 corporation for pur-
10 poses of this section. The credit determined
11 under this section with respect to such 1 cor-
12 poration shall be allocated among such posses-
13 sion corporations in such manner as the Sec-
14 retary may prescribe.

15 “(B) ELECTION.—An election under sub-
16 paragraph (A) shall apply to the taxable year
17 for which made and all succeeding taxable years
18 unless revoked with the consent of the Sec-
19 retary.

20 “(6) TREATMENT OF CERTAIN TAXES.—Not-
21 withstanding subsection (c), if—

22 “(A) the credit determined under sub-
23 section (a)(1) for any taxable year is limited
24 under subsection (a)(4), and

1 “(B) the possession corporation has paid
2 or accrued any taxes of a possession of the
3 United States for such taxable year which are
4 treated as not being income, war profits, or ex-
5 cess profits taxes paid or accrued to a posses-
6 sion of the United States by reason of sub-
7 section (c), such possession corporation shall be
8 allowed a deduction for such taxable year equal
9 to the portion of such taxes which are allocable
10 (on a pro rata basis) to taxable income of the
11 possession corporation the tax on which is not
12 offset by reason of the limitations of subsection
13 (a)(4). In determining the credit under sub-
14 section (a) and in applying the preceding sen-
15 tence, taxable income shall be determined with-
16 out regard to the preceding sentence.

17 “(7) POSSESSION CORPORATION.—The term
18 ‘possession corporation’ means a domestic corpora-
19 tion for which the election provided in subsection (a)
20 is in effect.”

21 (d) MINIMUM TAX TREATMENT.—Clause (iii) of sec-
22 tion 56(g)(4)(C) of such Code is amended by adding at
23 the end thereof the following subclauses:

24 “(III) SEPARATE APPLICATION
25 OF FOREIGN TAX CREDIT LIMITA-

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1 TIONS.—In determining the alter-
2 native minimum foreign tax credit,
3 section 904(d) shall be applied as if
4 dividends from a corporation eligible
5 for the credit provided by section 936
6 were a separate category of income re-
7 ferred to in a subparagraph of section
8 904(d)(1).

9 “(IV) COORDINATION WITH LIM-
10 TATION ON 936 CREDIT.—Any ref-
11 erence in this clause to a dividend re-
12 ceived from a corporation eligible for
13 the credit provided by section 936
14 shall be treated as a reference to the
15 portion of any such dividend for which
16 the dividends received deduction is
17 disallowed under clause (i) after the
18 application of clause (ii)(I).”

19 (e) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 1995.

1 **TITLE XI—COMMITTEE ON**
2 **VETERANS’ AFFAIRS**

3 **SEC. 11001. SHORT TITLE.**

4 This title may be cited as the “Veterans Reconcili-
5 ation Act of 1995”.

6 **Subtitle A—Permanent Extension**
7 **of Temporary Authorities**

8 **SEC. 11011. AUTHORITY TO REQUIRE THAT CERTAIN VET-**
9 **ERANS AGREE TO MAKE COPAYMENTS IN EX-**
10 **CHANGE FOR RECEIVING HEALTH-CARE BEN-**
11 **EFITS.**

12 Section 8013 of the Omnibus Budget Reconciliation
13 Act of 1990 (38 U.S.C. 1710 note) is amended by striking
14 out subsection (e).

15 **SEC. 11012. MEDICAL CARE COST RECOVERY AUTHORITY.**

16 Section 1729(a)(2)(E) of title 38, United States
17 Code, is amended by striking out “before October 1,
18 1998,”.

19 **SEC. 11013. INCOME VERIFICATION AUTHORITY.**

20 Section 5317 of title 38, United States Code, is
21 amended by striking out subsection (g).

1 **SEC. 11014. LIMITATION ON PENSION FOR CERTAIN RECIPI-**
2 **ENTS OF MEDICAID-COVERED NURSING**
3 **HOME CARE.**

4 Section 5503(f) of title 38, United States Code, is
5 amended by striking out paragraph (7).

6 **SEC. 11015. HOME LOAN FEES.**

7 Section 3729(a) of title 38, United States Code, is
8 amended—

9 (1) in paragraph (4), by striking out “and be-
10 fore October 1, 1998”; and

11 (2) in paragraph (5)(C), by striking out “, and
12 before October 1, 1998”.

13 **SEC. 11016. PROCEDURES APPLICABLE TO LIQUIDATION**
14 **SALES ON DEFAULTED HOME LOANS GUAR-**
15 **ANTEED BY THE DEPARTMENT OF VETERANS**
16 **AFFAIRS.**

17 Section 3732(c)(11) of title 38, United States Code,
18 is amended by striking out paragraph (11).

19 **Subtitle B—Other Matters**

20 **SEC. 11021. REVISED STANDARD FOR LIABILITY FOR INJU-**
21 **RIES RESULTING FROM DEPARTMENT OF**
22 **VETERANS AFFAIRS TREATMENT.**

23 (a) REVISED STANDARD.—Section 1151 of title 38,
24 United States Code, is amended—

25 (1) by designating the second sentence as sub-
26 section (c);

1 (2) by striking out the first sentence and insert-
2 ing in lieu thereof the following:

3 “(a) Compensation under this chapter and depend-
4 ency and indemnity compensation under chapter 13 of this
5 title shall be awarded for a qualifying additional disability
6 of a veteran or the qualifying death of a veteran in the
7 same manner as if such disability or death were service-
8 connected.

9 “(b)(1) For purposes of this section, a disability or
10 death is a qualifying additional disability or a qualifying
11 death only if the disability or death—

12 “(A) was caused by Department health care
13 and was a proximate result of—

14 “(i) negligence on the part of the Depart-
15 ment in furnishing the Department health care;
16 or

17 “(ii) an event not reasonably foreseeable;
18 or

19 “(B) was incurred as a proximate result of the
20 provision of training and rehabilitation services by
21 the Secretary (including by a service-provider used
22 by the Secretary for such purpose under section
23 3115 of this title) as part of an approved rehabilita-
24 tion program under chapter 31 of this title.

1 “(2) For purposes of this section, the term ‘Depart-
2 ment health care’ means hospital care, medical or surgical
3 treatment, or an examination that is furnished under any
4 law administered by the Secretary to a veteran by a De-
5 partment employee or in a Department facility (as defined
6 in section 1701(3)(A) of this title).

7 “(3) A disability or death of a veteran which is the
8 result of the veteran’s willful misconduct is not a qualify-
9 ing disability or death for purposes of this section.”; and
10 (3) by adding at the end the following:

11 “(d) Effective with respect to injuries, aggravations
12 of injuries, and deaths occurring after September 30,
13 2002, a disability or death is a qualifying additional dis-
14 ability or a qualifying death for purposes of this section
15 (notwithstanding the provisions of subsection (b)(1)) if the
16 disability or death—

17 “(1) was the result of Department health care;
18 or

19 “(2) was the result of the pursuit of a course
20 of vocational rehabilitation under chapter 31 of this
21 title.”.

22 (b) CONFORMING AMENDMENTS.—Subsection (c) of
23 such section, as designated by subsection (a)(1), is amend-
24 ed—

1 (1) by striking out “, aggravation,” both places
2 it appears; and

3 (2) by striking out “sentence” and inserting in
4 lieu thereof “subsection”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to any administrative or judicial
7 determination of eligibility for benefits under section 1151
8 of title 38, United States Code, based on a claim that is
9 received by the Secretary on or after October 1, 1995, in-
10 cluding any such determination based on an original appli-
11 cation or an application seeking to reopen, revise, recon-
12 sider, or otherwise readjudicate any claim for benefits
13 under section 1151 of that title or any predecessor provi-
14 sion of law.

15 **SEC. 11022. ENHANCED LOAN ASSET SALE AUTHORITY.**

16 Section 3720(h)(2) of title 38, United States Code,
17 is amended by striking out “December 31, 1995” and in-
18 serting in lieu thereof “September 30, 1996”.

19 **SEC. 11023. WITHHOLDING OF PAYMENTS AND BENEFITS.**

20 (a) NOTICE REQUIRED IN LIEU OF CONSENT OR
21 COURT ORDER.—Section 3726 of title 38, United States
22 Code, is amended by striking out “unless” and all that
23 follows and inserting in lieu thereof the following: “unless
24 the Secretary provides such veteran or surviving spouse
25 with notice by certified mail with return receipt requested

1 of the authority of the Secretary to waive the payment
2 of indebtedness under section 5302(b) of this title. If the
3 Secretary does not waive the entire amount of the liability,
4 the Secretary shall then determine whether the veteran or
5 surviving spouse should be released from liability under
6 section 3713(b) of this title. If the Secretary determines
7 that the veteran or surviving spouse should not be released
8 from liability, the Secretary shall notify the veteran or sur-
9 viving spouse of that determination and provide a notice
10 of the procedure for appealing that determination, unless
11 the Secretary has previously made such determination and
12 notified the veteran or surviving spouse of the procedure
13 for appealing the determination.”.

14 (b) CONFORMING AMENDMENT.—Section 5302(b) of
15 such title is amended by inserting “with return receipt re-
16 quested” after “certified mail”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply with respect to any indebtedness
19 to the United States arising pursuant to chapter 37 of
20 title 38, United States Code, before, on, or after the date
21 of the enactment of this Act.

1 **Subtitle C—Health Care Eligibility**
2 **Reform**

3 **SEC. 11031. HOSPITAL CARE AND MEDICAL SERVICES.**

4 (a) ELIGIBILITY FOR CARE.—Section 1710(a) of title
5 38, United States Code, is amended by striking out para-
6 graphs (1) and (2) and inserting the following:

7 “(a)(1) The Secretary shall, to the extent and in the
8 amount provided in advance in appropriations Acts for
9 these purposes, provide hospital care and medical services,
10 and may provide nursing home care, which the Secretary
11 determines is needed to any veteran—

12 “(A) with a compensable service-connected dis-
13 ability;

14 “(B) whose discharge or release from active
15 military, naval, or air service was for a compensable
16 disability that was incurred or aggravated in the line
17 of duty;

18 “(C) who is in receipt of, or who, but for a sus-
19 pension pursuant to section 1151 of this title (or
20 both a suspension and the receipt of retired pay),
21 would be entitled to disability compensation, but
22 only to the extent that such veteran’s continuing eli-
23 gibility for such care is provided for in the judgment
24 or settlement provided for in such section;

25 “(D) who is a former prisoner of war;

1 “(E) of the Mexican border period or of World
2 War I;

3 “(F) who was exposed to a toxic substance, ra-
4 diation, or environmental hazard, as provided in sub-
5 section (e); and

6 “(G) who is unable to defray the expenses of
7 necessary care as determined under section 1722(a)
8 of this title.

9 “(2) In the case of a veteran who is not described
10 in paragraph (1), the Secretary may, to the extent re-
11 sources and facilities are available and subject to the pro-
12 visions of subsection (f), furnish hospital care, medical
13 services, and nursing home care which the Secretary deter-
14 mines is needed.”.

15 (b) CONFORMING AMENDMENTS.—(1) Section
16 1710(e) of such title is amended—

17 (A) in paragraph (1), by striking out “hospital
18 care and nursing home care” in subparagraphs (A),
19 (B), and (C) and inserting in lieu thereof “hospital
20 care, medical services, and nursing home care”;

21 (B) in paragraph (2), by inserting “and medical
22 services” after “Hospital and nursing home care”;
23 and

1 (C) by striking out “subsection (a)(1)(G) of
2 this section” each place it appears and inserting in
3 lieu thereof “subsection (a)(1)(F)”.

4 (2) Chapter 17 of such title is amended—

5 (A) by redesignating subsection (g) of section
6 1710 as subsection (h); and

7 (B) by transferring subsection (f) of section
8 1712 of such title to section 1710 so as to appear
9 after subsection (f), redesignating such subsection as
10 subsection (g), and amending such subsection by
11 striking out “section 1710(a)(2) of this title” in
12 paragraph (1) and inserting in lieu thereof “sub-
13 section (a)(2) of this section”.

14 (3) Section 1712 of such title is amended—

15 (A) by striking out subsections (a) and (i); and

16 (B) by redesignating subsections (b), (c), (d),
17 (h) and (j), as subsections (a), (b), (c), (d), and (e),
18 respectively.

19 **SEC. 11032. EXTENSION OF AUTHORITY TO PRIORITY**
20 **HEALTH CARE FOR PERSIAN GULF VETER-**
21 **ANS.**

22 Section 1710(e)(3) of title 38, United States Code,
23 is amended by striking out “December 31, 1995” and in-
24 serting in lieu thereof “December 31, 1998”.

1 **SEC. 11033. PROSTHETICS.**

2 (a) ELIGIBILITY FOR PROSTHETICS.—Section
3 1701(6)(A)(i) of title 38, United States Code, is amend-
4 ed—

5 (1) by striking out “(in the case of a person
6 otherwise receiving care or services under this chap-
7 ter)” and “(except under the conditions described in
8 section 1712(a)(5)(A) of this title),”;

9 (2) by inserting “(in the case of a person other-
10 wise receiving care or services under this chapter)”
11 before “wheelchairs,”; and

12 (3) by inserting “except that the Secretary may
13 not furnish sensori-neural aids other than in accord-
14 ance with guidelines which the Secretary shall pre-
15 scribe,” after “reasonable and necessary,”.

16 (b) REGULATIONS.—Not later than 30 days after the
17 date of the enactment of this Act, the Secretary of Veter-
18 ans Affairs shall prescribe the guidelines required by the
19 amendments made by subsection (a) and shall furnish a
20 copy of those guidelines to the Committees on Veterans’
21 Affairs of the Senate and House of Representatives.

22 **SEC. 11034. MANAGEMENT OF HEALTH CARE.**

23 (a) IN GENERAL.—(1) Chapter 17 of title 38, United
24 States Code, is amended by inserting after section 1704
25 the following new sections:

1 **“§ 1705. Management of health care: patient enroll-**
2 **ment system**

3 “(a) In managing the provision of hospital care and
4 medical services under section 1710(a)(1) of this title, the
5 Secretary, in accordance with regulations the Secretary
6 shall prescribe, shall establish and operate a system of an-
7 nual patient enrollment. The Secretary shall manage the
8 enrollment of veterans in accordance with the following
9 priorities, in the order listed:

10 “(1) Veterans with service-connected disabilities
11 rated 30 percent or greater.

12 “(2) Veterans who are former prisoners of war
13 and veterans with service connected disabilities rated
14 10 percent or 20 percent.

15 “(3) Veterans who are in receipt of increased
16 pension based on a need of regular aid and attend-
17 ance or by reason of being permanently housebound
18 and other veterans who are catastrophically disabled.

19 “(4) Veterans not covered by paragraphs (1)
20 through (3) who are unable to defray the expenses
21 of necessary care as determined under section
22 1722(a) of this title.

23 “(5) All other veterans eligible for hospital care,
24 medical services, and nursing home care under sec-
25 tion 1710(a)(1) of this title.

1 “(b) In the design of an enrollment system under
2 subsection (a), the Secretary—

3 “(1) shall ensure that the system will be man-
4 aged in a manner to ensure that the provision of
5 care to enrollees is timely and acceptable in quality;

6 “(2) may establish additional priorities within
7 each priority group specified in subsection (a), as
8 the Secretary determines necessary; and

9 “(3) may provide for exceptions to the specified
10 priorities where dictated by compelling medical rea-
11 sons.

12 **“§ 1706. Management of health care: other require-**
13 **ments**

14 “(a) In managing the provision of hospital care and
15 medical services under section 1710(a) of this title, the
16 Secretary shall, to the extent feasible, design, establish
17 and manage health care programs in such a manner as
18 to promote cost-effective delivery of health care services
19 in the most clinically appropriate setting.

20 “(b) In managing the provision of hospital care and
21 medical services under section 1710(a) of this title, the
22 Secretary—

23 “(1) may contract for hospital care and medical
24 services when Department facilities are not capable

1 of furnishing such care and services economically,
2 and

3 “(2) shall make such rules and regulations re-
4 garding acquisition procedures or policies as the Sec-
5 retary considers appropriate to provide such needed
6 care and services.

7 “(c) In managing the provision of hospital care and
8 medical services under section 1710(a) of this title, the
9 Secretary shall ensure that the Department maintains its
10 capacity to provide for the specialized treatment and reha-
11 bilitative needs of disabled veterans described in section
12 1710(a) of this title (including veterans with spinal cord
13 dysfunction, blindness, amputations, and mental illness)
14 within distinct programs or facilities of the Department
15 that are dedicated to the specialized needs of those veter-
16 ans in a manner that (1) affords those veterans reasonable
17 access to care and services for those specialized needs, and
18 (2) ensures that overall capacity of the Department to pro-
19 vide such services is not reduced below the capacity of the
20 Department, nationwide, to provide those services, as of
21 the date of the enactment of this section.

22 “(d) In managing the provision of hospital care and
23 medical services under section 1710(a) of this title, the
24 Secretary shall ensure that any veteran with a service-con-
25 nected disability is provided all benefits under this chapter

1 for which that veteran was eligible before the date of the
2 enactment of this section.”.

3 (2) The table of sections at the beginning of chapter
4 17 of such title is amended by inserting after the item
5 relating to section 1704 the following new items:

“1705. Management of health care: patient enrollment system.
“1706. Management of health care: other requirements.”.

6 (b) CONFORMING AMENDMENTS TO SECTION
7 1703.—(1) Section 1703 of such title is amended—

8 (A) by striking out subsections (a) and (b); and

9 (B) in subsection (c) by—

10 (i) striking out “(c)”, and

11 (ii) striking out “this section, sections”

12 and inserting in lieu thereof “sections 1710,”.

13 (2)(A) The heading of such section is amended to
14 read as follows:

15 **“§1703. Annual report on furnishing of care and**
16 **services by contract”.**

17 (B) The item relating to such section in the table of
18 sections at the beginning of chapter 17 of such title is
19 amended to read as follows:

“1703. Annual report on furnishing of care and services by contract.”.

1 **SEC. 11035. IMPROVED EFFICIENCY IN HEALTH CARE RE-**
2 **SOURCE MANAGEMENT.**

3 (a) REPEAL OF SUNSET PROVISION.—Section 204 of
4 the Veterans Health Care Act of 1992 (Public Law 102-
5 585; 106 Stat. 4950) is repealed.

6 (b) COST RECOVERY.—Title II of such Act is further
7 amended by adding at the end the following new section:

8 **“SEC. 207. AUTHORITY TO BILL HEALTH-PLAN CONTRACTS.**

9 “(a) RIGHT TO RECOVER.—In the case of a primary
10 beneficiary (as described in section 201(2)(B)) who has
11 coverage under a health-plan contract, as defined in sec-
12 tion 1729(i)(1)(A) of title 38, United States Code, and
13 who is furnished care or services by a Department medical
14 facility pursuant to this title, the United States shall have
15 the right to recover or collect charges for such care or
16 services from such health-plan contract to the extent that
17 the beneficiary (or the provider of the care or services)
18 would be eligible to receive payment for such care or serv-
19 ices from such health-plan contract if the care or services
20 had not been furnished by a department or agency of the
21 United States. Any funds received from such health-plan
22 contract shall be credited to funds that have been allotted
23 to the facility that furnished the care or services.

24 “(b) ENFORCEMENT.—The right of the United
25 States to recover under such a beneficiary’s health-plan
26 contract shall be enforceable in the same manner as that

1 provided by subsections (a)(3), (b), (c)(1), (d), (f), (h),
2 and (i) of section 1729 of title 38, United States Code.”.

3 **SEC. 11036. SHARING AGREEMENTS FOR SPECIALIZED MED-**
4 **ICAL RESOURCES.**

5 (a) REPEAL OF SECTION 8151.—(1) Subchapter IV
6 of chapter 81 of title 38, United States Code, is amend-
7 ed—

8 (A) by striking out section 8151; and

9 (B) by redesignating sections 8152, 8153,
10 8154, 8155, 8156, 8157, and 8158 as sections 8151,
11 8152, 8153, 8154, 8155, 8156, and 8157, respec-
12 tively.

13 (2) The table of sections at the beginning of chapter
14 81 is amended—

15 (A) by striking out the item relating to section
16 8151; and

17 (B) by revising the items relating to sections
18 8152, 8153, 8154, 8155, 8156, 8157, and 8158 to
19 reflect the redesignations by paragraph (1)(B).

20 (b) REVISED AUTHORITY FOR SHARING AGREE-
21 MENTS.—Section 8152 of such title, as redesignated by
22 subsection (a)(1)(B), is amended—

23 (1) in subsection (a)(1)(A)—

1 (A) by striking out “specialized medical re-
2 sources” and inserting in lieu thereof “health-
3 care resources”; and

4 (B) by striking out “other” and all that
5 follows through “medical schools” and inserting
6 in lieu thereof “any medical school, health-care
7 provider, health-care plan, insurer, or other en-
8 tity or individual”;

9 (2) in subsection (a)(2) by striking out “only”
10 and all that follows through “are not” and inserting
11 in lieu thereof “if such resources are not, or would
12 not be,”;

13 (3) in subsection (b), by striking out “reciprocal
14 reimbursement” in the first sentence and all that
15 follows through the period at the end of that sen-
16 tence and inserting in lieu thereof “payment to the
17 Department in accordance with procedures that pro-
18 vide appropriate flexibility to negotiate payment
19 which is in the best interest of the Government.”;

20 (4) in subsection (d), by striking out “preclude
21 such payment, in accordance with—” and all that
22 follows through “to such facility therefor” and in-
23 serting in lieu thereof “preclude such payment to
24 such facility for such care or services”;

1 (5) by redesignating subsection (e) as sub-
2 section (f); and

3 (6) by inserting after subsection (d) the follow-
4 ing new subsection (e):

5 “(e) The Secretary may make an arrangement that
6 authorizes the furnishing of services by the Secretary
7 under this section to individuals who are not veterans only
8 if the Secretary determines—

9 “(1) that such an arrangement will not result
10 in the denial of, or a delay in providing access to,
11 care to any veteran at that facility; and

12 “(2) that such an arrangement—

13 “(A) is necessary to maintain an accept-
14 able level and quality of service to veterans at
15 that facility; or

16 “(B) will result in the improvement of
17 services to eligible veterans at that facility.”.

18 (c) CROSS-REFERENCE AMENDMENTS.—(1) Section
19 8110(c)(3)(A) of such title is amended by striking out
20 “8153” and inserting in lieu thereof “8152”.

21 (2) Subsection (b) of section 8154 of such title (as
22 redesignated by subsection (a)(1)(B)) is amended by strik-
23 ing out “section 8154” and inserting in lieu thereof “sec-
24 tion 8153”.

1 (3) Section 8156 of such title (as redesignated by
2 subsection (a)(1)(B)) is amended—

3 (A) in subsection (a), by striking out “section
4 8153(a)” and inserting in lieu thereof “section
5 8152(a)”; and

6 (B) in subsection (b)(3), by striking out “sec-
7 tion 8153” and inserting in lieu thereof “section
8 8152”.

9 (4) Subsection (a) of section 8157 of such title (as
10 redesignated by subsection (a)(1)(B)) is amended—

11 (A) in the matter preceding paragraph (1), by
12 striking out “section 8157” and “section 8153(a)”
13 and inserting in lieu thereof “section 8156” and
14 “section 8152(a)”, respectively; and

15 (B) in paragraph (1), by striking out “section
16 8157(b)(4)” and inserting in lieu thereof “section
17 8156(b)(4)”.

18 **SEC. 11037. PERSONNEL FURNISHING SHARED RESOURCES.**

19 Section 712(b)(2) of title 38, United States Code, is
20 amended—

21 (1) by striking out “the sum of—” and insert-
22 ing in lieu thereof “the sum of the following:”;

23 (2) by capitalizing the first letter of the first
24 word of each of subparagraphs (A) and (B);

1 (3) by striking out “; and” at the end of sub-
2 paragraph (A) and inserting in lieu thereof a period;
3 and

4 (4) by adding at the end the following:

5 “(C) The number of such positions in the
6 Department during that fiscal year held by per-
7 sons involved in providing health-care resources
8 under section 8111 or 8152 of this title.”.

9 **TITLE XII—LEGISLATIVE**
10 **BRANCH**

11 **SEC. 12101. REQUIREMENT THAT EXCESS FUNDS PROVIDED**
12 **FOR OFFICIAL ALLOWANCES OF MEMBERS**
13 **OF THE HOUSE OF REPRESENTATIVES BE**
14 **DEDICATED TO DEFICIT REDUCTION.**

15 Of the funds made available in any appropriation Act
16 for fiscal year 1996 or any succeeding fiscal year for the
17 official expenses allowance, the clerk hire allowance, or the
18 official mail allowance of a Member of the House of Rep-
19 resentatives, any amount that remains unobligated at the
20 end of such fiscal year shall be transferred to the Deficit
21 Reduction Fund established by Executive Order 12858
22 (58 Fed. Reg. 42185). Any amount so transferred shall
23 be in addition to the amounts specified in section 2(b) of
24 such order, but shall be subject to the requirements and
25 limitations set forth in sections 2(c) and 3 of such order.

1 **TITLE XIII—MISCELLANEOUS**
2 **PROVISIONS**

3 **SEC. 13101. ELIMINATION OF DISPARITY BETWEEN EFFEC-**
4 **TIVE DATES FOR MILITARY AND CIVILIAN RE-**
5 **TIREE COST-OF-LIVING ADJUSTMENTS FOR**
6 **FISCAL YEARS 1996, 1997, AND 1998.**

7 (a) CONFORMANCE WITH SCHEDULE FOR CIVIL
8 SERVICE COLAS.—Subparagraph (B) of section
9 1401a(b)(2) of title 10, United States Code, is amended—

10 (1) by striking out “THROUGH 1998” the first
11 place it appears and all that follows through “In the
12 case of” the second place it appears and inserting in
13 lieu thereof “THROUGH 1996.—In the case of”;

14 (2) by striking “of 1994, 1995, 1996, or 1997”
15 and inserting in lieu thereof “of 1993, 1994, or
16 1995”; and

17 (3) by striking out “September” and inserting
18 in lieu thereof “March”.

19 (b) REPEAL OF PRIOR CONDITIONAL ENACTMENT.—
20 Section 8114A(b) of Public Law 103–335 (108 Stat.
21 2648) is repealed.

1 **SEC. 13102. DISPOSAL OF CERTAIN MATERIALS IN NA-**
2 **TIONAL DEFENSE STOCKPILE FOR DEFICIT**
3 **REDUCTION.**

4 (a) DISPOSALS REQUIRED.—(1) During fiscal year
5 1996, the President shall dispose of all cobalt contained
6 in the National Defense Stockpile that, as the date of the
7 enactment of this Act, is authorized for disposal under any
8 law (other than this Act).

9 (2) In addition to the disposal of cobalt under para-
10 graph (1), the President shall dispose of additional quan-
11 tities of cobalt and quantities of aluminum, ferro colum-
12 bium, germanium, palladium, platinum, and rubber con-
13 tained in the National Defense Stockpile so as to result
14 in receipts to the United States in amounts equal to—

15 (A) \$21,000,000 during the fiscal year ending
16 September 30, 1996;

17 (B) \$338,000,000 during the five-fiscal year pe-
18 riod ending on September 30, 2000; and

19 (C) \$649,000,000 during the seven-fiscal year
20 period ending on September 30, 2002.

21 (3) The President is not required to include the dis-
22 posal of the materials identified in paragraph (2) in an
23 annual materials plan for the National Defense Stockpile.
24 Disposals made under this section may be made without
25 consideration of the requirements of an annual materials
26 plan.

1 (b) LIMITATION ON DISPOSAL QUANTITY.—The total
 2 quantities of materials authorized for disposal by the
 3 President under subsection (a)(2) may not exceed the
 4 amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Aluminum	62,881 short tons
Cobalt	42,482,323 pounds con- tained
Ferro Columbium	930,911 pounds contained
Germanium	68,207 kilograms
Palladium	1,264,601 troy ounces
Platinum	452,641 troy ounces
Rubber	125,138 long tons

5 (c) DEPOSIT OF RECEIPTS.—Notwithstanding sec-
 6 tion 9 of the Strategic and Critical Materials Stock Piling
 7 Act (50 U.S.C. 98h), funds received as a result of the dis-
 8 posal of materials under subsection (a)(2) shall be depos-
 9 ited into the general fund of the Treasury for the purpose
 10 of deficit reduction.

11 (d) RELATIONSHIP TO OTHER DISPOSAL AUTHOR-
 12 ITY.—The disposal authority provided in subsection (a)(2)
 13 is new disposal authority and is in addition to, and shall
 14 not affect, any other disposal authority provided by law
 15 regarding the materials specified in such subsection.

16 (e) TERMINATION OF DISPOSAL AUTHORITY.—The
 17 President may not use the disposal authority provided in
 18 subsection (a)(2) after the date on which the total amount
 19 of receipts specified in subparagraph (C) of such sub-
 20 section is achieved.

1 (f) DEFINITION.—The term “National Defense
2 Stockpile” means the National Defense Stockpile provided
3 for in section 4 of the Strategic and Critical Materials
4 Stock Piling Act (50 U.S.C. 98c).

5 **SEC. 13103. REQUIREMENT THAT CERTAIN AGENCIES**
6 **PREFUND GOVERNMENT HEALTH BENEFITS**
7 **CONTRIBUTIONS FOR THEIR ANNUITANTS.**

8 (a) DEFINITIONS.—For the purpose of this section—

9 (1) the term “agency” means any agency or
10 other instrumentality within the executive branch of
11 the Government, the receipts and disbursements of
12 which are not generally included in the totals of the
13 budget of the United States Government submitted
14 by the President;

15 (2) the term “health benefits plan” means, with
16 respect to an agency, a health benefits plan, estab-
17 lished by or under Federal law, in which employees
18 or annuitants of such agency may participate;

19 (3) the term “health-benefits coverage” means
20 coverage under a health benefits plan;

21 (4) an individual shall be considered to be an
22 “annuitant of an agency” if such individual is enti-
23 tled to an annuity, under a retirement system estab-
24 lished by or under Federal law, by virtue of—

1 (A) such individual's service with, and sep-
2 aration from, such agency; or

3 (B) being the survivor of an annuitant
4 under subparagraph (A) or of an individual who
5 died while employed by such agency; and

6 (5) the term "Office" means the Office of Per-
7 sonnel Management.

8 (b) PREFUNDING REQUIREMENT.—

9 (1) IN GENERAL.—Effective as of October 1,
10 1996, each agency shall be required to prepay the
11 Government contributions which are or will be re-
12 quired in connection with providing health-benefits
13 coverage for annuitants of such agency.

14 (2) REGULATIONS.—The Office shall prescribe
15 such regulations as may be necessary to carry out
16 this section. The regulations shall be designed to en-
17 sure at least the following:

18 (A) Amounts paid by each agency shall be
19 sufficient to cover the amounts which would
20 otherwise be payable by such agency (on a
21 "pay-as-you-go" basis), on or after the applica-
22 ble effective date under paragraph (1), on be-
23 half of—

24 (i) individuals who are annuitants of
25 the agency as of such effective date; and

1 (ii) individuals who are employed by
2 the agency as of such effective date, or
3 who become employed by the agency after
4 such effective date, after such individuals
5 have become annuitants of the agency (in-
6 cluding their survivors).

7 (B)(i) For purposes of determining any
8 amounts payable by an agency—

9 (I) this section shall be treated as if
10 it had taken effect at the beginning of the
11 20-year period which ends on the effective
12 date applicable under paragraph (1) with
13 respect to such agency; and

14 (II) in addition to any amounts pay-
15 able under subparagraph (A), each agency
16 shall also be responsible for paying any
17 amounts for which it would have been re-
18 sponsible, with respect to the 20-year pe-
19 riod described in subclause (I), in connec-
20 tion with any individuals who are annu-
21 itants or employees of the agency as of the
22 applicable effective date under paragraph
23 (1).

24 (ii) Any amounts payable under this sub-
25 paragraph for periods preceding the applicable

1 “(e) APPLICATION OF HAZARDOUS SUBSTANCE
2 SUPERFUND FINANCING RATE.—The Hazardous Sub-
3 stance Superfund financing rate under this section shall
4 apply after December 31, 1986, and before January 1,
5 2003.”

6 (b) EXTENSION OF REPAYMENT DEADLINE FOR
7 SUPERFUND BORROWING.—Subparagraph (B) of section
8 9507(d)(3) of such Code is amended by striking “Decem-
9 ber 31, 1995” and inserting “December 31, 2002”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect on January 1, 1996.

12 **TITLE XIV—BUDGET PROCESS**
13 **PROVISIONS**

14 **CHAPTER 1—SHORT TITLE; PURPOSE**

15 **SEC. 14001. SHORT TITLE.**

16 This title may be cited as the “Balanced Budget En-
17 forcement Act of 1995”.

18 **SEC. 14002. PURPOSE.**

19 The purpose of this title is to enforce a path toward
20 a balanced budget by fiscal year 2002 and to make Fed-
21 eral budget process more honest and open.

22 **CHAPTER 2—BUDGET ESTIMATES**

23 **SEC. 14051. BOARD OF ESTIMATES.**

24 (a) ESTABLISHMENT.—There is established a Board
25 of Estimates.

1 (b) DUTIES OF THE BOARD.—(1) On the dates speci-
2 fied in section 254, the Board shall issue a report to the
3 President and the Congress which states whether it has
4 chosen (with no modification)—

5 (A) the sequestration preview report for the
6 budget year submitted by OMB under section
7 254(d) of the Balanced Budget and Emergency Def-
8 icit Control Act of 1985 or the report for that year
9 submitted by CBO under that section; and

10 (B) the final sequestration report for the budg-
11 et year submitted by OMB under section 254(g) of
12 the Balanced Budget and Emergency Deficit Control
13 Act of 1985 or the report for that year submitted
14 by CBO under that section;

15 that shall be used for purposes of the Balanced Budget
16 and Emergency Deficit Control Act of 1985, chapter 11
17 of title 31, United States Code, and section 403 of the
18 Congressional Budget Act of 1974. In making its choice,
19 the Board shall choose the report that, in its opinion, is
20 the more accurate.

21 (2) At any time the Board may change the list of
22 major estimating assumptions to be used by OMB and
23 CBO in preparing their sequestration preview reports.

24 (c) MEMBERSHIP.—

1 (1) NUMBER AND APPOINTMENT.—The Board
2 shall be composed of 5 members, the chairman of
3 the Board of Governors of the Federal Reserve Sys-
4 tem and 4 other members to be appointed by the
5 President as follows:

6 (A) One from a list of at least 5 individ-
7 uals nominated for such appointment by the
8 Speaker of the House of Representatives.

9 (B) One from a list of at least 5 individ-
10 uals nominated for such appointment by the
11 majority leader of the Senate.

12 (C) One from a list of at least 5 individ-
13 uals nominated for such appointment by the mi-
14 nority leader of the House of Representatives.

15 (D) One from a list of at least 5 individ-
16 uals nominated for such appointment by the mi-
17 nority leader of the Senate.

18 No member appointed by the President may be an
19 officer or employee of any government. A vacancy in
20 the Board shall be filled in the manner in which the
21 original appointment was made.

22 (2) CONTINUATION OF MEMBERSHIP.—If any
23 member of the Board appointed by the President be-
24 comes an officer or employee of a government, he
25 may continue as a member of the Board for not

1 longer than the 30-day period beginning on the date
2 he becomes such an officer or employee.

3 (3) TERMS.—(A) Members shall be appointed
4 for terms of 4 years.

5 (B) Any member appointed to fill a vacancy oc-
6 ccurring before the expiration of the term for which
7 his predecessor was appointed shall be appointed
8 only for the remainder of such term. A member may
9 serve after the expiration of his term until his suc-
10 cessor has taken office.

11 (4) BASIC PAY.—Members of the Board shall
12 serve without pay.

13 (5) QUORUM.—Three members of the Board
14 shall constitute a quorum but a lesser number may
15 hold hearings.

16 (6) CHAIRMAN.—The Chairman of the Board
17 shall be chosen annually by its members.

18 (7) MEETINGS.—The Board shall meet at the
19 call of the Chairman or a majority of its members.

20 (d) DIRECTOR AND STAFF.—

21 (1) APPOINTMENT.—The Board shall have a
22 Director who shall be appointed by the members of
23 the Board. Subject to such rules as may be pre-
24 scribed by the Board, the Director may appoint and

1 fix the pay of such personnel as the Director consid-
2 ers appropriate.

3 (2) APPLICABILITY OF CERTAIN CIVIL SERVICE
4 LAWS.—The Director and staff of the Board may be
5 appointed without regard to the provisions of title 5,
6 United States Code, governing appointments in the
7 competitive service, and may be paid without regard
8 to the provisions of chapter 51 and subchapter III
9 of chapter 53 of such title relating to classification
10 and General Schedule pay rates, except that no indi-
11 vidual so appointed may receive pay in excess of the
12 annual rate of basic pay payable for GS-18 of the
13 General Schedule.

14 (3) STAFF OF FEDERAL AGENCIES.—Upon re-
15 quest of the Board, the head of any Federal agency
16 is authorized to detail, on a reimbursable basis, any
17 of the personnel of such agency to the Board to as-
18 sist the Board in carrying out its duties, notwith-
19 standing section 202(a) of the Legislative Reorga-
20 nization Act of 1946 (2 U.S.C. 72a(a)).

21 (e) POWERS.—

22 (1) HEARINGS AND SESSIONS.—The Board
23 may, for the purpose of carrying out its duties, hold
24 such hearings, sit and act at such times and places,

1 take such testimony, and receive such evidence, as it
2 considers appropriate.

3 (2) OBTAINING OFFICIAL DATA.—The Board
4 may secure directly from any department or agency
5 of the United States information necessary to enable
6 it to carry out its duties. Upon request of the Chair-
7 man of the Board, the head of such department or
8 agency shall furnish such information to the Board.

9 (3) ADMINISTRATIVE SUPPORT SERVICES.—The
10 Administrator of General Services shall provide to
11 the Board on a reimbursable basis such administra-
12 tive support services as the Board may request.

13 (f) DEFINITIONS.—As used in this section:

14 (1) The term “Board” refers to the Board of
15 Estimates established by subsection (a).

16 (2) The term “CBO” refers to the Director of
17 the Congressional Budget Office.

18 (3) The term “OMB” refers to the Director of
19 the Office of Management and Budget.

20 **Subtitle B—Discretionary**
21 **Spending Limits**

22 **SEC. 14101. DISCRETIONARY SPENDING LIMITS.**

23 (a) LIMITS.—Section 601(a)(2) of the Congressional
24 Budget Act of 1974 is amended by striking subparagraphs
25 (A), (B), (C), (D), and (F), by redesignating subpara-

1 graph (E) as subparagraph (A) and by striking “and” at
2 the end of that subparagraph, and by inserting after sub-
3 paragraph (A) the following new subparagraphs:

4 “(B) with respect to fiscal year 1996,
5 \$498,113,000,000 in new budget authority and
6 \$536,600,000,000 in outlays;

7 “(C) with respect to fiscal year 1997,
8 \$497,200,000,000 in new budget authority and
9 \$530,200,000,000 in outlays;

10 “(D) with respect to fiscal year 1998,
11 \$496,700,000,000 in new budget authority and
12 \$526,100,000,000 in outlays;

13 “(E) with respect to fiscal year 1999,
14 \$495,700,000,000 in new budget authority and
15 \$524,200,000,000 in outlays;

16 “(F) with respect to fiscal year 2000,
17 \$497,700,000,000 in new budget authority and
18 \$523,300,000,000 in outlays;

19 “(G) with respect to fiscal year 2001,
20 \$506,700,000,000 in new budget authority and
21 \$529,500,000,000 in outlays; and

22 “(H) with respect to fiscal year 2002,
23 \$509,700,000,000 in new budget authority and
24 \$529,500,000,000 in outlays.”.

1 (b) COMMITTEE ALLOCATIONS AND ENFORCE-
2 MENT.—Section 602 of the Congressional Budget Act of
3 1974 is amended—

4 (1) in subsection (c), by striking “1995” and
5 inserting “2002” and by striking its last sentence;
6 and

7 (2) in subsection (d), by striking “1992 TO
8 1995” in the side heading and inserting “1995 TO
9 2002” and by striking “1992 through 1995” and in-
10 sserting “1995 through 2002”.

11 (c) FIVE-YEAR BUDGET RESOLUTIONS.—Section
12 606 of the Congressional Budget Act of 1974 is amend-
13 ed—

14 (1) in subsection (a), by striking “for fiscal
15 year 1992, 1993, 1994, or 1995”; and

16 (2) in subsection (d)(1), by striking “for fiscal
17 years 1992, 1993, 1994, and 1995” and by striking
18 “(i) and (ii)”.

19 (d) EFFECTIVE DATE REPEALER.—(1) Section 607
20 of the Congressional Budget Act of 1974 is repealed.

21 (2) The item relating to section 607 in the table of
22 contents set forth in section 1(b) of the Congressional
23 Budget and Impoundment Control Act of 1974 is re-
24 pealed.

1 (e) SEQUESTRATION REGARDING CRIME TRUST
2 FUND.—(1) Section 251A(b)(1) of the Balanced Budget
3 and Emergency Deficit Control Act of 1985 is amended
4 by striking subparagraphs (B), (C), and (D) and its last
5 sentence and inserting the following:

6 “(B) For fiscal year 1996,
7 \$2,227,000,000.

8 “(C) For fiscal year 1997, \$3,846,000,000.

9 “(D) For fiscal year 1998,
10 \$4,901,000,000.

11 “(E) For fiscal year 1999,
12 \$5,639,000,000.

13 “(F) For fiscal year 2000,
14 \$6,225,000,000.

15 “The appropriate levels of new budget authority are
16 as follows: for fiscal year 1996, \$4,087,000,000; for
17 fiscal year 1997, \$5,000,000,000; for fiscal year
18 1998, \$5,500,000,000; for fiscal year 1999,
19 \$6,500,000,000; for fiscal year 2000,
20 \$6,500,000,000.”.

21 (2) The last two sentences of section 310002 of the
22 Violent Crime Control and Law Enforcement Act of 1994
23 (42 U.S.C. 14212) are repealed.

1 **SEC. 14102. TECHNICAL AND CONFORMING CHANGES.**

2 (a) GENERAL STATEMENT.—Section 250(b) of the
3 Balanced Budget and Emergency Deficit Control Act of
4 1985 is amended by striking the first sentence and insert-
5 ing the following: “This part provides for the enforcement
6 of deficit reduction through discretionary spending limits
7 and pay-as-you-go requirements for fiscal years 1995
8 through 2002.”.

9 (b) DEFINITIONS.—Section 250(c) of the Balanced
10 Budget and Emergency Deficit Control Act of 1985 is
11 amended—

12 (1) by striking paragraph (6) and inserting the
13 following:

14 “(6) The term ‘budgetary resources’ means new
15 budget authority, unobligated balances, direct spend-
16 ing authority, and obligation limitations.”;

17 (2) in paragraph (9), by striking “1992” and
18 inserting “1996”; and

19 (3) in paragraph (14), by striking “1995” and
20 inserting “2002”.

21 **SEC. 14103. ELIMINATION OF CERTAIN ADJUSTMENTS TO**
22 **DISCRETIONARY SPENDING LIMITS.**

23 Section 251 of the Balanced Budget and Emergency
24 Deficit Control Act of 1985 is amended—

25 (1) in the side heading of subsection (a), by
26 striking “1991–1998” and inserting “1995–2002”;

1 (2) in the first sentence of subsection (b)(1), by
2 striking “1992, 1993, 1994, 1995, 1996, 1997 or
3 1998” and inserting “1995, 1996, 1997, 1998,
4 1999, 2000, 2001, or 2002” and by striking
5 “through 1998” and inserting “through 2002”;

6 (3) in subsection (b)(1), by striking subpara-
7 graphs (B) and (C) and by striking “the following:”
8 and all that follows through “The adjustments” and
9 inserting “the following: the adjustments”;

10 (4) in subsection (b)(2), by striking “1991,
11 1992, 1993, 1994, 1995, 1996, 1997, or 1998” and
12 inserting “1995, 1996, 1997, 1998, 1999, 2000,
13 2001, or 2002” and by striking “through 1998” and
14 inserting “through 2002”; and

15 (5) by repealing subsection (b)(2).

16 **Subtitle C—Pay-As-You-Go** 17 **Procedures**

18 **SEC. 14201. PERMANENT EXTENSION OF PAY-AS-YOU-GO**

19 **PROCEDURES; TEN-YEAR SCOREKEEPING.**

20 (a) TEN-YEAR SCOREKEEPING.—Section 252 of the
21 Balanced Budget and Emergency Deficit Control Act of
22 1985 is amended—

23 (1) in the side heading of subsection (a), by
24 striking “FISCAL YEARS 1992–1998”; and

1 (2) in subsection (d), by striking “each fiscal
2 year through fiscal year 1998” each place it appears
3 and inserting “each of the 10 succeeding fiscal years
4 following enactment of any direct spending or re-
5 ceipts legislation”.

6 (b) REPEAL OF EMERGENCIES.—Section 252(e) of
7 the Balanced Budget and Emergency Deficit Control Act
8 of 1985 is repealed.

9 (c) PAY-AS-YOU-GO SCORECARD.—Upon enactment
10 of this Act, the Director of the Office of Management and
11 Budget shall reduce the balances of direct spending and
12 receipts legislation applicable to each fiscal year under sec-
13 tion 252 of the Balanced Budget and Emergency Deficit
14 Control Act of 1985 by an amount equal to the net deficit
15 reduction achieved through the enactment of this Act of
16 direct spending and receipts legislation for that year.

17 (d) PAY-AS-YOU-GO POINT OF ORDER.—Section 311
18 of the Congressional Budget Act of 1974 is amended by
19 redesignating subsection (c) as subsection (d) and by in-
20 serting after subsection (b) the following new subsection:

21 “(d) PAY-AS-YOU-GO POINT OF ORDER.—It shall
22 not be in order in the House of Representatives or the
23 Senate to consider any bill, joint resolution, amendment,
24 motion, or conference report that would increase the defi-
25 cit above the maximum deficit amount set forth in section

1 253 for the budget year or any of the 9 succeeding fiscal
2 years after the budget year, as measured by the sum of
3 all applicable estimates of direct spending and receipts leg-
4 islation applicable to that fiscal year.”.

5 **SEC. 14202. ELIMINATION OF EMERGENCY EXCEPTION.**

6 (a) SEQUESTRATION.—Section 252(b)(1) of the Bal-
7 anced Budget and Emergency Deficit Control Act of 1985
8 is amended by striking subparagraph (B), by striking the
9 dash after “from”, and by striking “(A)”.

10 (b) TECHNICAL CHANGE.—Section 252(c) of the Bal-
11 anced Budget and Emergency Deficit Control Act of 1985
12 is amended by inserting “in the manner described in sec-
13 tion 256.” after “accounts” the first place it appears and
14 by striking the remainder of the subsection.

15 **Subtitle D—Miscellaneous**

16 **SEC. 14301. TECHNICAL CORRECTION.**

17 Section 258 of the Balanced Budget and Emergency
18 Deficit Control Act of 1985, entitled “Modification of
19 Presidential Order”, is repealed.

20 **SEC. 14302. REPEAL OF EXPIRATION DATE.**

21 (a) EXPIRATION.—Section 275 of the Balanced
22 Budget and Emergency Deficit Control Act of 1985 is
23 amended by repealing subsection (b) and by redesignating
24 subsection (c) as subsection (b).

1 (b) EXPIRATION.—Section 14002(c)(3) of the Omni-
 2 bus Budget Reconciliation Act of 1993 (2 U.S.C. 900
 3 note; 2 U.S.C. 665 note) is repealed.

4 **Subtitle E—Deficit Control**

5 **SEC. 14401. DEFICIT CONTROL.**

6 (a) DEFICIT CONTROL.—Part D of the Balanced
 7 Budget and Emergency Deficit Control Act of 1985 is
 8 amended to read as follows:

9 **“Part D—Deficit Control**

10 **“SEC. 261. ESTABLISHMENT OF DEFICIT TARGETS.**

11 “The deficit targets are as follows:

“Fiscal year	Deficit (in billions of dollars)
1996	179.2
1997	160.4
1998	132.5
1999	111.0
2000	85.3
2001	41.0
2002	0

12 The deficit target for each fiscal year after 2002 shall be
 13 zero.

14 **“SEC. 262. SPECIAL DEFICIT MESSAGE BY PRESIDENT.**

15 “(a) SPECIAL MESSAGE.—If the OMB sequestration
 16 preview report submitted under section 254(d) indicates
 17 that deficit for the budget year or any outyear will exceed
 18 the applicable deficit target, or that the actual deficit tar-
 19 get in the most recently completed fiscal year exceeded the
 20 applicable deficit target, the budget submitted under sec-
 21 tion 1105(a) of title 31, United States Code, shall include

1 a special deficit message that includes proposed legislative
2 changes to offset the net deficit impact of the excess iden-
3 tified by that OMB sequestration preview report for each
4 such year through any combination of:

5 “(1) Reductions in outlays.

6 “(2) Increases in revenues.

7 “(3) Increases in the deficit targets, if the
8 President submits a written determination that, be-
9 cause of economic or programmatic reasons, only
10 some or none of the excess should be offset.

11 “(b) INTRODUCTION OF PRESIDENT’S PACKAGE.—
12 Within 10 days after the President submitted a special
13 deficit message, the text referred to in subsection (a) shall
14 be introduced as a joint resolution in the House of Rep-
15 resentatives by the chairman of its Committee on the
16 Budget and in the Senate by the chairman of its Commit-
17 tee on the Budget. If the chairman fails to do so, after
18 the 10th day the resolution may be introduced by any
19 Member of the House of Representatives or the Senate,
20 as the case may be. A joint resolution introduced under
21 this subsection shall be referred to the Committee on the
22 Budget of the House of Representatives or the Senate, as
23 the case may be.

1 **“SEC. 263. CONGRESSIONAL ACTION REQUIRED.**

2 “(a) IN GENERAL.—The requirements of this section
3 shall be in effect for any year in which the OMB seques-
4 tration preview report submitted under section 254(d) in-
5 dicates that the deficit for the budget year or any outyear
6 will exceed the applicable deficit target.

7 “(b) REQUIREMENTS FOR SPECIAL BUDGET RESO-
8 LUTION IN THE HOUSE.—The Committee on the Budget
9 in the House shall report not later than March 15 a joint
10 resolution, either as a separate section of the joint resolu-
11 tion on the budget reported pursuant to section 301 of
12 the Congressional Budget Act of 1974 or as a separate
13 resolution, that includes reconciliation instructions in-
14 structing the appropriate committees of the House and
15 Senate to report changes in laws within their jurisdiction
16 to offset any excess in the deficit identified in the OMB
17 sequestration preview report submitted under section
18 254(d) as follows:

19 “(1) Reductions in outlays.

20 “(2) Increases in revenues.

21 “(3) Increases in the deficit targets, except that
22 any increase in those targets may not be greater
23 than the increase included in the special reconcili-
24 ation message submitted by the President.

25 “(c) PROCEDURE IF HOUSE BUDGET COMMITTEE
26 FAILS TO REPORT REQUIRED RESOLUTION.—

1 “(1) AUTOMATIC DISCHARGE OF HOUSE BUDG-
2 ET COMMITTEE.—In the event that the House Com-
3 mittee on the Budget fails to report a resolution
4 meeting the requirements of subsection (b), the com-
5 mittee shall be automatically discharged from fur-
6 ther consideration of the joint resolution reflecting
7 the President’s recommendations introduced pursu-
8 ant to section 5(b), and the joint resolution shall be
9 placed on the appropriate calendar.

10 “(2) CONSIDERATION BY HOUSE OF DIS-
11 CHARGED RESOLUTION.—Ten days after the House
12 Committee on the Budget has been discharged under
13 paragraph (1), any member may move that the
14 House proceed to consider the resolution. Such mo-
15 tion shall be highly privileged and not debatable. It
16 shall not be in order to consider any amendment to
17 the resolution except amendments which are ger-
18 mane and which do not change the net deficit im-
19 pact of the resolution. Consideration of such resolu-
20 tion shall be pursuant to the procedures set forth
21 in section 305 of the Congressional Budget Act of
22 1974 and subsection (d).

23 “(d) CONSIDERATION BY THE HOUSE OF REP-
24 RESENTATIVES.—(1) It shall not be in order in the House
25 of Representatives to consider a joint resolution on the

1 budget unless that joint resolution fully addresses the en-
2 tirety of any excess of the deficit targets as identified in
3 the OMB sequestration preview report submitted under
4 section 254(d) through reconciliation instructions requir-
5 ing spending reductions, or changes in the deficit targets.

6 “(2) If the joint resolution on the budget proposes
7 to eliminate or offset less than the entire excess for budget
8 year and any subsequent fiscal years, then the Committee
9 on the Budget shall report a separate resolution increasing
10 the deficit targets for each applicable year by the full
11 amount of the excess not offset or eliminated. It shall not
12 be in order to consider any joint resolution on the budget
13 that does not offset the full amount of the excess until
14 the House of Representatives has agreed to the resolution
15 directing the increase in the deficit targets.

16 “(e) TRANSMITTAL TO SENATE.—If a joint resolution
17 passes the House pursuant to subsection (d), the Clerk
18 of the House of Representatives shall cause the resolution
19 to be engrossed, certified, and transmitted to the Senate
20 within one calendar day of the day on which the resolution
21 is passed. The resolution shall be referred to the Senate
22 Committee on the Budget.

23 “(f) REQUIREMENTS FOR SPECIAL BUDGET RESOLU-
24 TION IN THE SENATE.—The Committee on the Budget in
25 the Senate shall report not later than April 1 a joint reso-

1 lution, either as a separate section of a budget resolution
2 reported pursuant to section 301 of the Congressional
3 Budget Act of 1974 or as a separate resolution, that shall
4 include reconciliation instructions instructing the appro-
5 priate committees of the House and Senate to report
6 changes in laws within their jurisdiction to offset any ex-
7 cess through any combination of:

8 “(1) Reductions in outlays.

9 “(2) Increases in revenues.

10 “(3) Increases in the deficit targets, except that
11 any increase in those targets may not be greater
12 than the increase included in the special reconcili-
13 ation message submitted by the President.

14 “(g) PROCEDURE IF SENATE BUDGET COMMITTEE
15 FAILS TO REPORT REQUIRED RESOLUTION.—

16 “(1) AUTOMATIC DISCHARGE OF SENATE BUDG-
17 ET COMMITTEE.—In the event that the Senate Com-
18 mittee on the Budget fails to report a resolution
19 meeting the requirements of subsection (f), the com-
20 mittee shall be automatically discharged from fur-
21 ther consideration of the joint resolution reflecting
22 the President’s recommendations introduced pursu-
23 ant to section 5(b), and the joint resolution shall be
24 placed on the appropriate calendar.

1 “(2) CONSIDERATION BY SENATE OF DIS-
2 CHARGED RESOLUTION.—Ten days after the Senate
3 Committee on the Budget has been discharged under
4 paragraph (1), any member may move that the Sen-
5 ate proceed to consider the resolution. Such motion
6 shall be privileged and not debatable. Consideration
7 of such resolution shall be pursuant to the proce-
8 dures set forth in section 305 of the Congressional
9 Budget Act of 1974 and subsection (h).

10 “(h) CONSIDERATION BY SENATE.—(1) It shall not
11 be in order in the Senate to consider a joint resolution
12 on the budget unless that joint resolution fully addresses
13 the entirety of any excess of the deficit targets as identi-
14 fied in the OMB sequestration report submitted under sec-
15 tion 254(d) through reconciliation instructions requiring
16 deficit reductions, or changes in the deficit targets.

17 “(2) If the joint resolution on the budget proposes
18 to eliminate or offset less than the entire overage of a
19 budget year, then the Committee on the Budget shall re-
20 port a resolution increasing the deficit target by the full
21 amount of the overage not eliminated. It shall not be in
22 order to consider any joint resolution on the budget that
23 does not offset the entire amount of the overage until the
24 Senate has agreed to the resolution directing the increase
25 in the deficit targets.

1 “(i) CONFERENCE REPORTS MUST FULLY ADDRESS
2 DEFICIT EXCESS.—It shall not be in order in the House
3 of Representatives or the Senate to consider a conference
4 report on a joint resolution on the budget unless that con-
5 ference report fully addresses the entirety of any excess
6 identified by the OMB sequestration preview report sub-
7 mitted pursuant to section 254(d) through reconciliation
8 instructions requiring deficit reductions, or changes in the
9 deficit targets.

10 **“SEC. 264. COMPREHENSIVE SEQUESTRATION.**

11 “(a) SEQUESTRATION BASED ON BUDGET-YEAR
12 SHORTFALL.—The amount to be sequestered for the
13 budget year is the amount (if any) by which deficit exceeds
14 the cap for that year under section 261 or the amount
15 that the actual deficit in the preceding fiscal year exceeded
16 the applicable deficit target.

17 “(b) SEQUESTRATION.—Within 15 days after Con-
18 gress adjourns to end a session and on May 15, there shall
19 be a sequestration to reduce the amount of deficit in the
20 current policy baseline and to repay any deficit excess in
21 the most recently completed fiscal year by the amounts
22 specified in subsection (b). The amount required to be se-
23 questered shall be achieved by reducing each spending ac-
24 count (or activity within an account) by the uniform per-
25 centage necessary to achieve that amount.”.

1 (c) CONFORMING CHANGES.—(1) The table of sec-
 2 tions set forth in section 200 of the Balanced Budget and
 3 Emergency Deficit Control Act of 1985 is amended by
 4 striking the items relating to part D and inserting the fol-
 5 lowing:

- “Sec. 261. Establishment of deficit targets.
- “Sec. 262. Special deficit message by President.
- “Sec. 263. Congressional action required.
- “Sec. 264. Comprehensive sequestration.”.

6 (2) Section 250(c) of the Balanced Budget and
 7 Emergency Deficit Control Act of 1985 is amended by in-
 8 serting “or in part D” after “As used in this part”.

9 **SEC. 14402. SEQUESTRATION PROCESS.**

10 (a) ESTIMATING ASSUMPTIONS, REPORTS, AND OR-
 11 DERS.—Sections 254, 255, and 256 of the Balanced
 12 Budget and Emergency Deficit Control Act of 1985 are
 13 amended to read as follows:

14 **“SEC. 254. ESTIMATING ASSUMPTIONS, REPORTS, AND OR-**
 15 **DERS.**

16 “(a) TIMETABLE.—The timetable with respect to this
 17 part for any budget year is as follows:

Date:	Action to be completed:
Dec. 31	OMB and CBO sequestration preview reports submitted to Board.
Jan. 15	Board selects sequestration preview report.
The President’s budget submission	OMB publishes sequestration preview report.
May 1	OMB and CBO sequestration reports submitted to Board.
5 days later	Board selected midsession sequestration report.
May 15	President issues sequestration order.

Date:	Action to be completed:
August 29	President's midsession review; notification regarding military personnel.
Within 10 days after end of session.	OMB and CBO final budget year sequestration reports submitted to Board.
5 days later	Board selects final sequestration report; President issues sequestration order.

1 “(b) SUBMISSION AND AVAILABILITY OF REPORTS.—

2 Each report required by this section shall be submitted,
3 in the case of CBO, to the House of Representatives, the
4 Senate, OMB, and the Board and, in the case of OMB,
5 to the House of Representatives, the Senate, the Presi-
6 dent, and the Board on the day it is issued. On the follow-
7 ing day a notice of the report shall be printed in the Fed-
8 eral Register.

9 “(c) EXCHANGE OF PRELIMINARY CURRENT POLICY
10 BASELINES.—On December 15 or 3 weeks after Congress
11 adjourns to end a session, whichever is later, OMB and
12 CBO shall exchange their preliminary current policy base-
13 lines for the budget-year session starting in January.

14 “(d) SEQUESTRATION PREVIEW REPORTS.—

15 “(1) REPORTING REQUIREMENT.—On Decem-
16 ber 31 or 2 weeks after exchanging preliminary cur-
17 rent policy baselines, whichever is later, OMB and
18 CBO shall each submit a sequestration preview re-
19 port.

20 “(2) CONTENTS.—Each preview report shall set
21 forth the following:

1 “(A) MAJOR ESTIMATING ASSUMPTIONS.—
2 The major estimating assumptions for the cur-
3 rent year, the budget year, and the outyears,
4 and an explanation of them.

5 “(B) CURRENT POLICY BASELINE.—A de-
6 tailed display of the current policy baseline for
7 the current year, the budget year, and the out-
8 years, with an explanation of changes in the
9 baseline since it was last issued that includes
10 the effect of policy decisions made during the
11 intervening period and an explanation of the
12 differences between OMB and CBO for each
13 item set forth in the report.

14 “(C) DEFICITS.—Estimates for the most
15 recently completed fiscal year, the budget year,
16 and each subsequent year through fiscal year
17 2002 of the deficits or surpluses in the current
18 policy baseline.

19 “(D) DISCRETIONARY SPENDING LIMITS.—
20 Estimates for the current year and each subse-
21 quent year through 2002 of the applicable dis-
22 cretionary spending limits for each category and
23 an explanation of any adjustments in such lim-
24 its under section 251.

1 “(E) SEQUESTRATION OF DISCRETIONARY
2 ACCOUNTS.—Estimates of the uniform percent-
3 age and the amount of budgetary resources to
4 be sequestered from discretionary programs
5 given the baseline level of appropriations, and if
6 the President chooses to exempt some or all
7 military personnel from sequestration, the effect
8 of that decision on the percentage and amounts.

9 “(F) PAY-AS-YOU-GO SEQUESTRATION RE-
10 PORTS.—The preview reports shall set forth, for
11 the current year and the budget year, estimates
12 for each of the following:

13 “(i) The amount of net deficit in-
14 crease or decrease, if any, calculated under
15 section 252(b).

16 “(ii) A list identifying each law en-
17 acted and sequestration implemented after
18 the date of enactment of this section in-
19 cluded in the calculation of the amount of
20 deficit increase or decrease and specifying
21 the budgetary effect of each such law.

22 “(iii) The sequestration percentage or
23 (if the required sequestration percentage is
24 greater than the maximum allowable per-
25 centage for medicare) percentages nec-

1 necessary to eliminate a deficit increase under
2 section 252(c).

3 “(G) REQUIREMENTS FOR THE DEFICIT.—
4 An estimate of the amount of deficit reduction,
5 if any, to be achieved for the budget year and
6 the current year necessary to comply with the
7 deficit targets or to repay any deficit excess in
8 the preceding fiscal year.

9 “(H) DEFICIT SEQUESTRATION.—Esti-
10 mates of the uniform percentage and the
11 amount of comprehensive sequestration of
12 spending programs that will be necessary under
13 section 264.

14 “(I) AMOUNT OF CHANGE IN DEFICIT PRO-
15 JECTIONS.—Amounts that deficit projections
16 for the current year and the budget year have
17 changed as a result of changes in economic and
18 technical assumptions occurring after the enact-
19 ment of the Omnibus Budget Reconciliation Act
20 of 1995.

21 “(e) SELECTION OF OFFICIAL SEQUESTRATION PRE-
22 VIEW REPORT.—On January 15 or 2 weeks after receiving
23 the OMB and CBO sequestration preview reports, which-
24 ever is later, the Board shall choose either the OMB or
25 CBO sequestration preview report as the official report for

1 purposes of this Act. The Board shall add to the chosen
2 report an analysis of which reports submitted in previous
3 years have proven to be more accurate and recommenda-
4 tions about methods of improving the accuracy of future
5 reports. That report shall be set forth, without change,
6 in the budget submitted by the President under section
7 1105(a) of title 31, United States Code, for the budget
8 year.

9 “(f) AGREEING ON EARLIER DATES.—The Chairman
10 of the Board may set earlier dates for subsections (c), (d),
11 and (e) if OMB and CBO concur.

12 “(g) NOTIFICATION REGARDING MILITARY PERSON-
13 NEL.—On or before August 29, the President shall notify
14 the Congress of the manner in which he intends to exercise
15 flexibility with respect to military personnel accounts
16 under section 251(a)(3).

17 “(h) FINAL SEQUESTRATION REPORTS.—

18 “(1) REPORTING REQUIREMENT.—Not later
19 than 10 days following the end of a budget-year ses-
20 sion, OMB and CBO shall each submit a final se-
21 questration report. On May 1 of each year, OMB
22 and CBO shall each submit a midyear sequestration
23 report for the current year.

24 “(2) CONTENTS.—Each such report shall be
25 based upon laws enacted through the date of the re-

1 port and shall set forth all the information and esti-
2 mates required of a sequestration preview report re-
3 quired by subsections (d)(2)(D) through (H). In ad-
4 dition, that report shall include—

5 “(A) for each account to be sequestered,
6 the baseline level of sequestrable budgetary re-
7 sources and the resulting reductions in new
8 budget authority and outlays; and

9 “(B) the effects of sequestration on the
10 level of outlays for each fiscal year through
11 2002.

12 “(i) SELECTION OF OFFICIAL FINAL SEQUESTRA-
13 TION REPORT.—Not later than 5 days after receiving the
14 final OMB and CBO sequestration reports, the Board
15 shall choose either the OMB or CBO final sequestration
16 report as the official report for purposes of this Act, and
17 shall issue a report stating that decision and making any
18 comments that the Board chooses.

19 “(j) PRESIDENTIAL ORDER.—(1) On the day that the
20 Board chooses a final sequestration report, the President
21 shall issue an order fully implementing without change all
22 sequestrations required by—

23 “(A) the final sequestration report that requires
24 the lesser amount of discretionary sequestration
25 under section 250; and

1 “(B) the final sequestration report that requires
2 the lesser total amount of deficit sequestration under
3 section 264.

4 The order shall be effective on issuance and shall be issued
5 only if sequestration is required.

6 “(2)(A) If both the CBO and OMB final sequestra-
7 tion reports require a sequestration of discretionary pro-
8 grams, and the Board chooses the report requiring the
9 greater sequestration, then a positive amount equal to the
10 difference between the CBO and OMB estimates of discre-
11 tionary new budget authority for the budget year shall be
12 subtracted from the budget-year column and added to the
13 column for the first outyear of the discretionary scorecard
14 under section 107 as though that amount had been en-
15 acted in the next session of Congress.

16 “(B) If one final sequestration report requires a se-
17 questration of discretionary programs and the Board
18 chooses that report, then an amount equal to the dif-
19 ference between that report’s estimate of discretionary
20 new budget authority for the budget year and the discre-
21 tionary funding limit for that year shall be subtracted
22 from the budget-year column and added to column for the
23 first outyear of the discretionary scorecard under section
24 107 as though that amount had been enacted in the next
25 session of Congress.

1 “(k) USE OF MAJOR ESTIMATING ASSUMPTIONS AND
2 SCOREKEEPING CONVENTIONS.—In the estimates, projec-
3 tions, and reports under subsections (c) and (d), CBO and
4 OMB shall use the best and most recent estimating as-
5 sumptions available. In all other reports required by this
6 section and in all estimates or calculations required by this
7 Act, CBO and OMB shall use—

8 “(1) current-year and budget-year discretionary
9 funding limits chosen by the Board and the esti-
10 mates chosen by the Board of the deficit reduction
11 necessary to comply with the deficit targets in the
12 budget year;

13 “(2) in estimating the effects of bills and dis-
14 cretionary regulations, the major estimating assump-
15 tions most recently chosen by the Board, except to
16 the extent that they must be altered to reflect actual
17 results occurring or measured after the Board’s
18 choice; and

19 “(3) scorekeeping conventions determined after
20 consultation among the House and Senate Commit-
21 tees on the Budget, CBO, and OMB.

22 In applying the two previous sentences, the major estimat-
23 ing assumptions and other calculations required by this
24 Act that are included in the statement of managers accom-
25 panying the conference report on this Act shall be consid-

1 ered, for all purposes of this Act, to be the report of the
2 Board chosen under subsection (e) for fiscal year 1993.

3 “(l) BILL COST ESTIMATES.—Within 10 days after
4 the enactment of any discretionary appropriations, direct
5 spending, or receipts legislation, CBO and OMB shall
6 transmit to each other, the Board, and to the Congress
7 an estimate of the budgetary effects of that law, following
8 the estimating requirements of this section. Those esti-
9 mates may not change after the 10-day period except—

10 “(1) to the extent those estimates are subsumed
11 within (and implicitly changed by) the estimates
12 made in preparation of a new baseline under sub-
13 sections (c), (d), and (h);

14 “(2) to reflect a choice of the Board regarding
15 an official set of estimates under subsections (l) and
16 (n); and

17 “(3) to correct clerical errors or errors in the
18 application of this Act.

19 **“SEC. 255. EXEMPT PROGRAMS AND ACTIVITIES.**

20 “The following budget accounts, activities within ac-
21 counts, or income shall be exempt from sequestration—

22 “(1) net interest;

23 “(2) deposit insurance and pension benefit
24 guarantees;

1 “(3) all payments to trust funds from excise
2 taxes or other receipts or collections properly cred-
3 itable to those trust funds;

4 “(4) offsetting receipts and collections;

5 “(5) all payments from one Federal direct
6 spending budget account to another Federal budget
7 account; all intragovernmental funds including those
8 from which funding is derived primarily from other
9 Government accounts;

10 “(6) expenses to the extent they result from
11 private donations, bequests, or voluntary contribu-
12 tions to the Government;

13 “(7) nonbudgetary activities, including but not
14 limited to—

15 “(A) credit liquidating and financing ac-
16 counts;

17 “(B) the Pension Benefit Guarantee Cor-
18 poration Trust Funds;

19 “(C) the Thrift Savings Fund;

20 “(D) the Federal Reserve System; and

21 “(E) appropriations for the District of Co-
22 lumbia to the extent they are appropriations of
23 locally raised funds;

24 “(8) payments resulting from Government in-
25 surance, Government guarantees, or any other form

1 of contingent liability, to the extent those payments
2 result from contractual or other legally binding com-
3 mitments of the Government at the time of any se-
4 questration;

5 “(9) the following accounts, which largely fulfill
6 requirements of the Constitution or otherwise make
7 payments to which the Government is committed—

8 Administration of Territories, Northern Mari-
9 ana Islands Covenant grants (14-0412-0-1-806);

10 Bureau of Indian Affairs, miscellaneous pay-
11 ments to Indians (14-2303-0-1-452);

12 Bureau of Indian Affairs, miscellaneous trust
13 funds, tribal trust funds (14-9973-0-7-999);

14 Claims, defense;

15 Claims, judgments, and relief act (20-1895-0-
16 1-806);

17 Compact of Free Association, economic assist-
18 ance pursuant to Public Law 99-658 (14-0415-0-
19 1-806);

20 Compensation of the President (11-0001-0-1-
21 802);

22 Customs Service, miscellaneous permanent ap-
23 propriations (20-9992-0-2-852);

24 Eastern Indian land claims settlement fund
25 (14-2202-0-1-806)

- 1 Farm Credit System Financial Assistance Cor-
2 poration, interest payments (20-1850-0-1-351);
3 Internal Revenue collections of Puerto Rico
4 (20-5737-0-2-852);
5 Panama Canal Commission, operating expenses
6 and capital outlay (95-5190-0-2-403);
7 Payments of Vietnam and USS Pueblo pris-
8 oner-of-war claims (15-0104-0-1-153);
9 Payments to copyright owners (03-5175-0-2-
10 376);
11 Payments to the United States territories, fiscal
12 assistance (14-0418-0-1-801);
13 Salaries of Article III judges;
14 Soldier's and Airmen's Home, payment of
15 claims (84-8930-0-7-705);
16 Washington Metropolitan Area Transit Author-
17 ity, interest payments (46-0300-0-1-401).
18 “(10) the following noncredit special, revolving,
19 or trust-revolving funds—
20 Coinage profit fund (20-5811-0-2-803);
21 Exchange Stabilization Fund (20-4444-0-3-
22 155);
23 Foreign Military Sales trust fund (11-82232-
24 0-7-155);

1 “(11)(A) any amount paid as regular unemploy-
2 ment compensation by a State from its account in
3 the Unemployment Trust Fund (established by sec-
4 tion 904(a) of the Social Security Act);

5 “(B) any advance made to a State from the
6 Federal unemployment account (established by sec-
7 tion 904(g) of such Act) under title XII of such Act
8 and any advance appropriated to the Federal unem-
9 ployment account pursuant to section 1203 of such
10 Act;

11 “(C) any payment made from the Federal Em-
12 ployees Compensation Account (as established under
13 section 909 of such Act) for the purpose of carrying
14 out chapter 85 of title 5, United States Code, and
15 funds appropriated or transferred to or otherwise
16 deposited in such Account;

17 “(12) the earned income tax credit (payments
18 to individuals pursuant to section 32 of the Internal
19 Revenue Code of 1986);

20 “(13) the uranium enrichment program; and

21 “(14) benefits payable under the old-age, survi-
22 vors, and disability insurance program established
23 under title II of the Social Security Act.

24 **“SEC. 256. GENERAL AND SPECIAL SEQUESTRATION RULES.**

25 “(a) PERMANENT SEQUESTRATION OF DEFICIT.—

1 “(1) The purpose of any sequestration under
2 this Act is to ensure deficit reduction in the budget
3 year and all subsequent fiscal years, so that the
4 budget-year cap in section 262 is not exceeded.

5 “(2) Obligations in sequestered spending ac-
6 counts shall be reduced in the fiscal year in which
7 a sequestration occurs and in all succeeding fiscal
8 years. Notwithstanding any other provision of this
9 section, after the first deficit sequestration, any later
10 sequestration shall reduce spending outlays by an
11 amount in addition to, rather than in lieu of, the re-
12 duction in spending outlays in place under the exist-
13 ing sequestration or sequestrations.

14 “(b) UNIFORM PERCENTAGES.—

15 “(1) In calculating the uniform percentage ap-
16 plicable to the sequestration of all spending pro-
17 grams or activities under section 266 the
18 sequestrable base for spending programs and activi-
19 ties is the total budget-year level of outlays for those
20 programs or activities in the current policy baseline
21 minus—

22 “(A) those budget-year outlays resulting
23 from obligations incurred in the current or
24 prior fiscal years, and

1 (B) those budget-year outlays resulting
2 from exemptions under section 253.

3 “(2) For any direct spending program in
4 which—

5 “(A) outlays pay for entitlement benefits,

6 (B) a budget-year sequestration takes ef-
7 fect after the 1st day of the budget year, and

8 “(C) that delay reduces the amount of en-
9 titlement authority that is subject to sequestra-
10 tion in the budget year,

11 the uniform percentage otherwise applicable to the
12 sequestration of that program in the budget year
13 shall be increased as necessary to achieve the same
14 budget-year outlay reduction in that program as
15 would have been achieved had there been no delay.

16 “(3) If the uniform percentage otherwise appli-
17 cable to the budget-year sequestration of a program
18 or activity is increased under paragraph (2), then it
19 shall revert to the uniform percentage calculated
20 under paragraph (1) when the budget year is com-
21 pleted.

22 “(c) GENERAL RULES FOR SEQUESTRATION.—

23 “(1) INDEFINITE AUTHORITY.—Except as oth-
24 erwise provided, sequestration in accounts for which
25 obligations are indefinite shall be taken in a manner

1 to ensure that obligations in the fiscal year of a se-
2 questration and succeeding fiscal years are reduced,
3 from the level that would actually have occurred, by
4 the applicable sequestration percentage or percent-
5 ages.

6 “(2) CANCELLATION OF BUDGETARY RE-
7 SOURCES.—Budgetary resources sequestered from
8 any account other than an entitlement trust, special,
9 or revolving fund account shall revert to the Treas-
10 ury and be permanently canceled or repealed.

11 “(3) INDEXED BENEFIT PAYMENTS.—If, under
12 any entitlement program—

13 “(A) benefit payments are made to persons
14 or governments more frequently than once a
15 year, and

16 “(B) the amount of entitlement authority
17 is periodically adjusted under existing law to re-
18 flect changes in a price index,

19 then for the first fiscal year to which a sequestration
20 order applies, the benefit reductions in that program
21 accomplished by the order shall take effect starting
22 with the payment made at the beginning of January
23 or 7 weeks after the order is issued, whichever is
24 later. For the purposes of this subsection, Veterans

1 Compensation shall be considered a program that
2 meets the conditions of the preceding sentence.

3 “(4) PROGRAMS, PROJECTS, OR ACTIVITIES.—
4 Except as otherwise provided, the same percentage
5 sequestration shall apply to all programs, projects,
6 and activities within a budget account (with pro-
7 grams, projects, and activities as delineated in the
8 appropriation Act or accompanying report for the
9 relevant fiscal year covering that account, or for ac-
10 counts not included in appropriation Acts, as delin-
11 eated in the most recently submitted President’s
12 budget).

13 “(5) IMPLEMENTING REGULATIONS.—Adminis-
14 trative regulations or similar actions implementing
15 the sequestration of a program or activity shall be
16 made within 120 days of the effective date of the se-
17 questration of that program or activity.

18 “(6) DISTRIBUTION FORMULAS.—To the extent
19 that distribution or allocation formulas differ at dif-
20 ferent levels of budgetary resources within an ac-
21 count, program, project, or activity, a sequestration
22 shall be interpreted as producing a lower total ap-
23 propriation, with that lower appropriation being obli-
24 gated as though it had been the pre-sequestration
25 appropriation and no sequestration had occurred.

1 “(7) CONTINGENT FEES.—In any account for
2 which fees charged to the public are legally deter-
3 mined by the level of appropriations, fees shall be
4 charged on the basis of the presequestration level of
5 appropriations.

6 “(d) NON-JOBS PORTION OF AFDC.—Any seques-
7 tration order shall accomplish the full amount of any re-
8 quired reduction in payments for the non-jobs portion of
9 the aid to families with dependant children program under
10 the Social Security Act by reducing the Federal reim-
11 bursement percentage (for the fiscal year involved) by
12 multiplying that reimbursement percentage, on a State-
13 by-State basis, by the uniform percentage applicable to the
14 sequestration of nonexempt direct spending programs or
15 activities.

16 “(e) JOBS PORTION OF AFDC.—

17 “(1) FULL AMOUNT OF SEQUESTRATION RE-
18 QUIRED.—Any sequestration order shall accomplish
19 the full amount of any required reduction of the job
20 opportunities and basic skills training program
21 under section 402(a)(19), and part F of title VI, of
22 the Social Security Act, in the manner specified in
23 this subsection. Such an order may not reduce any
24 Federal matching rate pursuant to section 403(l) of
25 the Social Security Act.

1 “(2) NEW ALLOTMENT FORMULA.—

2 “(A) GENERAL RULE.—Notwithstanding
3 section 403(k) of the Social Security Act, each
4 State’s percentage share of the amount avail-
5 able after sequestration for direct spending pur-
6 suant to section 403(l) of such Act shall be
7 equal to that percentage of the total amount
8 paid to the States pursuant to such section
9 403(l) for the prior fiscal year that is rep-
10 resented by the amount paid to such State pur-
11 suant to such section 403(l) for the prior fiscal
12 year, except that a State may not be allotted an
13 amount under this subparagraph that exceeds
14 the amount that would have been allotted to
15 such State pursuant to such section 403(k) had
16 the sequestration not been in effect.

17 “(B) REALLOTMENT OF AMOUNTS RE-
18 MAINING UNALLOTTED AFTER APPLICATION OF
19 GENERAL RULE.—Any amount made available
20 after sequestration for direct spending pursuant
21 to section 403(l) of the Social Security Act that
22 remains unallotted as a result of subparagraph
23 (A) of this paragraph shall be allotted among
24 the States in proportion to the absolute dif-
25 ference between the amount allotted, respec-

1 tively, to each State as a result of such sub-
2 paragraph and the amount that would have
3 been allotted to such State pursuant to section
4 403(k) of such Act had the sequestration not
5 been in effect, except that a State may not be
6 allotted an amount under this subparagraph
7 that results in a total allotment to the State
8 under this paragraph of more than the amount
9 that would have been allotted to such State
10 pursuant to such section 403(k) had the seques-
11 tration not been in effect.

12 “(f) CHILD SUPPORT ENFORCEMENT PROGRAM.—
13 Any sequestration order shall accomplish the full amount
14 of any required reduction in payments under sections 455
15 and 458 of the Social Security Act by reducing the Fed-
16 eral matching rate for State administrative costs under
17 the program, as specified (for the fiscal year involved) in
18 section 455(a) of such Act, to the extent necessary to re-
19 duce such expenditures by that amount.

20 “(g) COMMODITY CREDIT CORPORATION.—

21 “(1) EFFECTIVE DATE.—For the Commodity
22 Credit Corporation, the date on which a sequestra-
23 tion order takes effect in a fiscal year shall vary for
24 each crop of a commodity. In general, the sequestra-
25 tion order shall take effect when issued, but for each

1 crop of a commodity for which 1-year contracts are
2 issued as an entitlement, the sequestration order
3 shall take effect with the start of the sign-up period
4 for that crop that begins after the sequestration
5 order is issued. Payments for each contract in such
6 a crop shall be reduced under the same terms and
7 conditions.

8 “(2) DAIRY PROGRAM.—(A) As the sole means
9 of achieving any reduction in outlays under the milk
10 price-support program, the Secretary of Agriculture
11 shall provide for a reduction to be made in the price
12 received by producers for all milk produced in the
13 United States and marketed by producers for com-
14 mercial use. That price reduction (measured in cents
15 per hundredweight of milk marketed) shall occur
16 under subparagraph (A) of section 201(d)(2) of the
17 Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)),
18 shall begin on the day any sequestration order is is-
19 sued, and shall not exceed the aggregate amount of
20 the reduction in outlays under the milk price-support
21 program, that otherwise would have been achieved
22 by reducing payments made for the purchase of milk
23 or the products of milk under this subsection during
24 that fiscal year.

1 “(3) EFFECT OF DELAY.—For purposes of sub-
2 section (b)(1), the sequestrable base for the Com-
3 modity Credit Corporation is the budget-year level of
4 gross outlays resulting from new budget authority
5 that is subject to reduction under paragraphs (1)
6 and (2), and subsection (b)(2) shall not apply.

7 “(4) CERTAIN AUTHORITY NOT TO BE LIM-
8 ITED.—Nothing in this Act shall restrict the Cor-
9 poration in the discharge of its authority and re-
10 sponsibility as a corporation to buy and sell com-
11 modities in world trade, or limit or reduce in any
12 way any appropriation that provides the Corporation
13 with funds to cover its net realized losses.

14 “(h) EXTENDED UNEMPLOYMENT COMPENSA-
15 TION.—(1) A State may reduce each weekly benefit pay-
16 ment made under the Federal-State Extended Unemploy-
17 ment Compensation Act of 1970 for any week of unem-
18 ployment occurring during any period with respect to
19 which payments are reduced under any sequestration
20 order by a percentage not to exceed the percentage by
21 which the Federal payment to the State under section 204
22 of such Act is to be reduced for such week as a result
23 of such order.

24 “(2) A reduction by a State in accordance with sub-
25 paragraph (A) shall not be considered as a failure to fulfill

1 the requirements of section 3304(a)(11) of the Internal
2 Revenue Code of 1986.

3 “(i) FEDERAL EMPLOYEES HEALTH BENEFITS
4 FUND.—For the Federal Employees Health Benefits
5 Fund, a sequestration order shall take effect with the next
6 open season. The sequestration shall be accomplished by
7 annual payments from that Fund to the General Fund of
8 the Treasury. Those annual payments shall be financed
9 solely by charging higher premiums. For purposes of sub-
10 section (b)(1), the sequestrable base for the Fund is the
11 budget-year level of gross outlays resulting from claims
12 paid after the sequestration order takes effect, and sub-
13 section (b)(2) shall not apply.

14 “(j) FEDERAL HOUSING FINANCE BOARD.—Any se-
15 questration of the Federal Housing Finance Board shall
16 be accomplished by annual payments (by the end of each
17 fiscal year) from that Board to the general fund of the
18 Treasury, in amounts equal to the uniform sequestration
19 percentage for that year times the gross obligations of the
20 Board in that year.

21 “(k) FEDERAL PAY.—

22 “(1) IN GENERAL.—Except as provided in sec-
23 tion 10(b)(3), new budget authority to pay Federal
24 personnel from direct spending accounts shall be re-
25 duced by the uniform percentage calculated under

1 section 264, as applicable, but no sequestration
2 order may reduce or have the effect of reducing the
3 rate of pay to which any individual is entitled under
4 any statutory pay system (as increased by any
5 amount payable under section 5304 of title 5, United
6 States Code, or section 302 of the Federal Em-
7 ployees Pay Comparability Act of 1990) or the rate
8 of any element of military pay to which any individ-
9 ual is entitled under title 37, United States Code, or
10 any increase in rates of pay which is scheduled to
11 take effect under section 5303 of title 5, United
12 States Code, section 1009 of title 37, United States
13 Code, or any other provision of law.

14 “(2) DEFINITIONS.—For purposes of this sub-
15 section:

16 “(A) The term ‘statutory pay system’ shall
17 have the meaning given that term in section
18 5302(1) of title 5, United States Code.

19 “(B) The term ‘elements of military pay’
20 means—

21 “(i) the elements of compensation of
22 members of the uniformed services speci-
23 fied in section 1009 of title 37, United
24 States Code,

1 “(ii) allowances provided members of
2 the uniformed services under sections 403a
3 and 405 of such title, and

4 “(iii) cadet pay and midshipman pay
5 under section 203(c) of such title.

6 “(C) The term ‘uniformed services’ shall
7 have the meaning given that term in section
8 101(3) of title 37, United States Code.

9 “(l) GUARANTEED STUDENT LOANS.—(A) For all
10 student loans under part B of title IV of the Higher Edu-
11 cation Act of 1965 made on or after the date of a seques-
12 tration, the origination fees shall be increased by a uni-
13 form percentage sufficient to produce the dollar savings
14 in student loan programs for the fiscal year of the seques-
15 tration required by section 264, and all subsequent origi-
16 nation fees shall be increased by the same percentage, not-
17 withstanding any other provision of law.

18 “(B) The origination fees to which paragraph (A) ap-
19 plies are those specified in sections 428H(f)(1) and 438(c)
20 of that Act.

21 “(m) INSURANCE PROGRAMS.—Any sequestration in
22 a Federal program that sells insurance contracts to the
23 public (including the Federal Crop Insurance Fund, the
24 National Insurance Development Fund, the National
25 Flood Insurance Fund, insurance activities of the Over-

1 seas Private Insurance Corporation, and Veterans' life in-
2 surance programs) shall be accomplished by annual pay-
3 ments from the insurance fund or account to the general
4 fund of the Treasury. The amount of each annual payment
5 by each such fund or account shall be the amount received
6 by the fund or account by increasing premiums on con-
7 tracts entered into after the date a sequestration order
8 takes effect by the uniform sequestration percentage, and
9 premiums shall be increased accordingly.

10 “(n) MEDICAID.—The November 15th estimate of
11 medicaid spending by States shall be the base estimate
12 from which the uniform percentage reduction under any
13 sequestration, applied across-the-board by State, shall be
14 made. Succeeding Federal payments to States shall reflect
15 that reduction. The Health Care Financing Administra-
16 tion shall reconcile actual medicaid spending for each fis-
17 cal year with the base estimate as reduced by the uniform
18 percentage, and adjust each State's grants as soon as
19 practicable, but no later than 100 days after the end of
20 the fiscal year to which the base estimate applied, to com-
21 ply with the sequestration order.

22 “(o) MEDICARE.—

23 “(1) TIMING OF APPLICATION OF REDUC-
24 TIONS.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), if a reduction is made in
3 payment amounts pursuant to a sequestration
4 order, the reduction shall be applied to payment
5 for services furnished after the effective date of
6 the order. For purposes of the previous sen-
7 tence, in the case of inpatient services furnished
8 for an individual, the services shall be consid-
9 ered to be furnished on the date of the individ-
10 ual’s discharge from the inpatient facility.

11 “(B) PAYMENT ON THE BASIS OF COST
12 REPORTING PERIODS.—In the case in which
13 payment for services of a provider of services is
14 made under title XVIII of the Social Security
15 Act on a basis relating to the reasonable cost
16 incurred for the services during a cost reporting
17 period of the provider, if a reduction is made in
18 payment amounts pursuant to a sequestration
19 order, the reduction shall be applied to payment
20 for costs for such services incurred at any time
21 during each cost reporting period of the pro-
22 vider any part of which occurs after the effec-
23 tive date of the order, but only (for each such
24 cost reporting period) in the same proportion as

1 the fraction of the cost reporting period that oc-
2 curs after the effective date of the order.

3 “(2) NO INCREASE IN BENEFICIARY CHARGES
4 IN ASSIGNMENT-RELATED CASES.—If a reduction in
5 payment amounts is made pursuant to a sequestra-
6 tion order for services for which payment under part
7 B of title XVIII of the Social Security Act is made
8 on the basis of an assignment described in section
9 1842(b)(3)(B)(ii), in accordance with section
10 1842(b)(6)(B), or under the procedure described in
11 section 1870(f)(1) of such Act, the person furnishing
12 the services shall be considered to have accepted
13 payment of the reasonable charge for the services,
14 less any reduction in payment amount made pursu-
15 ant to a sequestration order, as payment in full.

16 “(p) POSTAL SERVICE FUND.—Any sequestration of
17 the Postal Service Fund shall be accomplished by annual
18 payments from that Fund to the General Fund of the
19 Treasury, and the Postmaster General of the United
20 States shall have the duty to make those payments during
21 the fiscal year to which the sequestration order applies
22 and each succeeding fiscal year. The amount of each an-
23 nual payment shall be—

24 “(1) the uniform sequestration percentage,
25 times

1 “(2) the estimated gross obligations of the
2 Postal Service Fund in that year other than those
3 obligations financed with an appropriation for reve-
4 nue foregone for that year.

5 Any such payment for a fiscal year shall be made as soon
6 as possible during the fiscal year, except that it may be
7 made in installments within that year if the payment
8 schedule is approved by the Secretary of the Treasury.
9 Within 30 days after the sequestration order is issued, the
10 Postmaster General shall submit to the Postal Rate Com-
11 mission a plan for financing the annual payment for that
12 fiscal year and publish that plan in the Federal Register.
13 The plan may assume efficiencies in the operation of the
14 Postal Service, reductions in capital expenditures, in-
15 creases in the prices of services, or any combination, but
16 may not assume a lower Fund surplus or higher Fund
17 deficit and must follow the requirements of existing law
18 governing the Postal Service in all other respects. Within
19 30 days of the receipt of that plan, the Postal Rate Com-
20 mission shall approve the plan or modify it in the manner
21 that modifications are allowed under current law. If the
22 Postal Rate Commission does not respond to the plan
23 within 30 days, the plan submitted by the Postmaster
24 General shall go into effect. Any plan may be later revised

1 by the submission of a new plan to the Postal Rate Com-
2 mission, which may approve or modify it.

3 “(q) POWER MARKETING ADMINISTRATIONS AND
4 T.V.A.—Any sequestration of the Department of Energy
5 power marketing administration funds or the Tennessee
6 Valley Authority fund shall be accomplished by annual
7 payments from those funds to the General Fund of the
8 Treasury, and the administrators of those funds shall have
9 the duty to make those payments during the fiscal year
10 to which the sequestration order applies and each succeed-
11 ing fiscal year. The amount of each annual payment by
12 a fund shall be—

13 “(1) the uniform sequestration percentage,
14 times

15 “(2) the estimated gross obligations of the fund
16 in that year.

17 Any such payment for a fiscal year shall be made as soon
18 as possible during the fiscal year, except that it may be
19 made in installments within that year if the payment
20 schedule is approved by the Secretary of the Treasury. An-
21 nual payments by a fund may be financed by reductions
22 in costs required to produce the presequester amount of
23 power (but those reductions shall not include reductions
24 in the amount of power supplied by the fund), by reduc-
25 tions in capital expenditures, by increases in rates, or by

1 any combination, but may not be financed by a lower fund
2 surplus or a higher fund deficit and must follow the re-
3 quirements of existing law governing the fund in all other
4 respects. The administrator of a fund or the TVA Board
5 is authorized to take the actions specified above in order
6 to make the annual payments to the Treasury.

7 “(r) VETERANS’ HOUSING LOANS.—(1) For all hous-
8 ing loans guaranteed, insured, or made under chapter 37
9 of title 38, United States Code, on or after the date of
10 a sequestration, the origination fees shall be increased by
11 a uniform percentage sufficient to produce the dollar sav-
12 ings in veterans’ housing programs for the fiscal year of
13 the sequestration required by section 264, and all subse-
14 quent origination fees shall be increased by the same per-
15 centage, notwithstanding any other provision of law.

16 “(2) The origination fees to which paragraph (1) ap-
17 plies are those referred to in section 3729 of title 38, Unit-
18 ed States Code.”.

19 (b) CONFORMING CHANGES.—(1) The item relating
20 to section 254 in the table of sections set forth in section
21 200 of the Balanced Budget and Emergency Deficit Con-
22 trol Act of 1985 is amended to read as follows:

“Sec. 254. Estimating assumptions, reports, and orders.”.

23 (2) The item relating to section 256 in the table of
24 sections set forth in section 200 of the Balanced Budget

1 and Emergency Deficit Control Act of 1985 is amended
2 to read as follows:

“Sec. 256. General and special sequestration rules.”.

3 (c) Within 30 days after the date of enactment of
4 this Act, the Director of the Office of Management and
5 Budget and the Director of the Congressional Budget Of-
6 fice shall each issue a report that includes projections of
7 Federal spending, revenues, and deficits as a result of en-
8 actment of this Act and setting forth the economic and
9 technical assumptions used to make those projections.

10 **Subtitle F—Line Item Veto**

11 **SEC. 14501. LINE ITEM VETO AUTHORITY.**

12 (a) IN GENERAL.—Notwithstanding the provisions of
13 part B of title X of the Congressional Budget and Im-
14 poundment Control Act of 1974, and subject to the provi-
15 sions of this section, the President may rescind all or part
16 of the dollar amount of any discretionary budget authority
17 specified in an appropriation Act for fiscal year 1996 or
18 conference report or joint explanatory statement accom-
19 panying a conference report on the Act, or veto any tar-
20 geted tax benefit provision in this reconciliation Act, if the
21 President—

22 (1) determines that—

23 (A) such rescission or veto would help re-
24 duce the Federal budget deficit;

1 (B) such rescission or veto will not impair
2 any essential Government functions; and

3 (C) such rescission or veto will not harm
4 the national interest; and

5 (2) notifies the Congress of such rescission or
6 veto by a special message not later than 10 calendar
7 days (not including Sundays) after the date of the
8 enactment of an appropriation Act providing such
9 budget authority, or of this reconciliation Act in the
10 case of a targeted tax benefit.

11 (b) DEFICIT REDUCTION.—In each special message,
12 the President may also propose to reduce the appropriate
13 discretionary spending limit set forth in section 601(a)(2)
14 of the Congressional Budget Act of 1974 by an amount
15 that does not exceed the total amount of discretionary
16 budget authority rescinded by that message.

17 (c) SEPARATE MESSAGES.—The President shall sub-
18 mit a separate special message under this section for each
19 appropriation Act and for this reconciliation Act.

20 (d) LIMITATION.—No special message submitted by
21 the President under this section may change any prohibi-
22 tion or limitation of discretionary budget authority set
23 forth in any appropriation Act.

24 (e) SPECIAL RULE FOR PREVIOUSLY ENACTED AP-
25 PROPRIATION ACTS.—Notwithstanding subsection (a)(2),

1 in the case of any unobligated discretionary budget au-
2 thority provided by any appropriation Act for fiscal year
3 1996 that is enacted before the date of the enactment of
4 this Act, the President may rescind all or part of that dis-
5 cretionary budget authority under the terms of this sub-
6 title if the President notifies the Congress of such rescis-
7 sion by a special message not later than 10 calendar days
8 (not including Sundays) after the date of the enactment
9 of this Act.

10 **SEC. 14502. LINE ITEM VETO EFFECTIVE UNLESS DIS-**
11 **APPROVED.**

12 (a) IN GENERAL.—

13 (1) Any amount of budget authority rescinded
14 under this subtitle as set forth in a special message
15 by the President shall be deemed canceled unless,
16 during the period described in subsection (b), a re-
17 scission/receipts disapproval bill making available all
18 of the amount rescinded is enacted into law.

19 (2) Any provision of law vetoed under this sub-
20 title as set forth in a special message by the Presi-
21 dent shall be deemed repealed unless, during the pe-
22 riod described in subsection (b), a rescission/receipts
23 disapproval bill restoring that provision is enacted
24 into law.

1 (b) CONGRESSIONAL REVIEW PERIOD.—The period
2 referred to in subsection (a) is—

3 (1) a congressional review period of 20 calendar
4 days of session, beginning on the first calendar day
5 of session after the date of submission of the special
6 message, during which Congress must complete ac-
7 tion on the rescission/receipts disapproval bill and
8 present such bill to the President for approval or
9 disapproval;

10 (2) after the period provided in paragraph (1),
11 an additional 10 days (not including Sundays) dur-
12 ing which the President may exercise his authority
13 to sign or veto the rescission/receipts disapproval
14 bill; and

15 (3) if the President vetoes the rescission/re-
16 cepts disapproval bill during the period provided in
17 paragraph (2), an additional 5 calendar days of ses-
18 sion after the date of the veto.

19 (c) SPECIAL RULE.—If a special message is transmit-
20 ted by the President under this subtitle and the last ses-
21 sion of the Congress adjourns sine die before the expira-
22 tion of the period described in subsection (b), the rescis-
23 sion or veto, as the case may be, shall not take effect.
24 The message shall be deemed to have been retransmitted
25 on the first Monday in February of the succeeding Con-

1 gress and the review period referred to in subsection (b)
2 (with respect to such message) shall run beginning after
3 such first day.

4 **SEC. 14503. DEFINITIONS.**

5 As used in this subtitle:

6 (1) The term “rescission/receipts disapproval
7 bill” means a bill which only disapproves, in whole,
8 rescissions of discretionary budget authority or only
9 disapproves vetoes of targeted tax benefits in a spe-
10 cial message transmitted by the President under this
11 subtitle and—

12 (A)(i) in the case of a special message re-
13 garding rescissions, the matter after the enact-
14 ing clause of which is as follows: “That Con-
15 gress disapproves each rescission of discre-
16 tionary budget authority of the President as
17 submitted by the President in a special message
18 on _____.”, the blank space being filled in
19 with the appropriate date and the public law to
20 which the message relates; and

21 (ii) in the case of a special message re-
22 garding vetoes of targeted tax benefits, the
23 matter after the enacting clause of which is as
24 follows: “That Congress disapproves each veto
25 of targeted tax benefits of the President as sub-

1 mitted by the President in a special message on
2 _____.”, the blank space being filled in with
3 the appropriate date and the public law to
4 which the message relates; and

5 (B) the title of which is as follows: “A bill
6 to disapprove the recommendations submitted
7 by the President on _____.”, the blank
8 space being filled in with the date of submission
9 of the relevant special message and the public
10 law to which the message relates.

11 (2) The term “calendar days of session” shall
12 mean only those days on which both Houses of Con-
13 gress are in session.

14 (3) The term “targeted tax benefit” means any
15 provision of this reconciliation Act determined by the
16 President to provide a Federal tax deduction, credit,
17 exclusion, preference, or other concession to 100 or
18 fewer beneficiaries. Any partnership, limited partner-
19 ship, trust, or S corporation, and any subsidiary or
20 affiliate of the same parent corporation, shall be
21 deemed and counted as a single beneficiary regard-
22 less of the number of partners, limited partners,
23 beneficiaries, shareholders, or affiliated corporate en-
24 tities.

1 (4) The term “appropriation Act” means any
2 general or special appropriation Act for fiscal year
3 1996, and any Act or joint resolution making sup-
4 plemental, deficiency, or continuing appropriations
5 for fiscal year 1996.

6 **SEC. 14504. CONGRESSIONAL CONSIDERATION OF LINE**
7 **ITEM VETOES.**

8 (a) **PRESIDENTIAL SPECIAL MESSAGE.**—Whenever
9 the President rescinds any budget authority as provided
10 in this subtitle or vetoes any provision of law as provided
11 in this subtitle, the President shall transmit to both
12 Houses of Congress a special message specifying—

13 (1) the amount of budget authority rescinded or
14 the provision vetoed;

15 (2) any account, department, or establishment
16 of the Government to which such budget authority
17 is available for obligation, and the specific project or
18 governmental functions involved;

19 (3) the reasons and justifications for the deter-
20 mination to rescind budget authority or veto any
21 provision pursuant to this subtitle;

22 (4) to the maximum extent practicable, the esti-
23 mated fiscal, economic, and budgetary effect of the
24 rescission or veto; and

1 (5) all actions, circumstances, and consider-
2 ations relating to or bearing upon the rescission or
3 veto and the decision to effect the rescission or veto,
4 and to the maximum extent practicable, the esti-
5 mated effect of the rescission upon the objects, pur-
6 poses, and programs for which the budget authority
7 is provided.

8 (b) TRANSMISSION OF MESSAGES TO HOUSE AND
9 SENATE.—

10 (1) Each special message transmitted under
11 this subtitle shall be transmitted to the House of
12 Representatives and the Senate on the same day,
13 and shall be delivered to the Clerk of the House of
14 Representatives if the House is not in session, and
15 to the Secretary of the Senate if the Senate is not
16 in session. Each special message so transmitted shall
17 be referred to the appropriate committees of the
18 House of Representatives and the Senate. Each such
19 message shall be printed as a document of each
20 House.

21 (2) Any special message transmitted under this
22 subtitle shall be printed in the first issue of the Fed-
23 eral Register published after such transmittal.

24 (c) INTRODUCTION OF RESCISSION/RECEIPTS DIS-
25 APPROVAL BILLS.—The procedures set forth in subsection

1 (d) shall apply to any rescission/receipts disapproval bill
2 introduced in the House of Representatives not later than
3 the third calendar day of session beginning on the day
4 after the date of submission of a special message by the
5 President under this subtitle.

6 (d) CONSIDERATION IN THE HOUSE OF REPRESENT-
7 ATIVES.—

8 (1) The committee of the House of Representa-
9 tives to which a rescission/receipts disapproval bill is
10 referred shall report it without amendment, and with
11 or without recommendation, not later than the
12 eighth calendar day of session after the date of its
13 introduction. If the committee fails to report the bill
14 within that period, it is in order to move that the
15 House discharge the committee from further consid-
16 eration of the bill. A motion to discharge may be
17 made only by an individual favoring the bill (but
18 only after the legislative day on which a Member an-
19 nounces to the House the Member's intention to do
20 so). The motion is highly privileged. Debate thereon
21 shall be limited to not more than one hour, the time
22 to be divided in the House equally between a pro-
23 ponent and an opponent. The previous question shall
24 be considered as ordered on the motion to its adop-
25 tion without intervening motion. A motion to recon-

1 sider the vote by which the motion is agreed to or
2 disagreed to shall not be in order.

3 (2) After a rescission/receipts disapproval bill is
4 reported or the committee has been discharged from
5 further consideration, it is in order to move that the
6 House resolve into the Committee of the Whole
7 House on the State of the Union for consideration
8 of the bill. All points of order against the bill and
9 against consideration of the bill are waived. The mo-
10 tion is highly privileged. The previous question shall
11 be considered as ordered on that motion to its adop-
12 tion without intervening motion. A motion to recon-
13 sider the vote by which the motion is agreed to or
14 disagreed to shall not be in order. During consider-
15 ation of the bill in the Committee of the Whole, the
16 first reading of the bill shall be dispensed with. Gen-
17 eral debate shall proceed without intervening motion,
18 shall be confined to the bill, and shall not exceed two
19 hours equally divided and controlled by a proponent
20 and an opponent of the bill. No amendment to the
21 bill is in order, except any Member may move to
22 strike the disapproval of any rescission or rescissions
23 of budget authority or any proposed repeal of a tar-
24 geted tax benefit, as applicable, if supported by 49
25 other Members. At the conclusion of the consider-

1 ation of the bill for amendment, the Committee shall
2 rise and report the bill to the House. The previous
3 question shall be considered as ordered on the bill
4 and amendments thereto to final passage without in-
5 tervening motion. A motion to reconsider the vote on
6 passage of the bill shall not be in order.

7 (3) Appeals from the decisions of the Chair re-
8 lating to the application of the rules of the House
9 of Representatives to the procedure relating to a bill
10 described in subsection (a) shall be decided without
11 debate.

12 (4) It shall not be in order to consider more
13 than one bill described in subsection (c) or more
14 than one motion to discharge described in paragraph
15 (1) with respect to a particular special message.

16 (5) Consideration of any rescission/receipts dis-
17 approval bill under this subsection is governed by
18 the rules of the House of Representatives except to
19 the extent specifically provided by the provisions of
20 this subtitle.

21 (e) CONSIDERATION IN THE SENATE.—

22 (1) Any rescission/receipts disapproval bill re-
23 ceived in the Senate from the House shall be consid-
24 ered in the Senate pursuant to the provisions of this
25 subtitle.

1 (2) Debate in the Senate on any rescission/re-
2 ceipts disapproval bill and debatable motions and ap-
3 peals in connection therewith, shall be limited to not
4 more than ten hours. The time shall be equally di-
5 vided between, and controlled by, the majority leader
6 and the minority leader or their designees.

7 (3) Debate in the Senate on any debatable mo-
8 tions or appeal in connection with such bill shall be
9 limited to one hour, to be equally divided between,
10 and controlled by the mover and the manager of the
11 bill, except that in the event the manager of the bill
12 is in favor of any such motion or appeal, the time
13 in opposition thereto shall be controlled by the mi-
14 nority leader or his designee. Such leaders, or either
15 of them, may, from the time under their control on
16 the passage of the bill, allot additional time to any
17 Senator during the consideration of any debatable
18 motion or appeal.

19 (4) A motion to further limit debate is not de-
20 batable. A motion to recommit (except a motion to
21 recommit with instructions to report back within a
22 specified number of days not to exceed one, not
23 counting any day on which the Senate is not in ses-
24 sion) is not in order.

25 (f) POINTS OF ORDER.—

1 (1) It shall not be in order in the Senate to
2 consider any rescission/receipts disapproval bill that
3 relates to any matter other than the rescission of
4 budget authority or veto of the provision of law
5 transmitted by the President under this subtitle.

6 (2) It shall not be in order in the Senate to
7 consider any amendment to a rescission/receipts dis-
8 approval bill.

9 (3) Paragraphs (1) and (2) may be waived or
10 suspended in the Senate only by a vote of three-
11 fifths of the members duly chosen and sworn.

12 **SEC. 14505. REPORT OF THE GENERAL ACCOUNTING OF-**
13 **FICE.**

14 On January 6, 1997, the Comptroller General shall
15 submit a report to each House of Congress which provides
16 the following information:

17 (1) A list of each proposed Presidential rescis-
18 sion of discretionary budget authority and veto of a
19 targeted tax benefit submitted through special mes-
20 sages for fiscal year 1996, together with their dollar
21 value, and an indication of whether each rescission
22 of discretionary budget authority or veto of a tar-
23 geted tax benefit was accepted or rejected by Con-
24 gress.

1 (2) The total number of proposed Presidential
2 rescissions of discretionary budget authority and ve-
3 toes of a targeted tax benefit submitted through spe-
4 cial messages for fiscal year 1996, together with
5 their total dollar value.

6 (3) The total number of Presidential rescissions
7 of discretionary budget authority or vetoes of a tar-
8 geted tax benefit submitted through special mes-
9 sages for fiscal year 1996 and approved by Con-
10 gress, together with their total dollar value.

11 (4) A list of rescissions of discretionary budget
12 authority initiated by Congress for fiscal year 1996,
13 together with their dollar value, and an indication of
14 whether each such rescission was accepted or re-
15 jected by Congress.

16 (5) The total number of rescissions of discre-
17 tionary budget authority initiated and accepted by
18 Congress for fiscal year 1996, together with their
19 total dollar value.

20 **SEC. 14506. JUDICIAL REVIEW.**

21 (a) EXPEDITED REVIEW.—

22 (1) Any Member of Congress may bring an ac-
23 tion, in the United States District Court for the Dis-
24 trict of Columbia, for declaratory judgment and in-

1 junctive relief on the ground that any provision of
2 this subtitle violates the Constitution.

3 (2) A copy of any complaint in an action
4 brought under paragraph (1) shall be promptly de-
5 livered to the Secretary of the Senate and the Clerk
6 of the House of Representatives, and each House of
7 Congress shall have the right to intervene in such
8 action.

9 (3) Any action brought under paragraph (1)
10 shall be heard and determined by a three-judge
11 court in accordance with section 2284 of title 28,
12 United States Code.

13 (4) Nothing in this section or in any other law
14 shall infringe upon the right of the House of Rep-
15 resentatives to intervene in an action brought under
16 paragraph (1) without the necessity of adopting a
17 resolution to authorize such intervention.

18 (b) APPEAL TO SUPREME COURT.—Notwithstanding
19 any other provision of law, any order of the United States
20 District Court for the District of Columbia which is issued
21 pursuant to an action brought under paragraph (1) of sub-
22 section (a) shall be reviewable by appeal directly to the
23 Supreme Court of the United States. Any such appeal
24 shall be taken by a notice of appeal filed within 10 days
25 after such order is entered; and the jurisdictional state-

1 ment shall be filed within 30 days after such order is en-
2 tered. No stay of an order issued pursuant to an action
3 brought under paragraph (1) of subsection (a) shall be
4 issued by a single Justice of the Supreme Court.

5 (c) EXPEDITED CONSIDERATION.—It shall be the
6 duty of the District Court for the District of Columbia
7 and the Supreme Court of the United States to advance
8 on the docket and to expedite to the greatest possible ex-
9 tent the disposition of any matter brought under sub-
10 section (a).

11 **Subtitle G—Enforcing Points of** 12 **Order**

13 **SEC. 14601. POINTS OF ORDER IN THE SENATE.**

14 (a) WAIVER.—The second sentence of section 904(c)
15 of the Congressional Budget Act of 1974 is amended by
16 inserting “303(a),” after “302(f),”, by inserting “311(c),”
17 after “311(a),”, by inserting “606(b),” after “601(b),”,
18 and by inserting “253(d), 253(h), 253(i),” before
19 “258(a)(4)(C)”.

20 (b) APPEALS.—The third sentence of section 904(c)
21 of the Congressional Budget Act of 1974 is amended by
22 inserting “303(a),” after “302(f),”, by inserting “311(c),”
23 after “311(a),”, by inserting “606(b),” after “601(b),”,
24 and by inserting “253(d), 253(h), 253(i),” before
25 “258(a)(4)(C)”.

1 **SEC. 14602. POINTS OF ORDER IN THE HOUSE OF REP-**
2 **RESENTATIVES.**

3 Section 904 of the Congressional Budget Act of 1974
4 is amended by redesignating subsection (d) as subsection
5 (e) and by inserting after subsection (c) the following new
6 subsection:

7 “(d) In the House of Representatives, a separate vote
8 shall be required on that part of any resolution or order
9 that makes in order the waiver of any points of order re-
10 ferred to in subsection (c).”.

11 **Subtitle H—Deficit Reduction**
12 **Lock-box**

13 **SEC. 14701. DEFICIT REDUCTION LOCK-BOX PROVISIONS OF**
14 **APPROPRIATION MEASURES.**

15 (a) DEFICIT REDUCTION LOCK-BOX PROVISIONS.—
16 Title III of the Congressional Budget Act of 1974 is
17 amended by adding at the end the following new section:

18 “DEFICIT REDUCTION LOCK-BOX PROVISIONS OF
19 APPROPRIATION BILLS

20 “SEC. 314. (a) Any appropriation bill that is being
21 marked up by the Committee on Appropriations (or a sub-
22 committee thereof) of either House shall contain a line
23 item entitled ‘Deficit Reduction Lock-box’.

24 “(b) Whenever the Committee on Appropriations of
25 either House reports an appropriation bill, that bill shall

1 contain a line item entitled ‘Deficit Reduction Account’
2 comprised of the following:

3 “(1) Only in the case of any general appropria-
4 tion bill containing the appropriations for Treasury
5 and Postal Service (or resolution making continuing
6 appropriations (if applicable)), an amount equal to
7 the amounts by which the discretionary spending
8 limit for new budget authority and outlays set forth
9 in the most recent OMB sequestration preview re-
10 port pursuant to section 601(a)(2) exceed the sec-
11 tion 602(a) allocation for the fiscal year covered by
12 that bill.

13 “(2) Only in the case of any general appropria-
14 tion bill (or resolution making continuing appropria-
15 tions (if applicable)), an amount not to exceed the
16 amount by which the appropriate section 602(b) al-
17 location of new budget authority exceeds the amount
18 of new budget authority provided by that bill (as re-
19 ported by that committee), but not less than the
20 sum of reductions in budget authority resulting from
21 adoption of amendments in the committee which
22 were designated for deficit reduction.

23 “(3) Only in the case of any bill making supple-
24 mental appropriations following enactment of all
25 general appropriation bills for the same fiscal year,

1 an amount not to exceed the amount by which the
2 section 602(a) allocation of new budget authority ex-
3 ceeds the sum of all new budget authority provided
4 by appropriation bills enacted for that fiscal year
5 plus that supplemental appropriation bill (as re-
6 ported by that committee).

7 “(c) It shall not be in order for the Committee on
8 Rules of the House of Representatives to report a resolu-
9 tion that restricts the offering of amendments to any ap-
10 propriation bill adjusting the level of budget authority con-
11 tained in a Deficit Reduction Account.

12 “(d) Whenever a Member of either House of Congress
13 offers an amendment (whether in subcommittee, commit-
14 tee, or on the floor) to an appropriation bill to reduce
15 spending, that reduction shall be placed in the deficit re-
16 duction lock-box unless that Member indicates that it is
17 to be utilized for another program, project, or activity cov-
18 ered by that bill. If the amendment is agreed to and the
19 reduction was placed in the deficit reduction lock-box, then
20 the line item entitled ‘Deficit Reduction Lock-box’ shall
21 be increased by the amount of that reduction. Any amend-
22 ment pursuant to this subsection shall be in order even
23 if amendment portions of the bill are not read for amend-
24 ment with respect to the Deficit Reduction Lock-box.

1 “(e) It shall not be in order in the House of Rep-
2 resentatives or the Senate to consider a conference report
3 or amendment of the Senate that modifies any Deficit Re-
4 duction Lock-box provision that is beyond the scope of
5 that provision as so committed to the conference commit-
6 tee.

7 “(f) It shall not be in order to offer an amendment
8 increasing the Deficit Reduction Lock-box Account unless
9 the amendment increases rescissions or reduces appropria-
10 tions by an equivalent or larger amount, except that it
11 shall be in order to offer an amendment increasing the
12 amount in the Deficit Reduction Lock-box by the amount
13 that the appropriate 602(b) allocation of new budget au-
14 thority exceeds the amount of new budget authority pro-
15 vided by that bill.

16 “(g) It shall not be in order for the Committee on
17 Rules of the House of Representatives to report a resolu-
18 tion which waives subsection (c).”.

19 (b) CONFORMING AMENDMENT.—The table of con-
20 tents set forth in section 1(b) of the Congressional Budget
21 and Impoundment Control Act of 1974 is amended by in-
22 serting after the item relating to section 313 the following
23 new item:

“Sec. 314. Deficit reduction lock-box provisions of appropriation measures.”.

1 **SEC. 14702. DOWNWARD ADJUSTMENTS.**

2 (a) DOWNWARD ADJUSTMENTS.—The discretionary
3 spending limit for new budget authority for any fiscal year
4 set forth in section 601(a)(2) of the Congressional Budget
5 Act of 1974, as adjusted in strict conformance with sec-
6 tion 251 of the Balanced Budget and Emergency Deficit
7 Control Act of 1985, shall be reduced by the amount of
8 budget authority transferred to the Deficit Reduction
9 Lockbox for that fiscal year under section 314 of the
10 Budget Control and Impoundment Act of 1974. The ad-
11 justed discretionary spending limit for outlays for that fis-
12 cal year and each outyear as set forth in such section
13 601(a)(2) shall be reduced as a result of the reduction
14 of such budget authority, as calculated by the Director of
15 the Office of Management and Budget based upon such
16 programmatic and other assumptions set forth in the joint
17 explanatory statement of managers accompanying the con-
18 ference report on that bill. All such reductions shall occur
19 within ten days of enactment of any appropriations bill.

20 (b) DEFINITION.—As used in this section, the term
21 “appropriation bill” means any general or special appro-
22 priation bill, and any bill or joint resolution making sup-
23 plemental, deficiency, or continuing appropriations.

24 (c) RESCISSION.—Funds in the Deficit Reduction
25 Lockbox shall be rescinded upon reductions in discre-
26 tionary limits pursuant to subsection (a).

1 **SEC. 14703. CBO TRACKING.**

2 Section 202 of the Congressional Budget Act of 1974
3 is amended by adding at the end the following new sub-
4 section:

5 “(i) SCOREKEEPING.—To facilitate compliance by the
6 Committee on Appropriations with section 314, the Office
7 shall score all general appropriation measures (including
8 conference reports) as passed by the House of Representa-
9 tives, as passed the Senate and as enacted into law. The
10 scorecard shall include amounts contained in the Deficit
11 Reduction Lock-Box. The chairman of the Committee on
12 Appropriations of the House of Representatives or the
13 Senate, as the case may be, shall have such scorecard pub-
14 lished in the Congressional Record.”.

15 **Subtitle I—Emergency Spending;**
16 **Baseline Reform; Continuing**
17 **Resolutions Reform**

18 **CHAPTER 1—EMERGENCY SPENDING**

19 **SEC. 14801. ESTABLISHMENT OF BUDGET RESERVE AC-**
20 **COUNT.**

21 (a) ESTABLISHMENT.—A budget reserve account
22 (hereinafter in this section referred to as the “account”)
23 shall be established for the purpose of setting aside ade-
24 quate funding for natural disasters and national security
25 emergencies.

1 (b) PRIOR APPROPRIATION REQUIRED.—The ac-
2 count shall consist of such sums as may be provided in
3 advance in appropriation Acts for a particular fiscal year.

4 (c) RESTRICTION ON USE OF FUNDS.—(1) Notwith-
5 standing any other provision of law, the amounts in the
6 account shall not be available for other than emergency
7 funding requirements for particular natural disasters or
8 national security emergencies so designated by Acts of
9 Congress.

10 (2) Funds in the account that are not obligated dur-
11 ing the fiscal year for which they are appropriated may
12 only be used for deficit reduction purposes.

13 (d) NEW POINT OF ORDER.—(1) Title IV of the Con-
14 gressional Budget Act of 1974 is amended by adding at
15 the end the following new section:

16 “POINT OF ORDER REGARDING EMERGENCIES

17 “SEC. 408. It shall not be in order in the House of
18 Representatives or the Senate to consider any bill or joint
19 resolution, or amendment thereto or conference report
20 thereon, containing an emergency designation for purposes
21 of section 251(b)(2)(D) or 252(e) of the Balanced Budget
22 and Emergency Deficit Control Act of 1985 if it also pro-
23 vides an appropriation or direct spending for any other
24 item or contains any other matter, but that bill or joint
25 resolution, amendment, or conference report may contain
26 rescissions of budget authority or reductions of direct

1 spending, or that amendment may reduce amounts for
2 that emergency.”.

3 (2) The table of contents set forth in section 1(b) of
4 the Congressional Budget and Impoundment Control Act
5 of 1974 is amended by inserting after the item relating
6 to section 407 the following new item:

“Sec. 408. Point of order regarding emergencies.”.

7 **SEC. 14802. CONGRESSIONAL BUDGET PROCESS CHANGES.**

8 (a) CONTENTS OF JOINT RESOLUTIONS ON THE
9 BUDGET.—Section 301(a) of the Congressional Budget
10 Act of 1974 is amended by redesignating paragraphs (6)
11 and (7) as paragraphs (7) and (8), respectively, and by
12 inserting after paragraph (5) the following new paragraph:

13 “(6) total new budget authority and total
14 budget outlays for emergency funding requirements
15 for natural disasters and national security emer-
16 gencies to be included in a budget reserve account;”.

17 (b) SECTION 602 ALLOCATIONS.—(1) Section 602 of
18 the Congressional Budget Act of 1974 is amended by add-
19 ing at the end the following new subsection:

20 “(f) COMMITTEE SPENDING ALLOCATIONS AND
21 SUBALLOCATIONS FOR BUDGET RESERVE ACCOUNT.—

22 “(1) ALLOCATIONS.—The joint explanatory
23 statement accompanying a conference report on a
24 budget resolution shall include allocations, consistent
25 with the resolution recommended in the conference

1 report, of the appropriate levels (for each fiscal year
2 covered by that resolution) of total new budget au-
3 thority and outlays to the Committee on Appropria-
4 tions of each House for emergency funding require-
5 ments for natural disasters and national security
6 emergencies to be included in a budget reserve
7 account.

8 “(2) SUBALLOCATIONS.—As soon as practicable
9 after a budget resolution is agreed to, the Commit-
10 tee on Appropriations of each House (after consult-
11 ing with the Committee on Appropriations of the
12 other House) shall suballocate each amount allocated
13 to it for the budget year under paragraph (1) among
14 its subcommittees. Each Committee on Appropria-
15 tions shall promptly report to its House
16 suballocations made or revised under this
17 paragraph.”.

18 (2) Section 602(c) of the Congressional Budget Act
19 of 1974 is amended by inserting “or subsection (f)(1)”
20 after “subsection (a)” and by inserting “or subsection
21 (f)(2)” after “subsection (b)”.

22 **SEC. 14803. REPORTING.**

23 Not later than November 30, 1996, and at annual
24 intervals thereafter, the Director of the Office of Manage-
25 ment and Budget shall submit a report to each House of

1 Congress listing the amounts of money expended from the
2 budget reserve account established under section 1 for the
3 fiscal year ending during that calendar year for each natu-
4 ral disaster and national security emergency.

5 **CHAPTER 2—BASELINE REFORM**

6 **SEC. 14851. THE BASELINE.**

7 (a) The second sentence of section 257(c) of the Bal-
8 anced Budget and Emergency Deficit Control Act of 1985
9 is amended—

10 (1) by inserting “but only for the purpose of
11 adjusting the discretionary spending limits set forth
12 in section 601(a)(2) of the Congressional Budget
13 Act of 1974” after “for inflation as specified in
14 paragraph (5)”; and

15 (2) by inserting “but only for the purpose of
16 adjusting the discretionary spending limits set forth
17 in section 601(a)(2) of the Congressional Budget
18 Act of 1974” after “to offset pay absorption and for
19 pay annualization as specified in paragraph (4)”.

20 (b) Section 1109(a) of title 31, United States Code,
21 is amended by adding after the first sentence the following
22 new sentence: “These estimates shall not include an ad-
23 justment for inflation for programs and activities subject
24 to discretionary appropriations.”.

1 **SEC. 14852. THE PRESIDENT'S BUDGET.**

2 (a) Paragraph (5) of section 1105(a) of title 31,
3 United States Code, is amended to read as follows:

4 “(5) except as provided in subsection (b) of this
5 section, estimated expenditures and appropriations
6 for the current year and estimated expenditures and
7 proposed appropriations the President decides are
8 necessary to support the Government in the fiscal
9 year for which the budget is submitted and the 4 fis-
10 cal years following that year;”.

11 (b) Section 1105(a)(6) of title 31, United States
12 Code, is amended by inserting “current fiscal year and
13 the” before “fiscal year”.

14 (c) Section 1105(a)(12) of title 31, United States
15 Code, is amended by striking “and” at the end of subpara-
16 graph (A), by striking the period and inserting “; and”
17 at the end of subparagraph (B), and by adding at the end
18 the following new subparagraph:

19 “(C) the estimated amount for the same activ-
20 ity (if any) in the current fiscal year.”.

21 (d) Section 1105(a)(18) of title 31, United States
22 Code, is amended by inserting “new budget authority
23 and” before “budget outlays”.

24 (e) Section 1105(a) of title 31, United States Code,
25 is amended by adding at the end the following new para-
26 graph:

1 “(30) a comparison of levels of estimated ex-
2 penditures and proposed appropriations for each
3 function and subfunction in the current fiscal year
4 and the fiscal year for which the budget is submit-
5 ted, along with the proposed increase or decrease of
6 spending in percentage terms for each function and
7 subfunction.”.

8 **SEC. 14853. THE CONGRESSIONAL BUDGET.**

9 Section 301(e) of the Congressional Budget Act of
10 1974 is amended by—

11 (1) inserting after the second sentence the fol-
12 lowing: “The starting point for any deliberations in
13 the Committee on the Budget of each House on the
14 joint resolution on the budget for the next fiscal year
15 shall be the estimated level of outlays for the current
16 year in each function and subfunction. Any increases
17 or decreases in the congressional budget for the next
18 fiscal year shall be from such estimated levels.”; and

19 (2) striking paragraph (8) and redesignating
20 paragraphs (9) and (10) as paragraphs (10) and
21 (11), respectively, and by inserting after paragraph
22 (7) the following new paragraphs:

23 “(8) a comparison of levels for the current fis-
24 cal year with proposed spending and revenue levels
25 for the subsequent fiscal years along with the pro-

1 posed increase or decrease of spending in percentage
2 terms for each function and subfunction; and

3 “(9) information, data, and comparisons indi-
4 cating the manner in which and the basis on which,
5 the committee determined each of the matters set
6 forth in the joint resolution;”.

7 **SEC. 14854. CONGRESSIONAL BUDGET OFFICE REPORTS TO**
8 **COMMITTEES.**

9 (a) The first sentence of section 202(f)(1) of the Con-
10 gressional Budget Act of 1974 is amended to read as fol-
11 lows: “On or before February 15 of each year, the Direc-
12 tor shall submit to the Committees on the Budget of the
13 House of Representatives and the Senate a report for the
14 fiscal year commencing on October 1 of that year with
15 respect to fiscal policy, including (A) alternative levels of
16 total revenues, total new budget authority, and total out-
17 lays (including related surpluses and deficits) compared
18 to comparable levels for the current year and (B) the levels
19 of tax expenditures under existing law, taking into account
20 projected economic factors and any changes in such levels
21 based on proposals in the budget submitted by the Presi-
22 dent for such fiscal year.”.

23 (b) Section 202(f)(1) of the Congressional Budget
24 Act of 1974 is amended by inserting after the first sen-
25 tence the following new sentence: “That report shall also

1 include a table on sources of spending growth in total
2 mandatory spending for the budget year and the ensuing
3 4 fiscal years, which shall include changes in outlays at-
4 tributable to the following: cost-of-living adjustments;
5 changes in the number of program recipients; increases
6 in medical care prices, utilization and intensity of medical
7 care; and residual factors.”.

8 (c) Section 308(a)(1) of the Congressional Budget
9 Act of 1974 is amended—

10 (1) in subparagraph (C), by inserting “, and
11 shall include a comparison of those levels to com-
12 parable levels for the current fiscal year” before “if
13 timely submitted”; and

14 (2) by striking “and” at the end of subpara-
15 graph (C), by striking the period and inserting “;
16 and” at the end of subparagraph (D), and by adding
17 at the end the following new subparagraph:

18 “(E) comparing the levels in existing pro-
19 grams in such measure to the estimated levels
20 for the current fiscal year.”

21 (d) Title IV of the Congressional Budget Act of 1974
22 is amended by adding at the end the following new section:

23 “GAO REPORTS TO BUDGET COMMITTEES

24 (a) “SEC. 408. On or before January 15 of each year,
25 the Comptroller General, after consultation with appro-
26 priate committees of the House of Representatives and

1 Senate, shall submit to the Congress a report listing all
2 programs, projects, and activities that fall within the defi-
3 nition of direct spending under section 250(c)(8) of the
4 Balanced Budget and Emergency Deficit Control Act of
5 1985.”.

6 (b) CONFORMING AMENDMENT.—The table of con-
7 tents set forth in section 1(b) of the Congressional Budget
8 and Impoundment Control Act of 1974 is amended by in-
9 serting after the item relating to section 407 the following
10 new item:

“Sec. 408. GAO reports to budget committees.”.

11 **CHAPTER 3—RESTRICTED USES OF**
12 **CONTINUING RESOLUTIONS**

13 **SEC. 14871. RESTRICTIONS RESPECTING CONTINUING RES-**
14 **OLUTIONS.**

15 (a) Rule XXI of the Rules of the House of Represent-
16 atives is amended by adding at the end thereof the follow-
17 ing new clause:

18 “9. (a) Any item of appropriation set forth in any
19 joint resolution continuing appropriations, or amendment
20 thereto, shall not exceed the rate it would have been at
21 assuming the continuation of current law.

22 “(b) It shall not be in order in the House to consider
23 any joint resolution continuing appropriations, or amend-
24 ment thereto, which changes existing law.”.

1 (b) The amendment made by subsection (a) shall only
2 apply to joint resolutions continuing appropriations for fis-
3 cal year 1996 or any subsequent fiscal year.

4 **Subtitle J—Technical and**
5 **Conforming Amendments**

6 **SEC. 14901. AMENDMENTS TO THE CONGRESSIONAL BUDG-**
7 **ET AND IMPOUNDMENT CONTROL ACT OF**
8 **1974.**

9 (a) DEFINITION OF BUDGET AUTHORITY.—Para-
10 graph (2) of section 3 of the Congressional Budget and
11 Impoundment Control Act of 1974, the second time it ap-
12 pears, is amended by inserting “in any form” after “prom-
13 issory notes”, by inserting at the end of subparagraph (A)
14 the following new sentence: “Such term excludes trans-
15 actions classified as means of financing.”, and by striking
16 “With respect to” and all that follows through “retirement
17 account, any” and inserting “Any”, by inserting after sub-
18 paragraph (B) the following:

19 “(C) RELATIONSHIP TO ENTITLEMENT AU-
20 THORITY.—For purposes of titles III and IV,
21 all references to budget authority shall be con-
22 sidered to include the amount of budget author-
23 ity estimated to be needed to fund entitlement
24 provisions under existing or proposed law, and
25 all legislation increasing (or decreasing) the

1 level of entitlement authority under existing law
2 shall be considered to provide (or decrease) new
3 budget authority in that amount.”,

4 and by redesignating the next subparagraph accordingly.

5 (b) DEFINITION OF ENTITLEMENT AUTHORITY.—

6 Paragraph (9) of section 3 of the Congressional Budget
7 and Impoundment Control Act of 1974 is amended by
8 striking “spending authority described by section
9 401(c)(2)(C)” and inserting the following: “, and the term
10 ‘entitlement program’ refers to, any provision of law that
11 has the effect of requiring the Government to make net
12 payments (including intragovernmental payments) regard-
13 less of the amount of budget authority that may be avail-
14 able to make those payments. Those terms shall include
15 amounts estimated to be required under provisions of law
16 that depend on the fulfillment of non-legislative conditions
17 or are indefinite as to amount or timing. Except as pro-
18 vided in the next sentence, if a provision of law that other-
19 wise requires the Government to make net payments is
20 directly or indirectly limited by any other provision of law
21 to an amount of available budget authority, then entitle-
22 ment authority does not exist. Subchapter II of chapter
23 13 of title 31, United States Code, and the sequestration
24 provisions of the Balanced Budget and Emergency Deficit
25 Control Act of 1985 shall not be considered provisions of

1 law that limit entitlement authority to the amount of avail-
2 able budget authority.”

3 (c) DEFINITION OF MEANS OF FINANCING.—Section
4 3 of the Congressional Budget and Impoundment Control
5 Act of 1974 is amended by adding at the end the following
6 new paragraph:

7 “(11) The term ‘means of financing’ means the
8 financial transactions of the Government that con-
9 sist of exchanges of money or monetary proxies of
10 equal value and therefore are not counted as obliga-
11 tions, outlays, or revenues, such as net Federal bor-
12 rowing from the public in any form, debt redemp-
13 tion, seignorage on coins and profits from the sale
14 of gold, and changes in outstanding check or other
15 monetary credits, including write-offs.”.

16 (d) CBO STUDIES.—Section 202(h) of the Congres-
17 sional Budget Act of 1974 is amended by striking “out-
18 lays, credit authority,” and inserting “outlays”.

19 (e) REQUIRED CONTENTS OF BUDGET RESOLU-
20 TION.—Section 301(a) of the Congressional Budget Act
21 of 1974 is amended by striking “planning levels”, by strik-
22 ing “two” and inserting “four”, by striking “, budget out-
23 lays, direct loan obligations, and primary loan guarantee
24 commitments” both places it appears and inserting “and
25 outlays”, by striking paragraphs (5), (6) and (7), by strik-

1 ing the semicolon at the end of paragraph (4) and insert-
2 ing a period, by inserting “and” after the semicolon at
3 the end of paragraph (3), and by striking the last sen-
4 tence.

5 (f) TECHNICAL CORRECTION TO SECTION 301(e).—
6 Section 301(e) of the Congressional Budget Act of 1974
7 is amended by inserting “new” before “budget authority”
8 in the second sentence.

9 (g) COMMITTEE ALLOCATIONS AND
10 SUBALLOCATIONS.—Section 602(a)(1)(B) of the Congres-
11 sional Budget Act of 1974 is amended by striking “com-
12 mittee.” and inserting “committee, except that new budget
13 authority and outlays for entitlement programs funded
14 through annual appropriations shall be allocated and
15 scored both to the Committee on Appropriations and to
16 the committee that authorized such programs.”.

17 (h) COMMITTEE ALLOCATIONS.—Section 302 of the
18 Congressional Budget Act of 1974 is amended to read as
19 follows:

20 “COMMITTEE ALLOCATIONS

21 “SEC. 302. (a) REPORTS BY COMMITTEES.—As soon
22 as practicable after a joint resolution on the budget is en-
23 acted—

24 “(1) the Committee on Appropriations of each
25 House shall, after consulting with the Committee on
26 Appropriations of the other House—

1 “(A) subdivide among its subcommittees
2 the allocation of budget outlays, new budget au-
3 thority, and new credit authority allocated to it
4 in the joint budget resolution;

5 “(B) further subdivide the amount with re-
6 spect to each such subcommittee between con-
7 trollable amounts and all other amounts; and

8 “(2) every other committee of the House and
9 Senate to which an allocation was made in such
10 joint budget resolution shall, after consulting with
11 the committee or committees of the other House to
12 which all or part of its allocation was made—

13 “(A) subdivide such allocation among its
14 subcommittees or among programs over which
15 it has jurisdiction; and

16 “(B) further subdivide the amount with re-
17 spect to each subcommittee or program between
18 controllable amounts and all other amounts.

19 Each such committee shall promptly report to its
20 House the subdivisions made by it pursuant to this
21 subsection.

22 “(b) POINT OF ORDER.—It shall not be in order in
23 the House of Representatives or the Senate to consider
24 any bill or resolution, or amendment thereto, providing—

25 “(1) new budget authority for a fiscal year;

1 “(2) new spending authority as described in
2 section 401(c)(2) for a fiscal year; or

3 “(3) new credit authority for a fiscal year;
4 within the jurisdiction of any committee which has re-
5 ceived an appropriate allocation of such authority pursu-
6 ant to section 301(a)(6) for such fiscal year, unless and
7 until such committee makes the allocation of subdivisions
8 required by subsection (a), in connection with the most
9 recently enacted joint resolution on the budget for such
10 fiscal year.

11 “(c) SUBSEQUENT JOINT RESOLUTIONS.—In the
12 case of a joint resolution on the budget referred to in sec-
13 tion 304, the subdivisions under subsection (a) shall be
14 required only to the extent necessary to take into account
15 revisions made in the most recently enacted joint resolu-
16 tion on the budget.

17 “(d) ALTERATION OF ALLOCATIONS.—At any time
18 after a committee reports the subdivision required to be
19 made under subsection (a), such committee may report to
20 its House an alteration of such subdivision. Any alteration
21 of such subdivision must be consistent with any actions
22 already taken by its House on legislation within the com-
23 mittee’s jurisdiction.

24 “(e) LEGISLATION SUBJECT TO POINT OF ORDER.—
25 After enactment of a joint resolution on the budget for

1 a fiscal year, it shall not be in order in the House of Rep-
2 resentatives or the Senate to consider any bill, resolution,
3 or amendment providing new budget authority for such
4 fiscal year, new entitlement authority effective during such
5 fiscal year, or new credit authority for such fiscal year,
6 or any conference report on any such bill or resolution,
7 if—

8 “(1) the enactment of such bill or resolution as
9 reported;

10 “(2) the adoption and enactment of such
11 amendment; or

12 “(3) the enactment of such bill or resolution in
13 the form recommended in such conference report;
14 would cause the appropriate allocation made pursuant to
15 section 301(a)(6) or subdivision made under subsection
16 (a) of this section for such fiscal year of new discretionary
17 budget authority, new entitlement authority, or new credit
18 authority, to be exceeded.

19 “(f) DETERMINATIONS BY BUDGET COMMITTEES.—
20 For purposes of this section, the levels of new budget au-
21 thority, spending authority as described in section
22 401(c)(2), outlays and new credit authority for a fiscal
23 year, shall be determined on the basis of estimates made
24 by the Committee on the Budget of the House of Rep-
25 resentatives or the Senate, as the case may be.”.

1 (i) COST ESTIMATES AND SCOREKEEPING RE-
2 PORTS.—Section 308 of the Congressional Budget Act of
3 1974 is amended—

4 (1) in its title, by striking “, NEW SPENDING
5 AUTHORITY, OR NEW CREDIT AUTHORITY,”;

6 (2) by striking “, new spending authority de-
7 scribed in section 401(c)(2), or new credit author-
8 ity,” the 3 times it appears;

9 (3) in subsection (a), by striking “in the reports
10 submitted”, by inserting “302(a) or” before
11 “302(b)”, in paragraph (1)(B) by striking “spending
12 authority” and everything that follows through
13 “401(c)(2) which is” and inserting “budget author-
14 ity” and by striking “annual appropriations” and in-
15 serting “annual discretionary appropriations”, and
16 in paragraph (1)(C) by striking “such budget au-
17 thority” and all that follows through “loan guaran-
18 tee commitments” and inserting “new budget au-
19 thority, outlays, or revenues”; and

20 (4) in subsection (c), by adding “and” at the
21 end of paragraph (1), by striking “period;” and in-
22 serting “period.” at the end of paragraph (2), and
23 by striking paragraphs (3), (4), and (5).

1 (j) TECHNICAL CORRECTION TO SECTION 312.—Sec-
2 tion 312 of the Congressional Budget Act of 1974 is
3 amended by inserting “(a)” after “312.”.

4 (k) CONSIDERATION OF LEGISLATION THAT HAS
5 NOT BEEN REPORTED.—Section 312 of the Congres-
6 sional Budget Act of 1974 is amended by inserting at the
7 end the following:

8 “(c) CONSIDERATION OF LEGISLATION THAT HAS
9 NOT BEEN REPORTED.—In the House of Representatives,
10 any point of order under title III or IV that would lie
11 against consideration of a bill or joint resolution as re-
12 ported by a committee shall also lie against a motion to
13 consider legislation respecting which no report has been
14 filed.”

15 (l) CONFORMING AMENDMENTS TO SECTION 313.—
16 Section 313 of the Congressional Budget Act of 1974 is
17 amended by striking “or section 258C” and everything
18 that follows through “Deficit Control Act of 1985”, by
19 striking “; and (F)” and everything that follows through
20 “310(g)”, by redesignating the second subsection (c) and
21 subsection (d) as subsections (d) and (e), respectively, and
22 by striking “or (b)(1)(F),”.

23 (m) BORROWING AND CONTRACT AUTHORITY.—Sec-
24 tion 401 of the Congressional Budget Act of 1974 is
25 amended

1 (1) in subsection (a), by striking “new spending
2 authority described in subsection (c)(2)(A) or (B)”
3 both times it appears and inserting “borrowing au-
4 thority or contract authority”;

5 (2) by repealing subsections (b) and (c) and by
6 redesignating subsection (d) as subsection (b); and

7 (3) in subsection (b) (as redesignated), by strik-
8 ing “Subsections (a) and (b)” and inserting “Sub-
9 section (a)”, by inserting “non-interest” before “re-
10 ceipts” in paragraph (1)(B), by repealing paragraph
11 (2), and by redesignating paragraph (3) as para-
12 graph (2).

13 (n) CREDIT AUTHORITY.—Section 402(a) of the Con-
14 gressional Budget Act of 1974 is amended by inserting
15 before the period the following: “, except that this provi-
16 sion shall not apply with respect to programs that, as of
17 August 15, 1992, provide credit authority as an entitle-
18 ment”.

19 **SEC. 14902. TECHNICAL AND CONFORMING AMENDMENTS**
20 **TO THE RULES OF THE HOUSE OF REP-**
21 **RESENTATIVES.**

22 (a) MISCELLANEOUS CONFORMING AMENDMENT.—
23 Clause 4(h) of rule X of the Rules of the House of Rep-
24 resentatives is amended by striking “or section 602 (in
25 the case of fiscal years 1991 through 1995)”.

1 (b) REPEALER.—Rule XLIX of the Rules of the
2 House of Representatives is repealed.

3 **SEC. 14903. PRESIDENT'S BUDGET.**

4 (a) DEFINITIONS.—Section 1101 of title 31, United
5 States Code, is amended by adding at the end the follow-
6 ing:

7 “(3) ‘Expenditures’ has the same meaning as
8 the term ‘outlays’ in the Balanced Budget and
9 Emergency Deficit Control Act of 1985.

10 “(4) All other terms used herein or in the docu-
11 ments prepared hereunder shall have the meanings
12 set forth in the Balanced Budget and Emergency
13 Deficit Control Act of 1985.”.

14 (b) BYRD AMENDMENT.—Section 1103 of title 31,
15 United States Code, is amended by striking “commitment
16 that budget” and inserting “commitment that, starting
17 with fiscal year 2002,”.

18 (c) PRESIDENT'S BUDGET SUBMISSION.—Section
19 1105(a) of title 31, United States Code, is amended—

20 (1) in the first sentence by striking “On or
21 after the first Monday in January but not later than
22 the first Monday in February of each year” and in-
23 sserting “On or before the first Monday in February
24 or the 21st calendar day beginning after the date
25 the Board of Estimates issues a report to the Presi-

1 dent under section 254 of the Balanced Budget and
2 Emergency Deficit Control Act of 1985”;

3 (2) in paragraph (15) by striking “section
4 301(a)(1)–(5)” and inserting “section 301(a)(1)–
5 (4);

6 (3) in paragraph (16) by striking “section
7 3(a)(3)” and inserting “section 3(3)”; and

8 (4) by adding at the end the following new
9 paragraph:

10 “(32) an analysis of the financial condition of
11 Government-sponsored enterprises and the financial
12 exposure of the Government, if any, posed by
13 them.”.

14 (d) USE OF OFFICIAL ESTIMATES.—Section 1105(f)
15 of title 31, United States Code, is amended by inserting
16 at the end the following new sentence: “That budget shall
17 be consistent with the discretionary funding limit and the
18 direct spending and receipts deficit reduction requirement
19 for that year chosen by the Board of Estimates and shall
20 be based upon the major estimating assumptions chosen
21 by that Board.”.

1 **Subtitle K—Truth in Legislating**

2 **SEC. 14951. IDENTITY, SPONSOR, AND COST OF CERTAIN**
3 **PROVISIONS REQUIRED TO BE REPORTED.**

4 (a) IDENTITY, SPONSOR, AND COST.—Clause 4 of
5 rule X of the Rules of the House of Representatives is
6 amended by adding at the end thereof the following:

7 “(j)(1) Except as provided by subparagraph (2), the
8 report or joint explanatory statement accompanying each
9 bill or joint resolution of a public character reported by
10 a committee or committee of conference shall contain, in
11 plain and understandable language—

12 “(A) an identification of each provision (if any)
13 of the bill or joint resolution which benefits only 10
14 or fewer beneficiaries in any one of the following cat-
15 egories: persons, corporations, partnerships, institu-
16 tions, organizations, transactions, events, items of
17 property, projects, civil subdivisions within one or
18 more States, or issuances of bonds;

19 “(B) the name of each beneficiary of such pro-
20 vision;

21 “(C) the name of any Member or Members who
22 sponsored the inclusion of each such provision and
23 an indication of each such provision requested by
24 any agency, instrumentality, or officer of the United
25 States; and

1 “(D) an estimate by the Congressional Budget
2 Office or the Joint Committee on Taxation, which-
3 ever is appropriate, of the costs which would be in-
4 curred in carrying out such provision or any loss in
5 revenues resulting from such provision for the fiscal
6 year for which costs or loss in revenues, as the case
7 may be, first occurs and each of the next 5 fiscal
8 years.

9 “(2)(A) Subparagraph (1) shall not apply with re-
10 spect to any provision of a bill or joint resolution or of
11 a conference report on a bill or joint resolution if the bene-
12 ficiary of such provision is the United States or any agen-
13 cy or instrumentality thereof.

14 “(B) Subparagraph (1)(D) shall not apply with re-
15 spect to any provision of a bill or joint resolution or of
16 a conference report on a bill or joint resolution if the costs
17 which would be incurred in carrying out such provision
18 or any loss in revenues resulting from such provision are
19 identified clearly in the report or joint explanatory state-
20 ment accompanying such bill or joint resolution.

21 “(3) It shall not be in order to consider any such bill
22 or joint resolution in the House if the report or joint ex-
23 planatory statement of the committee or committee of con-
24 ference which reported that bill or joint resolution does
25 not comply with subparagraph (1). The requirements of

1 subparagraph (1) may be waived only upon a separate vote
2 directed solely to that subject.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply to bills and joint resolutions re-
5 ported by a committee of the House of Representatives
6 after the date of enactment of this Act.

