Mr. MORAN, Mr. FRANK of Massachusetts, Mr. ABERCROMBIE, Mr. GEJDENSON, Mr. COLEMAN, Ms. PELOSI, Mr. STARK, Mr. KLECZKA, Mr. MILLER of California, Mr. JACOBS, Mr. SANDERS, Mr. DEFAZIO, Ms. WOOLSEY, Mr. TORRES, Ms. RIVERS, Mr. LEWIS of Georgia, Mr. CARDIN, Mr. CLAY, Mr. DELLUMS, Mr. JOHNSON of South Dakota, Mr. YATES, Mrs. MINK of Hawaii, Mr. SCHUMER, Mr. FARR, Mr. FOGLIETTA, Mr. TORRICELLI, Mr. PORTER, Mr. JOHNSTON of Florida, Mr. SHAYS, and Mr. REED):

H.R. 3173. A bill to establish, wherever possible, nonanimal acute toxicity testing as an acceptable standard for Government regulations requiring an evaluation of the safety of products by the Federal Government; to the Committee on Commerce.

By Mrs. MORELLA:

H.R. 3174. A bill to amend the Public Health Service Act to provide for programs regarding women and the human immunodeficiency virus; to the Committee on Commerce.

H.R. 3175. A bill to amend the Public Health Service Act to provide for an increase in the amount of Federal funds expended to conduct research on alcohol abuse and alcoholism among women; to the Committee on Commerce.

H.R. 3176. A bill to amend the Public Health Service Act to establish programs of research with respect to women and cases of infection with the human immunodeficiency virus; to the Committee on Commerce.

By Mr. SENSENBRENNER (for himself and Mr. OBEY):

H.R. 3177. A bill to repeal the consent of Congress to the Northeast Interstate Dairy Compact, and for other purposes; to the Committee on the Judiciary.

By Ms. SLAUGHTER (for herself, Mrs. MORELLA, Mrs. LOWEY, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. BROWN of Florida, Mrs. CLAYTON, Miss COLLINS of Michigan, Mrs. COLLINS of Illinois, Ms. DELAURO, Ms. ESHOO, Ms. FURSE, Ms. HARMAN, Ms. JACKSON-LEE, Mrs. JOHNSON of Connecticut, Mrs. KELLY, Mrs. KENNELLY, Ms. LOFGREN, Ms. MCKINNEY, Mrs. MALONEY, Mrs. MEEK of Florida, Mrs. MEYERS of Kansas, Mrs. MINK of Hawaii, Ms. NORTON, Ms. PELOSI, Ms. RIVERS, Mrs. ROUKEMA, Ms. ROYBAL-ALLARD, Mrs. SCHROEDER, Mrs. THURMAN, Ms. VELAZQUEZ, Ms. WATERS, and Ms. WOOLSEY):

H.R. 3178. A bill to promote greater equity in the delivery of health care services to American women through expanded research on women's health issues and through improved access to health care services, including preventive health services; to the Committee on Commerce, and in addition to the Committees on Ways and Means, the Judiciary, Agriculture, International Relations, Veterans' Affairs, Economic and Educational Opportunities, National Security, and Banking and Financial Services, 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.

By Ms. VELAZQUEZ:

H.R. 3179. A bill to modify various Federal health programs to make available certain services to women who are members of racial or ethnic minority groups, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Commerce, Economic and Educational Opportunities, and Agriculture, 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.

By Mr. ENGEL (for himself, Ms. MOLINARI, Mr. LANTOS, Mr. PORTER, Mr. LEVIN, Mr. KING, Mr. TORRICELLI, Mr. MORAN, Mrs. KELLY, Mr. BONIOR, Mr. MILLER of California, and Mr. ROHRABACHER):

H. Con. Res. 155. Concurrent resolution concerning human and political rights and in support of a resolution of the crisis in Kosova; to the Committee on International Relations.

By Ms. DELAURO:

H. Con. Res. 156. Concurrent resolution expressing the sense of the Congress regarding research on the human papillomavirus and its relation to cervical cancer; to the Committee on Commerce.

¶36.30 MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

211. By the SPEAKER: Memorial of the Senate of the State of Kansas, relative to amending the Federal Food, Drug and Cosmetic Act and the Public Health Service Act to facilitate the development and approval of new drugs and biologics; to the Committee on Commerce.

212. Also, memorial of the Senate of the Commonwealth of Kentucky, relative to recognizing the injustices of human rights in Guatemala; to the Committee on Government Reform and Oversight.

213. Also, memorial of the Legislature of the State of California, relative to forced labor; to the Committee on the Judiciary.

¶36.31 ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 528: Mr. EHLERS.

H.R. 573: Mr. FRANK of Massachusetts.

H.R. 820: Mr. FLAKE, Mr. GRAHAM, Mr. SISISKY, Mr. STENHOLM, Mr. ACKERMAN, Mr. SCHUMER, Ms. LOFGREN, Ms. PRYCE, Mr. SHAYS, and Mr. SERRANO.

H.R. 940: Mr. BRYANT of Texas.

H.R. 957: Mr. LATOURETTE.

H.R. 1023: Mr. GILCHREST, Mr. CHRYSLER, Mr. TAYLOR of North Carolina, Mr. YOUNG of Florida, Mrs. CLAYTON, Mr. DE LA GARZA, Mr. BALDACCI, Mr. LUCAS, and Mr. MYERS of Indiana.

H.R. 1127: Mr. POMEROY.

H.R. 1363: Mr. BALLENGER, Mr. BASS, Mr. BURR, Mr. CHRYSLER, Mrs. CHENOWETH, Mr. CREMEANS, Mr. TIAHRT, Mr. WELDON of Florida, Mr. MCINTOSH, and Mr. JONES.

H.R. 1386: Mr. BARCIA of Michigan, Mr. CLEMENT, and Mr. STENHOLM.

H.R. 1406: Mr. ABERCROMBIE, Mr. MARTINI, and Mr. THORNBERRY.

H.R. 1462: Mr. BALDACCI, Mr. FROST, Ms. MOLINARI, Mr. FRAZER, Mr. FALEOMAVAEGA, Mr. CLAY, and Ms. MCKINNEY.

H.R. 1484: Mr. ABERCROMBIE.

H.R. 1496: Mr. FRANKS of New Jersey.

H.R. 1500: Ms. HARMAN.

H.R. 1619: Mr. FIELDS of Texas, Ms. JACKSON-LEE, and Mr. STOCKMAN.

H.R. 1776: Mr. GINGRICH, Mr. CAMPBELL, Mr. BERMAN, Mr. KENNEDY of Rhode Island, and Mr. DEUTSCH.

H.R. 1802: Mr. QUINN.

H.R. 1810: Mr. MARTINI.

H.R. 1863: Mr. BRYANT of Texas and Mr. ANDREWS.

H.R. 1883: Mr. ZIMMER.

H.R. 2003: Mr. FILNER.

H.R. 2011: Mr. WYNN.

H.R. 2019: Ms. WOOLSEY and Mr. SANDERS.

H.R. 2071: Ms. JACKSON-LEE.

H.R. 2270: Mr. COX.

H.R. 2337: Mr. CRAMER.

H.R. 2510: Mr. MARTINI.

H.R. 2579: Mr. GIBBONS.

H.R. 2618: Mr. BILBRAY.

H.R. 2745: Mr. MANTON, Mr. FOGLIETTA, and Mr. RUSH.

H.R. 2856: Mr. MARTINI and Mr. MCNULTY.

H.R. 2893: Mr. REED and Mr. ROBERTS.

H.R. 2925: Mr. STENHOLM and Mr. VOLKMER.

H.R. 2927: Mr. WELDON of Pennsylvania, Mr. MOORHEAD and Mr. LEWIS of California.

H.R. 2935: Mr. COOLEY and Mr. TATE.

H.R. 2974: Mr. FOX.

H.R. 2976: Mr. BALDACCI, Mr. CALVERT, Mr. CHAMBLISS, Mr. CRAPO, Mr. DEUTSCH, Mr. DUNCAN, Ms. MCKINNEY, Ms. MOLINARI, and Ms. RIVERS.

H.R. 2994: Mr. MCCOLLUM, Mr. GUNDERSON, and Mr. BROWN of California.

H.R. 3002: Mr. EHLERS.

H.R. 3004: Mr. PETERSON of Minnesota, Mr. NEY, Mr. DEUTSCH, Mr. BILBRAY, Mr. GILLMOR, and Mr. EHLERS.

H.R. 3012: Mr. HEFLEY, Mr. DELLUMS, Mr. SMITH of New Jersey, Mr. BARCIA of Michigan, Mrs. MINK of Hawaii, Mr. FRAZER, Mr. FRANK of Massachusetts, Mr. MANTON, and Mr. MATSUI.

H.R. 3045: Mr. RAHALL.

H.R. 3048: Mr. CASTLE, Mr. CUNNINGHAM, and Mr. WAMP.

H.R. 3050: Mr. BARCIA of Michigan and Ms. KAPTUR.

H.R. 3059: Mr. BARRETT of Wisconsin, Mr. FOGLIETTA, Mr. FRAZER, Mr. FROST, Mr. JEFFERSON, Mr. KLECZKA, Mr. LIPINSKI, Ms. LOFGREN, Ms. MCKINNEY, Mr. MILLER of California, Ms. RIVERS, Mr. THOMPSON, Mr. WAXMAN.

H.R. 3114: Mr. NEAL of Massachusetts, Mrs. JOHNSON of Connecticut, and Mr. FUNDERBURK.

H.R. 3118: Mr. ACKERMAN, Mr. GENE GREEN of Texas, and Mr. CRAMER.

H.R. 3130: Mr. GENE GREEN of Texas.

H.R. 3142: Mr. ENSIGN, Mrs. LOWEY, Mr. GONZALEZ, Mr. CALVERT, Mr. HAYES, Mr. SAXTON, Mr. MONTGOMERY, Mrs. KELLY, Mr. ABERCROMBIE, Mr. FROST, Mr. FORBES, Mr. CLINGER, Mr. TALENT, Mr. CANADY, Mr. METCALF, Mr. BRYANT of Texas, and Mr. HUNTER.

H.R. 3149: Mr. HANCOCK.

H.J. Res. 97: Mr. WISE.

H.J. Res. 159: Mr. WHITFIELD, Mr. BILBRAY, and Mr. ROSE.

H. Con. Res. 47: Mr. CONYERS, Mr. DE LA GARZA, Mr. HILLIARD, Mr. NEY, Mr. SABO, and Ms. VELAZQUEZ.

H. Con. Res. 144: Mr. TORKILDSEN.

H. Res. 49: Mr. THOMPSON and Mrs. MEEK of Florida.

H. Res. 348: Mr. MCCOLLUM and Mr. GOODLING.

H. Res. 374: Mr. CAMP, Mr. FRELINGHUYSEN, Mr. COBLE, Mr. HUNTER, Mr. PORTER, Mr. MARTINI, Mrs. CUBIN, Mr. NETHERCUTT, Mr. CALVERT, Mr. EHRLICH, Mr. HANCOCK, Mr. NCNULTY, Ms. WOOLSEY, Mr. GENE GREEN of Texas, Mr. WELDON of Pennsylvania, Mr. TRAFICANT, and Mr. YATES.

H. Res. 378: Mrs. MEYERS of Kansas, Mr. ENGLISH of Pennsylvania, Mr. BATEMAN, Mr. WOLF, Ms. NORTON, Mr. DELLUMS, Mr. CALVERT, Mr. BERMAN, and Ms. PELOSI.

¶36.32 PETITIONS, ETC.

Under clause 1 of rule XXII,

69. The SPEAKER presented a petition of the Transportation Policy Board of the Abilene Metropolitan Planning Organization, Abilene, TX, relative to the issues of appropriate taxation and adequate provision of transportation infrastructure; which was referred jointly, to the Committees on Transportation and Infrastructure and the Budget.

THURSDAY, MARCH 28, 1996 (37)

The House was called to order by the SPEAKER.

¶37.1 APPROVAL OF THE JOURNAL

The SPEAKER announced he had examined and approved the Journal of the proceedings of Wednesday, March 27, 1996.

Pursuant to clause 1, rule I, the Journal was approved.

¶37.2 COMMUNICATIONS

Executive and other communications, pursuant to clause 2, rule XXIV, were referred as follows:

2311. A letter from the Secretary of Defense, transmitting the Department's report entitled ''Annual Report to the President and the Congress, March 1996,'' pursuant to 10 U.S.C. 113 (c) and (e); to the Committee on National Security.

2312. A letter from the Comptroller General of the United States, transmitting the list of all reports issued or released in February 1996, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

2313. A letter from the Executive Director, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting a report entitled ''Report on the Mayor's District of Columbia FY 1997 Budget and Multiyear Plan'' adopted by the District of Columbia Financial Responsibility and Management Assistance Authority on March 21, 1996, pursuant to section 202(d) of Public Law 104–8; to the Committee on Government Reform and Oversight.

2314. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1995, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2315. A letter from the Commissioner, Social Security Administration, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

¶37.3 MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agreed to the following resolution:

S. RES. 234

Whereas, the Senate fondly remembers former Secretary of State, former Governor of Maine, and former Senator from Maine, Edmund S. Muskie;

Whereas, Edmund S. Muskie spent six years in the Maine House of Representatives, becoming minority leader;

Whereas, in 1954, voters made Edmund S. Muskie the State's first Democratic Governor in 20 years;

Whereas, after a second two-year term, he went on in 1958 to become the first popularly elected Democratic Senator in Maine's history;

Whereas, Edmund S. Muskie in 1968, was chosen as Democratic Vice-Presidential nominee;

Whereas, Edmund S. Muskie left the Senate to become President Carter's Secretary of State; and

Whereas, Edmund S. Muskie served with honor and distinction in each of these capacities: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Edmund S. Muskie, formerly a Senator from the State of Maine.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Senator.

The message also announced that the Senate had passed without amendment concurrent resolutions of the House of the following titles:

H. Con. Res. 146. Concurrent resolution authorizing the 1996 Special Olympics Torch Relay to be run through the Capitol Grounds; and

H. Con. Res. 147. Concurrent resolution authorizing the use of the Capitol grounds for the fifteenth annual National Peace Officers' Memorial Service.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4) ''An act to grant the power to the President to reduce budget authority.''

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 49. Concurrent resolution providing for certain corrections to be made in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs.

¶37.4 COMMITTEES TO SIT

On motion of Mr. SOLOMON, by unanimous consent, the following committees and their subcommittees were granted permission to sit today during the 5-minute rule: the Committee on Banking and Financial Services, the Committee on Commerce, the Committee on Economic and Educational Opportunities, the Committee on Government Reform and Oversight, the Committee on International Relations, the Committee on the Judiciary, the Committee on National Security, the Committee on Resources, the Committee on Science, the Committee on Transportation and Infrastructure, and the Permanent Select Committee on Intelligence.

¶37.5 PROVIDING FOR THE CONSIDERATION OF H.R. 3161

Mr. SOLOMON, by direction of the Committee on Rules, called up the following resolution (H. Res. 391):

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order (except those arising under section 425(a) of the Congressional Budget Act of 1974) to consider in the House the bill (H.R. 3136) to provide for the enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit. The amendments specified in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; (2) a further amendment, if offered by the chairman of the Committee on Ways and Means, which shall be in order without intervention of any point of order (except those arising under section 425(a) of the Congressional Budget Act of 1974) or demand for division of the question, shall be considered as read, and shall be separately debatable for 10 minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit, which may include instructions only if offered by the Minority Leader or his designee.

SEC. 2. If, before March 30, 1996, the House has received a message informing it that the Senate has adopted the conference report to accompany the bill (S. 4) to grant the power to the President to reduce budget authority, and for other purposes, then—

(a) in the engrossment of H.R. 3136 the Clerk shall strike title II (unless it has been amended) and redesignate the subsequent titles accordingly; and

(b) the House shall be considered to have adopted that conference report.

When said resolution was considered.

Mr. SOLOMON, by unanimous consent, submitted the following amendment which was agreed to:

Page 2, line 9, strike ''one hour'' and all that follows through ''Means'' on line 12, and insert in lieu thereof the following:

''80 minutes of debate on the bill, as amended, with 60 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Mean and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform and Oversight or their designees.''.

After debate,

Mr. SOLOMON moved the previous question on the resolution, as amended, to its adoption or rejection.

The question being put, viva voce,

Will the House now order the previous question?

The SPEAKER pro tempore, Mr. HASTINGS of Washington, announced that the yeas had it.

Mr. BEILENSON objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared { Yeas ..... 232 / Nays ..... 180 }

¶37.6 [Roll No. 97]

YEAS—232

Allard	Burton	Davis
Archer	Buyer	Deal
Armey	Callahan	DeLay
Bachus	Calvert	Diaz-Balart
Baker (CA)	Camp	Dickey
Baker (LA)	Campbell	Doolittle
Ballenger	Canady	Dornan
Barr	Castle	Dreier
Barrett (NE)	Chabot	Duncan
Bartlett	Chambliss	Dunn
Barton	Chenoweth	Ehlers
Bass	Christensen	Ehrlich
Bateman	Chrysler	Emerson
Bilbray	Clinger	English
Bilirakis	Coble	Ensign
Bliley	Coburn	Everett
Boehlert	Collins (GA)	Ewing
Boehner	Combest	Fawell
Bonilla	Cooley	Fields (TX)
Bono	Cox	Flanagan
Brownback	Crane	Foley
Bryant (TN)	Crapo	Fox
Bunn	Cremeans	Franks (CT)
Bunning	Cubin	Franks (NJ)
Burr	Cunningham	Frelinghuysen

Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—180

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Bonior
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy (MA)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—19

Blute
Borski
Bryant (TX)
Chapman
Collins (IL)
Fields (LA)
Filner
Forbes
Fowler
Gutierrez
Jefferson
Kaptur
Kennedy (RI)
Lazio
Nethercutt
Sisisky
Smith (WA)
Stokes
Weldon (PA)

So the previous question on the resolution, as amended, was ordered.

The question being put, viva voce,

Will the House agree to said resolution, as amended?

The SPEAKER pro tempore, Mr. HASTINGS of Washington, announced that the yeas had it.

Mr. BEILENSON demanded a recorded vote on agreeing to said resolution, as amended, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the affirmative ..... { Yeas ..... 232 / Nays 177

¶37.7 [Roll No. 98]

AYES—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—177

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Bonior
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Clay
Clayton
Clyburn
Coburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy (MA)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—22

Blute
Borski
Bryant (TX)
Chapman
Collins (IL)
Dickey
Fields (LA)
Filner
Fowler
Gejdenson
Gutierrez
Hayes
Kaptur
Kennedy (RI)
Lazio
Longley

Nethercutt	Smith (WA)	Tauzin
Roth	Stokes	Weldon (PA)

So the resolution, as amended, was agreed to.

A motion to reconsider the vote whereby said resolution, as amended, was agreed to was, by unanimous consent, laid on the table.

Pursuant to section 2 of House Resolution 391, the conference report on the bill of the Senate (S. 4) to grant the power to the President to reduce budget authority was considered as adopted by the House.

¶37.8 MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

¶37.9 DEBT LIMIT EXTENSION

Mr. ARCHER, pursuant to House Resolution 391, called up the bill (H.R. 3136) to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit.

When said bill was considered and read twice.

Pursuant to House Resolution 391, the following amendments specified in House Report 104–500 were considered as adopted:

Strike title III and insert the following:

TITLE III—SMALL BUSINESS REGULATORY FAIRNESS

SEC. 301. SHORT TITLE.

This title may be cited as the ''Small Business Regulatory Enforcement Fairness Act of 1996''.

SEC. 302. FINDINGS.

Congress finds that—

(1) a vibrant and growing small business sector is critical to creating jobs in a dynamic economy;

(2) small businesses bear a disproportionate share of regulatory costs and burdens;

(3) fundamental changes that are needed in the regulatory and enforcement culture of Federal agencies to make agencies more responsive to small business can be made without compromising the statutory missions of the agencies;

(4) three of the top recommendations of the 1995 White House Conference on Small Business involve reforms to the way government regulations are developed and enforced, and reductions in government paperwork requirements;

(5) the requirements of chapter 6 of title 5, United States Code, have too often been ignored by government agencies, resulting in greater regulatory burdens on small entities than necessitated by statute; and

(6) small entities should be given the opportunity to seek judicial review of agency actions required by chapter 6 of title 5, United States Code.

SEC. 303. PURPOSES.

The purposes of this title are—

(1) to implement certain recommendations of the 1995 White House Conference on Small Business regarding the development and enforcement of Federal regulations;

(2) to provide for judicial review of chapter 6 of title 5, United States Code;

(3) to encourage the effective participation of small businesses in the Federal regulatory process;

(4) to simplify the language of Federal regulations affecting small businesses;

(5) to develop more accessible sources of information on regulatory and reporting requirements for small businesses;

(6) to create a more cooperative regulatory environment among agencies and small businesses that is less punitive and more solution-oriented; and

(7) to make Federal regulators more accountable for their enforcement actions by providing small entities with a meaningful opportunity for redress of excessive enforcement activities.

Subtitle A—Regulatory Compliance Simplification

SECTION 311. DEFINITIONS.

For purposes of this subtitle—

(1) the terms ''rule'' and ''small entity'' have the same meanings as in section 601 of title 5, United States Code;

(2) the term ''agency'' has the same meaning as in section 551 of title 5, United States Code; and

(3) the term ''small entity compliance guide'' means a document designated as such by an agency.

SEC. 312. COMPLIANCE GUIDES.

(a) COMPLIANCE GUIDE.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 604 of title 5, United States Code, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides''. The guides shall explain the actions a small entity is required to take to comply with a rule or group of rules. The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities, and may cooperate with associations of small entities to develop and distribute such guides.

(b) COMPREHENSIVE SOURCE OF INFORMATION.—Agencies shall cooperate to make available to small entities through comprehensive sources of information, the small entity compliance guides and all other available information on statutory and regulatory requirements affecting small entities.

(c) LIMITATION ON JUDICIAL REVIEW.—An agency's small entity compliance guide shall not be subject to judicial review, except that in any civil or administrative action against a small entity for a violation occurring after the effective date of this section, the content of the small entity compliance guide may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages.

SEC. 313. INFORMAL SMALL ENTITY GUIDANCE.

(a) GENERAL.—Whenever appropriate in the interest of administering statutes and regulations within the jurisdiction of an agency which regulates small entities, it shall be the practice of the agency to answer inquiries by small entities concerning information on, and advice about, compliance with such statutes and regulations, interpreting and applying the law to specific sets of facts supplied by the small entity. In any civil or administrative action against a small entity, guidance given by an agency applying the law to facts provided by the small entity may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages sought against such small entity.

(b) PROGRAM.—Each agency regulating the activities of small entities shall establish a program for responding to such inquiries no later than 1 year after enactment of this section, utilizing existing functions and personnel of the agency to the extent practicable.

(c) REPORTING.—Each agency regulating the activities of small business shall report to the Committee on Small Business and Committee on Governmental Affairs of the Senate and the Committee on Small Business and Committee on the Judiciary of the House of Representatives no later than 2 years after the date of the enactment of this section on the scope of the agency's program, the number of small entities using the program, and the achievements of the program to assist small entity compliance with agency regulations.

SEC. 314. SERVICES OF SMALL BUSINESS DEVELOPMENT CENTERS.

(a) Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (O), by striking ''and'' at the end;

(2) in subparagraph (P), by striking the period at the end and inserting a semicolon; and

(3) by inserting after subparagraph (P) the following new subparagraphs:

''(Q) providing information to small business concerns regarding compliance with regulatory requirements; and

''(R) developing informational publications, establishing resource centers of reference materials, and distributing compliance guides published under section 312(a) of the Small Business Regulatory Enforcement Fairness Act of 1996.''.

(b) Nothing in this Act in any way affects or limits the ability of other technical assistance or extension programs to perform or continue to perform services related to compliance assistance.

SEC. 315. COOPERATION ON GUIDANCE.

Agencies may, to the extent resources are available and where appropriate, in cooperation with the states, develop guides that fully integrate requirements of both Federal and state regulations where regulations within an agency's area of interest at the Federal and state levels impact small entities. Where regulations vary among the states, separate guides may be created for separate states in cooperation with State agencies.

SEC. 316. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the expiration of 90 days after the date of enactment of this subtitle.

Subtitle B—Regulatory Enforcement Reforms

SECTION 321. DEFINITIONS.

For purposes of this subtitle—

(1) the terms ''rule'' and ''small entity'' have the same meanings as in section 601 of title 5, United States Code;

(2) the term ''agency'' has the same meaning as in section 551 of title 5, United States Code; and

(3) the term ''small entity compliance guide'' means a document designated as such by an agency.

SEC. 322. SMALL BUSINESS AND AGRICULTURE ENFORCEMENT OMBUDSMAN.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following new section:

''SEC. 30. OVERSIGHT OF REGULATORY ENFORCEMENT.

''(a) DEFINITIONS.—For purposes of this section, the term—

''(1) ''Board'' means a Regional Small Business Regulatory Fairness Board established under subsection (c); and

''(2) ''Ombudsman'' means the Small Business and Agriculture Regulatory Enforce-

ment Ombudsman designated under subsection (b).

''(b) SBA ENFORCEMENT OMBUDSMAN.—

''(1) Not later than 180 days after the date of enactment of this section, the Administrator shall designate a Small Business and Agriculture Regulatory Enforcement Ombudsman, who shall report directly to the Administrator, utilizing personnel of the Small Business Administration to the extent practicable. Other agencies shall assist the Ombudsman and take actions as necessary to ensure compliance with the requirements of this section. Nothing in this section is intended to replace or diminish the activities of any Ombudsman or similar office in any other agency.

''(2) The Ombudsman shall—

''(A) work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by such personnel;

''(B) establish means to receive comments from small business concerns regarding actions by agency employees conducting compliance or enforcement activities with respect to the small business concern, means to refer comments to the Inspector General of the affected agency in the appropriate circumstances, and otherwise seek to maintain the identity of the person and small business concern making such comments on a confidential basis to the same extent as employee identities are protected under section 7 of the Inspector General Act of 1978 (5 U.S.C.App.);

''(C) based on substantiated comments received from small business concerns and the Boards, annually report to Congress and affected agencies evaluating the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices of each agency;

''(D) coordinate and report annually on the activities, findings and recommendations of the Boards to the Administrator and to the heads of affected agencies; and

''(E) provide the affected agency with an opportunity to comment on draft reports prepared under subparagraph (C), and include a section of the final report in which the affected agency may make such comments as are not addressed by the Ombudsman in revisions to the draft.

''(c) REGIONAL SMALL BUSINESS REGULATORY FAIRNESS BOARDS.—

''(1) Not later than 180 days after the date of enactment of this section, the Administrator shall establish a Small Business Regulatory Fairness Board in each regional office of the Small Business Administration.

''(2) Each Board established under paragraph (1) shall—

''(A) meet at least annually to advise the Ombudsman on matters of concern to small businesses relating to the enforcement activities of agencies;

''(B) report to the Ombudsman on substantiated instances of excessive enforcement actions of agencies against small business concerns including any findings or recommendations of the Board as to agency enforcement policy or practice; and

''(C) prior to publication, provide comment on the annual report of the Ombudsman prepared under subsection (b).

''(3) Each Board shall consist of five members, who are owners, operators, or officers of small business concerns, appointed by the Administrator, after receiving the recommendations of the chair and ranking minority member of the Committees on Small Business of the House of Representatives and the Senate. Not more than three of the Board members shall be of the same political party. No member shall be an officer or employee of the Federal Government, in either the executive branch or the Congress.

''(4) Members of the Board shall serve at the pleasure of the Administrator for terms of three years or less.

''(5) The Administrator shall select a chair from among the members of the Board who shall serve at the pleasure of the Administrator for not more than 1 year as chair.

''(6) A majority of the members of the Board shall constitute a quorum for the conduct of business, but a lesser number may hold hearings.

''(d) POWERS OF THE BOARDS.

''(1) The Board may hold such hearings and collect such information as appropriate for carrying out this section.

''(2) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

''(3) The Board may accept donations of services necessary to conduct its business, provided that the donations and their sources are disclosed by the Board.

''(4) Members of the Board shall serve without compensation, provided that, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.''.

SEC. 323. RIGHTS OF SMALL ENTITIES IN ENFORCEMENT ACTIONS.

(a) IN GENERAL.—Each agency regulating the activities of small entities shall establish a policy or program within 1 year of enactment of this section to provide for the reduction, and under appropriate circumstances for the waiver, of civil penalties for violations of a statutory or regulatory requirement by a small entity. Under appropriate circumstances, an agency may consider ability to pay in determining penalty assessments on small entities.

(b) CONDITIONS AND EXCLUSIONS.—Subject to the requirements or limitations of other statutes, policies or programs established under this section shall contain conditions or exclusions which may include, but shall not be limited to—

(1) requiring the small entity to correct the violation within a reasonable correction period;

(2) limiting the applicability to violations discovered through participation by the small entity in a compliance assistance or audit program operated or supported by the agency or a state;

(3) excluding small entities that have been subject to multiple enforcement actions by the agency;

(4) excluding violations involving willful or criminal conduct;

(5) excluding violations that pose serious health, safety or environmental threats; and

(6) requiring a good faith effort to comply with the law.

(c) REPORTING.—Agencies shall report to the Committee on Small Business and Committee on Governmental Affairs of the Senate and the Committee on Small Business and Committee on Judiciary of the House of Representatives no later than 2 years after the date of enactment of this section on the scope of their program or policy, the number of enforcement actions against small entities that qualified or failed to qualify for the program or policy, and the total amount of penalty reductions and waivers.

SEC. 324. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the expiration of 90 days after the date of enactment of this subtitle.

Subtitle C—Equal Access to Justice Act Amendments

SECTION 331. ADMINISTRATIVE PROCEEDINGS.

(a) Section 504(a) of title 5, United States Code, is amended by adding at the end the following new paragraph:

''(4) If, in an adversary adjudication arising from an agency action to enforce a party's compliance with a statutory or regulatory requirement, the demand by the agency is substantially in excess of the decision of the adjudicative officer and is unreasonable when compared with such decision, under the facts and circumstances of the case, the adjudicative officer shall award to the party the fees and other expenses related to defending against the excessive demand, unless the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust. Fees and expenses awarded under this paragraph shall be paid only as a consequence of appropriations provided in advance.''.

(b) Section 504(b) of title 5, United States Code, is amended—

(1) in paragraph (1)(A), by striking ''$75'' and inserting ''$125'';

(2) at the end of paragraph (1)(B), by inserting before the semicolon ''or for purposes of subsection (a)(4), a small entity as defined in section 601'';

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

(4) at the end of paragraph (1)(E), by striking the period and inserting ''; and''; and

(5) at the end of paragraph (1), by adding the following new subparagraph:

''(F) 'demand' means the express demand of the agency which led to the adversary adjudication, but does not include a recitation by the agency of the maximum statutory penalty (i) in the administrative complaint, or (ii) elsewhere when accompanied by an express demand for a lesser amount.''.

SEC. 332. JUDICIAL PROCEEDINGS.

(a) Section 2412(d)(1) of title 28, United States Code, is amended by adding at the end the following new subparagraph:

''(D) If, in a civil action brought by the United States or a proceeding for judicial review of an adversary adjudication described in section 504(a)(4) of title 5, the demand by the United States is substantially in excess of the judgment finally obtained by the United States and is unreasonable when compared with such judgment, under the facts and circumstances of the case, the court shall award to the party the fees and other expenses related to defending against the excessive demand, unless the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust. Fees and expenses awarded under this subparagraph shall be paid only as a consequence of appropriations provided in advance.''.

(b) Section 2412(d) of title 28, United States Code, is amended—

(1) in paragraph (2)(A), by striking ''$75'' and inserting ''$125'';

(2) at the end of paragraph (2)(B), by inserting before the semicolon ''or for purposes of subsection (d)(1)(D), a small entity as defined in section 601 of title 5'';

(3) at the end of paragraph (2)(G), by striking ''and'';

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

(5) at the end of paragraph (2), by adding the following new subparagraph:

''(I) 'demand' means the express demand of the United States which led to the adversary adjudication, but shall not include a recitation of the maximum statutory penalty (i) in the complaint, or (ii) elsewhere when accompanied by an express demand for a lesser amount.''.

SEC. 333. EFFECTIVE DATE.

The amendments made by sections 331 and 332 shall apply to civil actions and adversary adjudications commenced on or after the date of the enactment of this subtitle.

Subtitle D—Regulatory Flexibility Act Amendments

SEC. 341. REGULATORY FLEXIBILITY ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) SECTION 603.—Section 603(a) of title 5, United States Code, is amended—

(A) by inserting after ''proposed rule'', the phrase '', or publishes a notice of proposed rulemaking for an interpretative rule involving the internal revenue laws of the United States''; and

(B) by inserting at the end of the subsection, the following new sentence: ''In the case of an interpretative rule involving the internal revenue laws of the United States, this chapter applies to interpretative rules published in the Federal Register for codification in the Code of Federal Regulations, but only to the extent that such interpretative rules impose on small entities a collection of information requirement.''.

(2) SECTION 601.—Section 601 of title 5, United States Code, is amended by striking ''and'' at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting ''; and'', and by adding at the end the following:

''(7) the term 'collection of information'—

''(A) means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

''(i) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, 10 or more persons, other than agencies, instrumentalities, or employees of the United States; or

''(ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes; and

''(B) shall not include a collection of information described under section 3518(c)(1) of title 44, United States Code.

''(8) RECORDKEEPING REQUIREMENT.—The term 'recordkeeping requirement' means a requirement imposed by an agency on persons to maintain specified records.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604 of title 5, United States Code, is amended—

(1) in subsection (a) to read as follows:

''(a) When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, or promulgates a final interpretative rule involving the internal revenue laws of the United States as described in section 603(a), the agency shall prepare a final regulatory flexibility analysis. Each final regulatory flexibility analysis shall contain—

''(1) a succinct statement of the need for, and objectives of, the rule;

''(2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

''(3) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;

''(4) a description of the projected reporting, record keeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

''(5) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.''; and

(2) in subsection (b), by striking ''at the time'' and all that follows and inserting ''such analysis or a summary thereof.''.

SEC. 342. JUDICIAL REVIEW.

Section 611 of title 5, United States Code, is amended to read as follows:

''§ 611. Judicial review

''(a)(1) For any rule subject to this chapter, a small entity that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of sections 601, 604, 605(b), 608(b), and 610 in accordance with chapter 7. Agency compliance with sections 607 and 609(a) shall be judicially reviewable in connection with judicial review of section 604.

''(2) Each court having jurisdiction to review such rule for compliance with section 553, or under any other provision of law, shall have jurisdiction to review any claims of noncompliance with sections 601, 604, 605(b), 608(b), and 610 in accordance with chapter 7. Agency compliance with sections 607 and 609(a) shall be judicially reviewable in connection with judicial review of section 604.

''(3)(A) A small entity may seek such review during the period beginning on the date of final agency action and ending one year later, except that where a provision of law requires that an action challenging a final agency action be commenced before the expiration of one year, such lesser period shall apply to an action for judicial review under this section.

''(B) In the case where an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b) of this chapter, an action for judicial review under this section shall be filed not later than—

''(i) one year after the date the analysis is made available to the public, or

''(ii) where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period, the number of days specified in such provision of law that is after the date the analysis is made available to the public.

''(4) In granting any relief in an action under this section, the court shall order the agency to take corrective action consistent with this chapter and chapter 7, including, but not limited to—

''(A) remanding the rule to the agency, and

''(B) deferring the enforcement of the rule against small entities unless the court finds that continued enforcement of the rule is in the public interest.

''(5) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law or to grant any other relief in addition to the requirements of this section.

''(b) In an action for the judicial review of a rule, the regulatory flexibility analysis for such rule, including an analysis prepared or corrected pursuant to paragraph (a)(4), shall constitute part of the entire record of agency action in connection with such review.

''(c) Compliance or noncompliance by an agency with the provisions of this chapter shall be subject to judicial review only in accordance with this section.

''(d) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise permitted by law.''.

SEC. 343. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 605(b) of title 5, United States Code, is amended to read as follows:

''(b) Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, along with a statement providing the factual basis for such certification. The agency shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.''.

(b) Section 612 of title 5, United States Code is amended—

(1) in subsection (a), by striking ''the committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives'' and inserting ''the Committees on the Judiciary and Small Business of the Senate and House of Representatives''.

(2) in subsection (b), by striking ''his views with respect to the'' and inserting in lieu thereof, ''his or her views with respect to compliance with this chapter, the adequacy of the rulemaking record with respect to small entities and the''.

SEC. 344. SMALL BUSINESS ADVOCACY REVIEW PANELS.

(a) SMALL BUSINESS OUTREACH AND INTERAGENCY COORDINATION.— Section 609 of title 5, United States Code is amended—

(1) before ''techniques,'' by inserting ''the reasonable use of'';

(2) in paragraph (4), after ''entities'' by inserting ''including soliciting and receiving comments over computer networks'';

(3) by designating the current text as subsection (a); and

(4) by adding the following:

''(b) Prior to publication of an initial regulatory flexibility analysis which a covered agency is required to conduct by this chapter—

''(1) a covered agency shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel with information on the potential impacts of the proposed rule on small entities and the type of small entities that might be affected;

''(2) not later than 15 days after the date of receipt of the materials described in paragraph (1), the Chief Counsel shall identify individuals representative of affected small entities for the purpose of obtaining advice and recommendations from those individuals about the potential impacts of the proposed rule;

''(3) the agency shall convene a review panel for such rule consisting wholly of full time Federal employees of the office within the agency responsible for carrying out the proposed rule, the Office of Information and Regulatory Affairs within the Office of Management and Budget, and the Chief Counsel;

''(4) the panel shall review any material the agency has prepared in connection with this chapter, including any draft proposed rule, collect advice and recommendations of each individual small entity representative identified by the agency after consultation

with the Chief Counsel, on issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c);

''(5) not later than 60 days after the date a covered agency convenes a review panel pursuant to paragraph (3), the review panel shall report on the comments of the small entity representatives and its findings as to issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c), provided that such report shall be made public as part of the rulemaking record; and

''(6) where appropriate, the agency shall modify the proposed rule, the initial regulatory flexibility analysis or the decision on whether an initial regulatory flexibility analysis is required.

''(c) An agency may in its discretion apply subsection (b) to rules that the agency intends to certify under subsection 605(b), but the agency believes may have a greater than de minimis impact on a substantial number of small entities.

''(d) For purposed of this section, the term covered agency means the Environmental Protection Agency and the Occupational Safety and Health Administration of the Department of Labor.

''(e) The Chief Counsel for Advocacy, in consultation with the individuals identified in subsection (b)(2), and with the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, may waive the requirements of subsections (b)(3), (b)(4), and (b)(5) by including in the rulemaking record a written finding, with reasons therefor, that those requirements would not advance the effective participation of small entities in the rulemaking process. For purposes of this subsection, the factors to be considered in making such a finding are as follows:

''(1) In developing a proposed rule, the extent to which the covered agency consulted with individuals representative of affected small entities with respect to the potential impacts of the rule and took such concerns into consideration.

''(2) Special circumstances requiring prompt issuance of the rule.

''(3) Whether the requirements of subsection (b) would provide the individuals identified in subsection (b)(2) with a competitive advantage relative to other small entities.''.

(b) SMALL BUSINESS ADVOCACY CHAIRPERSONS.—Not later than 30 days after the date of enactment of this Act, the head of each covered agency that has conducted a final regulatory flexibility analysis shall designate a small business advocacy chairperson using existing personnel to the extent possible, to be responsible for implementing this section and to act as permanent chair of the agency's review panels established pursuant to this section.

SEC. 345. EFFECTIVE DATE.

This subtitle shall become effective on the expiration of 90 days after the date of enactment of this subtitle, except that such amendments shall not apply to interpretative rules for which a notice of proposed rulemaking was published prior to the date of enactment.

Subtitle E—Congressional Review

SEC. 351. CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.

Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

''Sec.
''801. Congressional review.
''802. Congressional disapproval procedure.
''803. Special rule on statutory, regulatory, and judicial deadlines.
''804. Definitions.
''805. Judicial review.
''806. Applicability; severability.
''807. Exemption for monetary policy.
''808. Effective date of certain rules.

"§ 801. Congressional review

''(a)(1)(A) Before a rule can take effect, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

''(i) a copy of the rule;

''(ii) a concise general statement relating to the rule, including whether it is a major rule; and

''(iii) the proposed effective date of the rule.

''(B) On the date of the submission of the report under subparagraph (A), the Federal agency promulgating the rule shall submit to the Comptroller General and make available to each House of Congress—

''(i) a complete copy of the cost-benefit analysis of the rule, if any;

''(ii) the agency's actions relevant to sections 603, 604, 605, 607, and 609;

''(iii) the agency's actions relevant to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995; and

''(iv) any other relevant information or requirements under any other Act and any relevant Executive Orders.

''(C) Upon receipt of a report submitted under subparagraph (A), each House shall provide copies of the report to the Chairman and Ranking Member of each standing committee with jurisdiction under the rules of the House of Representatives or the Senate to report a bill to amend the provision of law under which the rule is issued.

''(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction in each House of the Congress by the end of 15 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B).

''(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

''(3) A major rule relating to a report submitted under paragraph (1) shall take effect on the latest of—

''(A) the later of the date occurring 60 days after the date on which—

''(i) the Congress receives the report submitted under paragraph (1); or

''(ii) the rule is published in the Federal Register, if so published;

''(B) if the Congress passes a joint resolution of disapproval described in section 802 relating to the rule, and the President signs a veto of such resolution, the earlier date—

''(i) on which either House of Congress votes and fails to override the veto of the President; or

''(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

''(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 802 is enacted).

''(4) Except for a major rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

''(5) Notwithstanding paragraph (3), the effective date of a rule shall not be delayed by operation of this chapter beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 802.

''(b)(1) A rule shall not take effect (or continue), if the Congress enacts a joint resolution of disapproval, described under section 802, of the rule.

''(2) A rule that does not take effect (or does not continue) under paragraph (1) may not be reissued in substantially the same form, and a new rule that is substantially the same as such a rule may not be issued, unless the reissued or new rule is specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule.

''(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of subsection (a)(3) may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

''(2) Paragraph (1) applies to a determination made by the President by Executive Order that the rule should take effect because such rule is—

''(A) necessary because of an imminent threat to health or safety or other emergency;

''(B) necessary for the enforcement of criminal laws;

''(C) necessary for national security; or

''(D) issued pursuant to any statute implementing an international trade agreement.

''(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802 or the effect of a joint resolution of disapproval under this section.

''(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule for which a report was submitted in accordance with subsection (a)(1)(A) during the period beginning on the date occurring—

''(A) in the case of the Senate, 60 session days, or

''(B) in the case of the House of Representatives, 60 legislative days,

before the date the Congress adjourns a session of Congress through the date on which the same or succeeding Congress first convenes its next session, section 802 shall apply to such rule in the succeeding session of Congress.

''(2)(A) In applying section 802 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

''(i) such rule were published in the Federal Register (as a rule that shall take effect) on—

''(I) in the case of the Senate, the 15th session day, or

''(II) in the case of the House of Representatives, the 15th legislative day,

after the succeeding session of Congress first convenes; and

''(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

''(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a rule can take effect.

''(3) A rule described under paragraph (1) shall take effect as otherwise provided by law (including other subsections of this section).

''(e)(1) For purposes of this subsection, section 802 shall also apply to any major rule promulgated between March 1, 1996, and the date of the enactment of this chapter.

''(2) In applying section 802 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

''(A) such rule were published in the Federal Register on the date of enactment of this chapter; and

''(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

''(3) The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 802.

''(f) Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect.

''(g) If the Congress does not enact a joint resolution of disapproval under section 802 respecting a rule, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

''§ 802. Congressional disapproval procedure

''(a) For purposes of this section, the term 'joint resolution' means only a joint resolution introduced in the period beginning on the date on which the report referred to in section 801(a)(1)(A) is received by Congress and ending 60 days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the relating to , and such rule shall have no force or effect.' (The blank spaces being appropriately filled in).

''(b)(1) A joint resolution described in subsection (a) shall be referred to the committees in each House of Congress with jurisdiction.

''(2) For purposes of this section, the term 'submission or publication date' means the later of the date on which—

''(A) the Congress receives the report submitted under section 801(a)(1); or

''(B) the rule is published in the Federal Register, if so published.

''(c) In the Senate, if the committee to which is referred a joint resolution described in subsection (a) has not reported such joint resolution (or an identical joint resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

''(d)(1) In the Senate, when the committee to which a joint resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of a joint resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

''(2) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

''(3) In the Senate, immediately following the conclusion of the debate on a joint resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

''(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

''(e) In the Senate the procedure specified in subsection (c) or (d) shall not apply to the consideration of a joint resolution respecting a rule—

''(1) after the expiration of the 60 session days beginning with the applicable submission or publication date, or

''(2) if the report under section 801(a)(1)(A) was submitted during the period referred to in section 801(d)(1), after the expiration of the 60 session days beginning on the 15th session day after the succeeding session of Congress first convenes.

''(f) If, before the passage by one House of a joint resolution of that House described in subsection (a), that House receives from the other House a joint resolution described in subsection (a), then the following procedures shall apply:

''(1) The joint resolution of the other House shall not be referred to a committee.

''(2) With respect to a joint resolution described in subsection (a) of the House receiving the joint resolution—

''(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

''(B) the vote on final passage shall be on the joint resolution of the other House.

''(g) This section is enacted by Congress—

''(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

''(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

''§ 803. Special rule on statutory, regulatory, and judicial deadlines

''(a) In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of enactment of a joint resolution under section 802, that deadline is extended until the date 1 year after the date of enactment of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 801(a).

''(b) The term 'deadline' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

''§ 804. Definitions

''For purposes of this chapter—

''(1) The term 'Federal agency' means any agency as that term is defined in section 551(1).

''(2) The term ''major rule'' means any rule that the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds has resulted in or is likely to result in—

''(A) an annual effect on the economy of $100,000,000 or more;

''(B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

''(C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

The term does not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act.

''(3) The term 'rule' has the meaning given such term in section 551, except that such term does not include—

''(A) any rule of particular applicability, including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing;

''(B) any rule relating to agency management or personnel; or

''(C) any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of nonagency parties.

''§ 805. Judicial review

''No determination, finding, action, or omission under this chapter shall be subject to judicial review.

''§ 806. Applicability; severability

''(a) This chapter shall apply notwithstanding any other provision of law.

''(b) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby.

''§ 807. Exemption for monetary policy

''Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

''§ 808. Effective date of certain rules

''Notwithstanding section 801—

''(1) any rule that establishes, modifies, opens, closes, or conducts a regulatory program for a commercial, recreational, or subsistence activity related to hunting, fishing, or camping, or

''(2) any rule which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest,

shall take effect at such time as the Federal agency promulgating the rule determines.''.

SEC. 352. EFFECTIVE DATE.

The amendment made by section 351 shall take effect on the date of enactment of this Act.

SEC. 353. TECHNICAL AMENDMENT.

The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

''8. Congressional Review of Agency Rulemaking ..... 801''.

After debate,

Pursuant to House Resolution 391, the previous question on the amendments and the bill were considered as ordered.

The bill, as amended, was ordered to be engrossed and read a third time, was read a third time by title.

Mr. BONIOR moved to recommit the bill to the Committee on Ways and Means with instructions to report the bill back to the House forthwith with the following amendments:

The amendment made by subsection (a) shall only apply during periods when the minimum wage under section 6(a)(1) of the Fair Labor Standards Act is not less than $4.70 an hour during the year beginning on July 4, 1996 and not less than $5.15 an hour after July 3, 1997.

Pending consideration of said motion,

¶37.10 POINT OF ORDER

Mr. ARCHER made a point of order that the motion to recommit was not germane, and said:

''Mr. Speaker, I make, actually, two points of order: a point of order that the motion to recommit with instructions is not germane to the bill; and, second, that the motion to recommit with instructions constitutes an unfunded intergovernmental mandate under section 425 of the Congressional Budget Act.''.

Mr. BONIOR was recognized to speak to the point of order, and said:

''Mr. Speaker, this bill is very broad in its scope. This bill provides that the President be given a line-item veto authority. This bill provides for an increase in the amount Social Security recipients could earn before their Social Security benefits are reduced. Third, it allows small businesses to seek judicial review of regulations.

''Mr. Speaker, this bill has to do with taxpayers. There is nothing more important to taxpayers and citizens in this country than to be able to have revenues in their pockets. What we are offering and what we are suggesting under this motion to recommit is that we be given the chance to vote on the increase in the minimum wage, which has not been raised for the past 5 years. The minimum wage is a very important part of a variety of laws in this country that deal with ability of people to make ends meet.

''The third piece of this bill that was added in the Committee on Rules allows small business to seek judicial review of regulations. In that sense, Mr. Speaker, it seems to me that those people who are affiliated with small business on the employment side ought to have redress to getting a decent wage in this country. You cannot live and raise a family on $9,000 a year or less.

''Let me just add another point to my argument, Mr. Speaker, subtitle C of the bill requires that the Department of Labor certify whether any of its rules, including rules governing the minimum wage, where a small business could go to court seeking a stay of the Department of Labor's rules governing the minimum wage.

''It seems to me that, because of the addition of that subsection and the broadening of the bill, the minimum wage indeed is in order as a discussion point in a motion to recommit.

''I would further add, Mr. Speaker, that my recommittal motion is logically relevant to the bill and establishes a condition that is logically relevant to subtitle C. Under the House precedent, my motion, I think, meets this test. If we are meeting the test for seniors, it seems to me we ought to be meeting the test for those women, primarily, millions of them raising kids on their own making less than $8,000 a year. They ought to be given the chance to have this debated and voted on by the House of Representatives.

''I have difficulty not talking emotionally about this issue because of what I see in the country. But I will confine my remarks to subsection C of the bill that requires that the Department of Labor certify. And I would tell my friend from Texas, the Department of Labor has to certify whether any of its rules, including rules governing the minimum wage. And that, it seems to me, is the direct connection in this bill with the needs of working people in this country who are working for minimum wage and deserve to have the opportunity to have that wage increase.''.

Mr. ARCHER was recognized to speak to the point of order, and said:

''Mr. Speaker, I make a point of order that the motion to recommit with instructions is not germance to the bill.

''Mr. Speaker, the motion to recommit is not germane because it seeks to introduce material within the jurisdiction of a Committee that is not dealt with in the bill. That is, the subject of the amendment, the Minimum Wage, falls within the jurisdiction of the Committee on Economic and Educational Opportunities, while the subject matter of the bill falls only within the jurisdiction of the Committees on Ways and Means, Budget, Rules, Judiciary, Small Business, and Government Reform and Oversight.

''In addition, the motion to recommit seeks to amend the Fair Labor Standards Act, which is not amended by the bill.

''Finally, there is the gentleman's argument about rulemaking. The rulemaking authority under this bill is general and not agency specific. Therefore, the motion to recommit is not germane to the bill, and it should be ruled out of order on that basis.''.

Mr. ENGEL was recognized to speak to the point of order, and said:

''Mr. Speaker, it would seem to me, if we are debating this bill on raising the debt ceiling limit, that something to do with the minimum wage is about as germane to the debt ceiling limit lifting as the line-item veto is and as allowing seniors to make more money for Social Security purposes. I cannot see why one would not be germane and why these other things are germane. In fact, we should have a clean lifting of the debt ceiling and then we would not have to worry about germaneness after all.

''So it would seem to me that we cannot on the one hand attach all kinds of extraneous things to the lifting of the debt ceiling and then on the other hand claim that the minimum wage is not at least as relevant to the lifting of the debt ceiling as the line-item veto and senior citizens are. I just do not think it is fair if we are going to talk about playing by fair rules. I think we ought to be fair. While they may want to stifle free speech on the other side of the aisle, I think we have a right to ask for equity here.''.

The SPEAKER pro tempore, Mr. HASTINGS of Washington, overruled the point of order, and said:

''The Chair is prepared to rule on the point of order raised by the gentleman from Texas on germaneness. The gentleman from Texas makes a point of order that the amendment proposed in the motion to recommit offered by the gentleman from Michigan is not germane to the bill. The test of germaneness in the case of a motion to recommit with instructions is a relationship of those instructions to the bill as a whole.

''The pending bill permanently increases the debt limit. It also comprehensively addresses several other unrelated programs, specifically, the Senior Citizens' Right to Work Act, which amends the Social Security Act, the Line-Item Veto Act, which amends the Congressional Budget and Impoundment Control Act, and the Small Business Growth and Fairness Act of 1996, which amends the Regulatory Flexibility Act and the Small Business Act, and it establishes congressional review of agency rulemaking.

''The motion does not amend the Fair Labor Standards Act. The motion does not directly amend the laws that go directly to the jurisdiction of the Committee on Economic and Educational Opportunities.

''The Chair would cite page 600 of the Manual the following: 'An amendment that conditions the availability of funds covered by a bill by adopting as a measure of their avilability the monthly increases in the debt limit may be germane so long as the amendment does not directly affect other provisions of law or impose unrelated contingencies.'.

''Therefore, the Chair rules that this motion is germane and overrules that point of order.''.

¶37.11 POINT OF ORDER

Mr. ARCHER made a point of order against the motion to recommit as violating section 425 of the Congressional Budget Act, and said:

''Mr. Speaker, I make a point of order that the motion to recommit with instructions constitutes an unfunded intergovernmental mandate under section 425 of the Congressional Budget Act. Section 425 prohibits consideration of a measure containing unfunded intergovernmental mandates whose total unfunded direct cost exceeds $50 million annually. The precise language in question is the text of the instruction that amends the Fair Labor Standards Act to increase the minimum wage.

''According to the Congressional Budget Office, an increase in the min-

imum wage from $4.25 to $5.15 would exceed the threshold amount under the rule of $50 million. In fact, CBO estimates that it would impose an unfunded mandate burden of over $1 billion over 5 years.

''Let me also point out that CBO estimates that this provision would result in a .5 percent to 2 percent reduction in the employment level of teenagers and a smaller percentage reduction for young adults. These would produce employment losses of roughly 100,000 to 500,000 jobs.

''Therefore, I urge the Chair to sustain this point of order, and I urge my colleagues to vote against consideration of this unfunded mandate on State and local governments.''.

The SPEAKER pro tempore, Mr. HASTINGS of Washington, responded to the point of order, and said:

''The gentleman from Texas [Mr. ARCHER] makes a point of order that the motion violates section 425 of the Congressional Budget Act of 1974. In accordance with section 426(b)(2) of the Act, the gentleman has met his threshold burden to identify the specific language of the motion having that effect. Under section 426(b)(4) of the Act, the gentleman from Texas ARCHER] and the gentleman from Michigan [Mr. BONIOR] will each control ten minutes of debate on the point of order. Pursuant to section 426(b)(3) of the Act, after debate on the point of order the Chair will put the question of consideration, to wit: 'Will the House now consider the motion?'''.

After debate,

¶37.12 WORDS TAKEN DOWN

Mr. DELAY during debate addressed the House and, during the course of his remarks,

Mr. BONIOR demanded that certain words be taken down.

The Clerk read the words taken down as follows:

The gentleman from New York [Mr. ENGEL], who just spoke before I did, said in his speech that we owe the American workers this vote and we owe the American worker to raise the minimum wage. I submit he got that from the convention that was just held in this town by the AFL-CIO, who said tht they would raise over $35 million to take this majority out. That is what this vote is all about. This group over here on this side of the aisle has been screaming and yelling for the last many weeks.

The SPEAKER pro tempore, Mr. HASTINGS of Washington, held the words taken down to not be unparliamentary, and said:

''The Chair does not believe that anything in those remarks constitutes any personal reference to any other Member of this body.''.

Mr. BONIOR was recognized to speak to the ruling of the Chair, and said:

''Mr. Speaker, the Clerk needs to go back farther, because there was reference and the use of the word 'hypocrite', and the Clerk has not gone back far enough to pick up the word that I objected to. The word 'hypocrisy' was used, excuse me, Mr. Speaker.''.

The SPEAKER pro tempore, Mr. HASTINGS of Washington, responded to the remarks of the gentleman from Michigan [Mr. BONIOR], and said:

''The Chair would remind the gentleman that on points such as that, the point of order from the gentleman making the point of order has to be timely. The Clerk has gone back several sentences to transcribe what the gentleman had said, and the gentleman's demand certainly was not timely in this instance.''.

¶37.13 POINT OF ORDER

Mr. BONIOR made a point of order, and said:

''Mr. Speaker, that dialogue that I am referring to could not have taken more than 30 seconds, and it seems to me that I was indeed timely when I rose to my feet as the gentleman was completing his idea, which included referring to the gentleman from New York [Mr. ENGEL] with the term 'hypocrisy.'''.

The SPEAKER pro tempore, Mr. HASTINGS of Washington, responded to the point of order, and said:

''Under the precedents set, those points of order raised by the gentleman have to be on a timely basis. This is precedent that has been set in this body for a number of years where there are intervening remarks that you are alluding to. So the Chair rules that the gentleman from Texas [Mr. DELAY] may proceed.''.

Mr. BONIOR appealed the ruling of the Chair.

The question being put, viva voce,

Will the decision of the Chair stand as the judgment of the House?

Mr. ARCHER moved to lay the appeal on the table.

The question being put, viva voce,

Will the House lay on the table the appeal of the ruling of the Chair?

The SPEAKER pro tempore, Mr. HASTING of Washington, announced that the yeas had it.

Mr. BONIOR demanded a recorded vote on the motion to lay the appeal on the table, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the affirmative ..... { Yeas ..... 232 / Nays 185

¶37.14 [Roll No. 99]

AYES—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—185

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver

Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—14

Bryant (TX)
Collins (IL)
Fields (LA)
Filner
Fowler
Frost
Hayes
Martinez
McNulty
Smith (WA)
Stokes
Tejeda
Weldon (PA)
Williams

So the motion to lay the appeal of the ruling of the Chair on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

The SPEAKER pro tempore, Mr. HASTINGS of Washington, recognized the gentleman from Texas [Mr. DELAY] to proceed in order.

After further debate,

The question being put, viva voce,

Will the House now consider the motion to recommit with instructions?

The SPEAKER pro tempore, Mr. HASTINGS of Washington, announced that the nays appeared to have it.

Mr. BONIOR demanded a recorded vote on the question as to whether the House should consider the motion to recommit with instructions, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the negative ..... { Yeas ..... 192 / Nays ..... 228 }

¶37.15 [Roll No. 100]

AYES—192

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Riggs
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stenholm
Stockman
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOES—228

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Bryant (TX)
Collins (IL)
Diaz-Balart
Fields (LA)
Filner
Fowler
McNulty
Ros-Lehtinen
Smith (WA)
Stokes
Weldon (PA)

So, the question of consideration of said motion was resolved in the negative.

Mr. ORTON moved to recommit the bill to the Committee on Ways and Means with instructions to report the bill back to the House forthwith with the following amendment:

On page 60, strike lines 5 through 15 and insert the following:

SEC. 205. EFFECTIVE DATES.

This title and the amendments made by it shall take effect and apply to measures enacted after the date of its enactment and shall have no force or effect on or after January 1, 2005.

After debate,

By unanimous consent, the previous question was ordered on the motion to recommit with instructions.

The question being put, viva voce,

Will the House recommit said bill with instructions?

The SPEAKER pro tempore, Mr. HASTINGS of Washington, announced that the nays had it.

Mr. ORTON demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the negative ..... { Yeas ..... 159 / Nays ..... 256 }

¶37.16 [Roll No. 101]

YEAS—159

Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Cardin
Chapman
Clay
Clement
Clyburn
Coburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Deutsch
Dingell
Doggett
Dooley
Doyle
Durbin
Edwards
Ensign
Eshoo
Farr
Fattah
Fazio
Flake
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Graham
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kleczka
LaFalce
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
Meehan
Menendez
Miller (CA)

Minge
Mink
Moakley
Moran
Neal
Neumann
Obey
Olver
Orton
Owens
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sawyer
Schroeder
Schumer
Shadegg
Shays
Sisisky
Skaggs
Skelton
Slaughter
Souder
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torres
Upton
Vento
Visclosky
Volkmer
Wamp
Ward
Waters
Waxman
Wilson
Wise
Woolsey
Wynn
Zimmer

NAYS—256

Abercrombie
Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clayton
Clinger
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Dellums
Diaz-Balart
Dickey
Dicks
Dixon
Doolittle
Dornan
Dreier
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Evans
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foglietta
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kildee
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McKinney
Meek
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nadler
Nethercutt
Ney
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Parker
Pastor
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Roukema
Sanders
Sanford
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Serrano
Shaw
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Spence
Stark
Stearns
Stockman
Stump
Talent
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torkildsen
Towns
Traficant
Velazquez
Vucanovich
Waldholtz
Walker
Walsh
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wolf
Yates
Young (AK)
Young (FL)
Zeliff

NOT VOTING—16

Bryant (TX)
Collins (IL)
Duncan
Fields (LA)
Filner
Fowler
Lantos
McIntosh
McNulty
Ros-Lehtinen
Smith (WA)
Spratt
Stokes
Tate
Torricelli
Weldon (PA)

So the motion to recommit with instructions was not agreed to.

The question being put, viva voce,

Will the House pass said bill?

The SPEAKER pro tempore, Mr. HASTINGS of Washington announced that the yeas had it.

Mr. CLINGER demanded a recorded vote on passage of said bill, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the affirmative ..... { Yeas ..... 328 / Nays 91

¶37.17 [Roll No. 102]

AYES—328

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Collins (GA)
Combest
Costello
Cox
Coyne
Cramer
Crane
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flake
Flanagan
Foglietta
Foley
Ford
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hefley
Hefner
Heineman
Hilleary
Hinchey
Hobson
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Meehan
Menendez
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Myrick
Nadler
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Rose
Roth
Royce
Rush
Sawyer
Saxton
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Upton
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—91

Abercrombie
Baker (CA)
Barr
Bartlett
Barton
Becerra
Beilenson
Berman
Borski
Bunn
Chenoweth
Clay
Clyburn
Coburn
Coleman
Collins (MI)
Condit
Conyers
Cooley
Crapo
Dellums
Dingell
Doolittle
Evans
Fattah
Forbes
Frank (MA)
Gonzalez
Hastings (FL)
Hayworth
Herger
Hilliard
Hoekstra
Jackson (IL)
Jacobs
Jefferson
Johnston
Kanjorski
Kingston
Klink
LaFalce
Largent
Lewis (CA)
Lofgren
Markey
Martinez
Matsui
McDermott
McKinney
Meek
Metcalf
Mink
Mollohan
Murtha
Myers
Neal
Oberstar
Olver
Owens
Payne (NJ)
Pelosi
Pombo
Rahall
Rangel
Roukema
Roybal-Allard
Sabo
Salmon
Sanders
Sanford
Scarborough
Schroeder
Serrano
Shadegg
Shays
Skaggs
Smith (MI)
Stark
Stockman
Studds
Stump
Taylor (MS)
Thompson
Towns
Traficant
Velazquez
Waters
Watt (NC)
Waxman
White
Yates

NOT VOTING—12

Bryant (TX)
Collins (IL)
Fields (LA)
Filner
Fowler
Lantos
McNulty
Ros-Lehtinen
Smith (WA)
Stokes
Torricelli
Weldon (PA)

So the bill was passed.

A motion to reconsider the vote whereby said bill was passed was, by unanimous consent, laid on the table.

Ordered, That the Clerk request the concurrence of the Senate in said bill.

¶37.18 MESSAGE FROM THE PRESIDENT—NATIONAL ENDOWMENT FOR THE ARTS

The SPEAKER pro tempore, Mr. KOLBE, laid before the House a message from the President, which was read as follows:

To the Congress of the United States:

It is my special pleasure to transmit herewith the Annual Report of the National Endowment for the Arts for the fiscal year 1994.

Over the course of its history, the National Endowment for the Arts has awarded grants for arts projects that reach into every community in the Nation. The agency's mission is public service through the arts, and it fulfills this mandate through support of artistic excellence, our cultural heritage and traditions, individual creativity, education, and public and private partnerships for the arts. Perhaps most importantly, the Arts Endowment encourages arts organizations to reach out to the American people, to bring in new audiences for the performing, literary, and visual arts.

The results over the past 30 years can be measured by the increased presence of the arts in the lives of our fellow citizens. More children have contact with working artists in the classroom, at children's museums and festivals, and in the curricula. More older Americans now have access to museums, concert halls, and other venues. The arts reach into the smallest and most isolated communities, and in our inner cities, arts programs are often a haven for the most disadvantaged, a place where our youth can rediscover the power of imagination, creativity, and hope.

We can measure this progress as well in our re-designed communities, in the buildings and sculpture that grace our cities and towns, and in the vitality of the local economy whenever the arts arrive. The National Endowment for the Arts works the way a Government agency should work—in partnership with the private sector, in cooperation with State and local government, and in service to all Americans. We enjoy a rich and diverse culture in the United States, open to every citizen, and supported by the Federal Government for our common good and benefit.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 28, 1996.*

By unanimous consent, the message, together with the accompanying papers, was referred to the Committee on Economic and Educational Opportunity.

¶37.19 PROVIDING FOR THE CONSIDERATION OF H.R. 3103

Mr. GOSS, by direction of the Committee on Rules, called up the following resolution (H. Res. 392):

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes. An amendment in the nature of a substitute consisting of the text of H.R. 3160, modified by the amendment specified in part 1 of the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. All points of order against the bill, as amended, and against its consideration are waived (except those arising under section 425(a) of the Congressional Budget Act of 1974). The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) two hours of debate on the bill, as amended, with 45 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, 45 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce, and 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Economic and Educational Opportunities; (2) the further amendment specified in part 2 of the Committee on Rules, if offered by the minority leader or his designee, which shall be in order without intervention of any point of order (except those arising under section 425(a) of the Congressional Budget Act of 1974) or demand for division of the question, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit, which may include instructions only if offered by the minority leader or his designee. The yeas and nays shall be considered as ordered on the question of passage of the bill and on any conference report thereon. Clause 5(c) of rule XXI shall not apply to the bill, amendments thereto, or conference reports thereon.

When said resolution was considered.

After debate,

Mr. GOSS moved the previous question on the resolution to its adoption or rejection.

The question being put, viva voce,

Will the House now order the previous question?

The SPEAKER pro tempore, Mr. KOLBE, announced that the nays had it.

Mr. GOSS objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared { Yeas ..... 229 / Nays ..... 186 }

¶37.20 [Roll No. 103]

YEAS—229

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—186

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez

Miller (CA)	Rahall	Stupak
Minge	Rangel	Tanner
Mink	Reed	Taylor (MS)
Moakley	Richardson	Tejeda
Mollohan	Rivers	Thompson
Montgomery	Roemer	Thornton
Moran	Rose	Thurman
Murtha	Roukema	Torres
Nadler	Roybal-Allard	Towns
Oberstar	Rush	Traficant
Obey	Sabo	Velazquez
Olver	Sanders	Vento
Ortiz	Sawyer	Visclosky
Orton	Schroeder	Volkmer
Owens	Schumer	Ward
Pallone	Scott	Waters
Pastor	Serrano	Watt (NC)
Payne (NJ)	Sisisky	Waxman
Payne (VA)	Skaggs	Williams
Pelosi	Skelton	Wise
Peterson (FL)	Slaughter	Woolsey
Peterson (MN)	Spratt	Wynn
Pickett	Stark	Yates
Pomeroy	Stenholm	
Poshard	Studds	

NOT VOTING—16

Becerra	Lantos	Stokes
Bryant (TX)	McNulty	Torricelli
Collins (IL)	Neal	Weldon (PA)
Conyers	Ros-Lehtinen	Wilson
Fields (LA)	Smith (TX)	
Fowler	Smith (WA)	

So the previous question on the resolution was ordered.

The question being put, viva voce,

Will the House agree to said resolution?

The SPEAKER pro tempore, Mr. KOLBE, announced that the yeas had it.

So the resolution was agreed to.

A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

¶37.21 FURTHER MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 3136. An Act to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line-Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit; and

H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the One Hundred Fourth Congress.

The message also announced that the Senate agrees, to the report of the committee of conference on the disagreeing votes of the two House on the amendment of the Senate to the bill (H.R. 2854) ''An Act to modify the operation of certain agricultural programs''.

¶37.22 HEALTH CARE COVERAGE

Mr. ARCHER, pursuant to House Resolution 392, called up the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes.

When said bill was considered and read twice.

Pursuant to House Resolution 392, the following amendment in the nature of a substitute consisting of the text of H.R. 3160, modified by the amendment specified in Part 1 of House Report 104–501, was considered as adopted:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Health Coverage Availability and Affordability Act of 1996''.

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

Sec. 1. Short title; table of contents.

TITLE I—IMPROVED AVAILABILITY AND PORTABILITY OF HEALTH INSURANCE COVERAGE

Subtitle A—Coverage Under Group Health Plans

Sec. 101. Portability of coverage for previously covered individuals.

Sec. 102. Limitation on preexisting condition exclusions; no application to certain newborns, adopted children, and pregnancy.

Sec. 103. Prohibiting exclusions based on health status and providing for enrollment periods.

Sec. 104. Enforcement.

Subtitle B—Certain Requirements for Insurers and HMOs in the Group and Individual Markets

PART 1—AVAILABILITY OF GROUP HEALTH INSURANCE COVERAGE

Sec. 131. Guaranteed availability of general coverage in the small group market.

Sec. 132. Guaranteed renewability of group coverage.

PART 2—AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE

Sec. 141. Guaranteed availability of individual health insurance coverage to certain individuals with prior group coverage.

Sec. 142. Guaranteed renewability of individual health insurance coverage.

PART 3—ENFORCEMENT

Sec. 151. Incorporation of provisions for State enforcement with Federal fallback authority.

Subtitle C—Affordable and Available Health Coverage Through Multiple Employer Pooling Arrangements

Sec. 161. Clarification of duty of the Secretary of Labor to implement provisions of current law providing for exemptions and solvency standards for multiple employer health plans.

''PART 7—RULES GOVERNING REGULATION OF MULTIPLE EMPLOYER HEALTH PLANS

''Sec. 701. Definitions.

''Sec. 702. Clarification of duty of the Secretary to implement provisions of current law providing for exemptions and solvency standards for multiple employer health plans.

''Sec. 703. Requirements relating to sponsors, boards of trustees, and plan operations.

''Sec. 704. Other requirements for exemption.

''Sec. 705. Maintenance of reserves.

''Sec. 706. Notice requirements for voluntary termination.

''Sec. 707. Corrective actions and mandatory termination.

''Sec. 708. Additional rules regarding State authority.''.

Sec. 162. Affordable and available fully insured health coverage through voluntary health insurance associations.

Sec. 163. State authority fully applicable to self-insured multiple employer welfare arrangements providing medical care which are not exempted under new part 7.

Sec. 164. Clarification of treatment of single employer arrangements.

Sec. 165. Clarification of treatment of certain collectively bargained arrangements.

Sec. 166. Treatment of church plans.

Sec. 167. Enforcement provisions relating to multiple employer welfare arrangements.

Sec. 168. Cooperation between Federal and State authorities.

Sec. 169. Filing and disclosure requirements for multiple employer welfare arrangements offering health benefits.

Sec. 170. Single annual filing for all participating employers.

Sec. 171. Effective date; transitional rule.

Subtitle D—Definitions; General Provisions

Sec. 191. Definitions; scope of coverage.

Sec. 192. State flexibility to provide greater protection.

Sec. 193. Effective date.

Sec. 194. Rule of construction.

Sec. 195. Findings relating to exercise of commerce clause authority.

TITLE II—PREVENTING HEALTH CARE FRAUD AND ABUSE; ADMINISTRATIVE SIMPLIFICATION; MEDICAL LIABILITY REFORM

Sec. 200. References in title.

Subtitle A—Fraud and Abuse Control Program

Sec. 201. Fraud and abuse control program.

Sec. 202. Medicare integrity program.

Sec. 203. Beneficiary incentive programs.

Sec. 204. Application of certain health anti-fraud and abuse sanctions to fraud and abuse against Federal health care programs.

Sec. 205. Guidance regarding application of health care fraud and abuse sanctions.

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

Sec. 211. Mandatory exclusion from participation in medicare and State health care programs.

Sec. 212. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.

Sec. 213. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.

Sec. 214. Sanctions against practitioners and persons for failure to comply with statutory obligations.

Sec. 215. Intermediate sanctions for medicare health maintenance organizations.

Sec. 216. Additional exception to anti-kickback penalties for discounting and managed care arrangements.

Sec. 217. Criminal penalty for fraudulent disposition of assets in order to obtain medicaid benefits.

Sec. 218. Effective date.

Subtitle C—Data Collection

Sec. 221. Establishment of the health care fraud and abuse data collection program.

Subtitle D—Civil Monetary Penalties
Sec. 231. Social security act civil monetary penalties.
Sec. 232. Clarification of level of intent required for imposition of sanctions.
Sec. 233. Penalty for false certification for home health services.
Subtitle E—Revisions to Criminal Law
Sec. 241. Definitions relating to Federal health care offense.
Sec. 242. Health care fraud.
Sec. 243. Theft or embezzlement.
Sec. 244. False statements.
Sec. 245. Obstruction of criminal investigations of health care offenses.
Sec. 246. Laundering of monetary instruments.
Sec. 247. Injunctive relief relating to health care offenses.
Sec. 248. Authorized investigative demand procedures.
Sec. 249. Forfeitures for Federal health care offenses.
Sec. 250. Relation to ERISA authority.
Subtitle F—Administrative Simplification
Sec. 251. Purpose.
Sec. 252. Administrative simplification.
''PART C—ADMINISTRATIVE SIMPLIFICATION
''Sec. 1171. Definitions.
''Sec. 1172. General requirements for adoption of standards.
''Sec. 1173. Standards for information transactions and data elements.
''Sec. 1174. Timetables for adoption of standards.
''Sec. 1175. Requirements.
''Sec. 1176. General penalty for failure to comply with requirements and standards.
''Sec. 1177. Wrongful disclosure of individually identifiable health information.
''Sec. 1178. Effect on State law.
Sec. 253. Changes in membership and duties of National Committee on Vital and Health Statistics.
Subtitle G—Duplication and Coordination of Medicare-Related Plans
Sec. 261. Duplication and coordination of medicare-related plans.
Subtitle H—Medical Liability Reform
PART 1—GENERAL PROVISIONS
Sec. 271. Federal reform of health care liability actions.
Sec. 272. Definitions.
Sec. 273. Effective date.
PART 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS
Sec. 281. Statute of limitations.
Sec. 282. Calculation and payment of damages.
Sec. 283. Alternative dispute resolution.
TITLE III—TAX-RELATED HEALTH PROVISIONS
Sec. 300. Amendment of 1986 code.
Subtitle A—Medical Savings Accounts
Sec. 301. Medical savings accounts.
Subtitle B—Increase in Deduction for Health Insurance Costs of Self-Employed Individuals
Sec. 311. Increase in deduction for health insurance costs of self-employed individuals.
Subtitle C—Long-Term Care Services and Contracts
PART I—GENERAL PROVISIONS
Sec. 321. Treatment of long-term care insurance.
Sec. 322. Qualified long-term care services treated as medical care.
Sec. 323. Reporting requirements.
PART II—CONSUMER PROTECTION PROVISIONS
Sec. 325. Policy requirements.
Sec. 326. Requirements for issuers of long-term care insurance policies.
Sec. 327. Coordination with State requirements.
Sec. 328. Effective dates.
Subtitle D—Treatment of Accelerated Death Benefits
Sec. 331. Treatment of accelerated death benefits by recipient.
Sec. 332. Tax treatment of companies issuing qualified accelerated death benefit riders.
Subtitle E—High-Risk Pools
Sec. 341. Exemption from income tax for State-sponsored organizations providing health coverage for high-risk individuals.
Subtitle F—Organizations Subject to Section 833
Sec. 351. Organizations subject to section 833.
TITLE IV—REVENUE OFFSETS
Sec. 400. Amendment of 1986 Code.
Subtitle A—Repeal of Bad Debt Reserve Method for Thrift Savings Associations
Sec. 401. Repeal of bad debt reserve method for thrift savings associations.
Subtitle B—Reform of the Earned Income Credit
Sec. 411. Earned income credit denied to individuals not authorized to be employed in the United States.
Subtitle C—Treatment of Individuals Who Lose United States Citizenship
Sec. 421. Revision of income, estate, and gift taxes on individuals who lose United States citizenship.
Sec. 422. Information on individuals losing United States citizenship.
Sec. 423. Report on tax compliance by United States citizens and residents living abroad.

TITLE I—IMPROVED AVAILABILITY AND PORTABILITY OF HEALTH INSURANCE COVERAGE

Subtitle A—Coverage Under Group Health Plans

SEC. 101. PORTABILITY OF COVERAGE FOR PREVIOUSLY COVERED INDIVIDUALS.

(a) CREDITING PERIODS OF PREVIOUS COVERAGE TOWARD PREEXISTING CONDITION RESTRICTIONS.—Subject to the succeeding provisions of this section, a group health plan, and an insurer or health maintenance organization offering health insurance coverage in connection with a group health plan, shall provide that any preexisting condition limitation period (as defined in subsection (b)(2)) is reduced by the length of the aggregate period of qualified prior coverage (if any, as defined in subsection (b)(3)) applicable to the participant or beneficiary as of the date of commencement of coverage under the plan.

(b) DEFINITIONS AND OTHER PROVISIONS RELATING TO PREEXISTING CONDITIONS.—

(1) PREEXISTING CONDITION.—

(A) IN GENERAL.—For purposes of this subtitle, subject to subparagraph (B), the term ''preexisting condition'' means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before—

(i) the effective date of the coverage of such participant or beneficiary, or

(ii) the earliest date upon which such coverage could have been effective if there were no waiting period applicable,

whichever is earlier.

(B) TREATMENT OF GENETIC INFORMATION.—For purposes of this section, genetic information shall not be considered to be a preexisting condition, so long as treatment of the condition to which the information is applicable has not been sought during the 6-month period described in subparagraph (A).

(2) PREEXISTING CONDITION LIMITATION PERIOD.—For purposes of this subtitle, the term ''preexisting condition limitation period'' means, with respect to coverage of an individual under a group health plan or under health insurance coverage, the period during which benefits with respect to treatment of a condition of such individual are not provided based on the fact that the condition is a preexisting condition.

(3) AGGREGATE PERIOD OF QUALIFIED PRIOR COVERAGE.—

(A) IN GENERAL.—For purposes of this section, the term ''aggregate period of qualified prior coverage'' means, with respect to commencement of coverage of an individual under a group health plan or health insurance coverage offered in connection with a group health plan, the aggregate of the qualified coverage periods (as defined in subparagraph (B)) of such individual occurring before the date of such commencement. Such period shall be treated as zero if there is more than a 60-day break in coverage under a group health plan (or health insurance coverage offered in connection with such a plan) between the date the most recent qualified coverage period ends and the date of such commencement.

(B) QUALIFIED COVERAGE PERIOD.—

(i) IN GENERAL.—For purposes of this paragraph, subject to subsection (c), the term ''qualified coverage period'' means, with respect to an individual, any period of coverage of the individual under a group health plan, health insurance coverage, under title XVIII or XIX of the Social Security Act, coverage under the TRICARE program under chapter 55 of title 10, United States Code, a program of the Indian Health Service, and State health insurance coverage or risk pool, and includes coverage under a health plan offered under chapter 89 of title 5, United States Code.

(ii) DISREGARDING PERIODS BEFORE BREAKS IN COVERAGE.—Such term does not include any period occurring before any 60-day break in coverage described in subparagraph (A).

(C) WAITING PERIOD NOT TREATED AS A BREAK IN COVERAGE.—For purposes of subparagraphs (A) and (B), any period that is in a waiting period for any coverage under a group health plan (or for health insurance coverage offered in connection with a group health plan) shall not be considered to be a break in coverage described in subparagraph (B)(ii).

(D) ESTABLISHMENT OF PERIOD.—A qualified coverage period with respect to an individual shall be established through presentation of certifications described in subsection (c) or in such other manner as may be specified in regulations to carry out this title.

(c) CERTIFICATIONS OF COVERAGE; CONFORMING COVERAGE.—

(1) IN GENERAL.—The plan administrator of a group health plan, or the insurer or HMO offering health insurance coverage in connection with a group health plan, shall, on request made on behalf of an individual covered (or previously covered within the previous 18 months) under the plan or coverage, provide for a certification of the period of coverage of the individual under such plan or coverage and of the waiting period (if any) imposed with respect to the individual for any coverage under the plan.

(2) STANDARD METHOD.—Subject to paragraph (3), a group health plan, or insurer or HMO offering health insurance coverage in connection with a group health plan, shall determine qualified coverage periods under subsection (b)(3)(B) by including all periods described in such subsection, without regard to the specific benefits offered during such a period.

(3) ALTERNATIVE METHOD.—Such a plan, insurer, or HMO may elect to make such determination on a benefit-specific basis for all participants and beneficiaries and not to include as a qualified coverage period with respect to a specific benefit coverage during a previous period unless such previous coverage for that benefit was included at the end of the most recent period of coverage. In the case of such an election—

(A) the plan, insurer, or HMO shall prominently state in any disclosure statements concerning the plan or coverage and to each enrollee at the time of enrollment under the plan (or at the time the health insurance coverage is offered for sale in the group health market) that the plan or coverage has made such election and shall include a description of the effect of this election; and

(B) upon the request of the plan, insurer, or HMO, the entity providing a certification under paragraph (1)—

(i) shall promptly disclose to the requesting plan, insurer, or HMO the plan statement (insofar as it relates to health benefits under the plan) or other detailed benefit information on the benefits available under the previous plan or coverage, and

(ii) may charge for the reasonable cost of providing such information.

SEC. 102. LIMITATION ON PREEXISTING CONDITION EXCLUSIONS; NO APPLICATION TO CERTAIN NEWBORNS, ADOPTED CHILDREN, AND PREGNANCY.

(a) LIMITATION OF PERIOD.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, a group health plan, and an insurer or HMO offering health insurance coverage in connection with a group health plan, shall provide that any preexisting condition limitation period (as defined in section 101(b)(2)) does not exceed 12 months, counting from the effective date of coverage.

(2) EXTENSION OF PERIOD IN THE CASE OF LATE ENROLLMENT.—In the case of a participant or beneficiary whose initial coverage commences after the date the participant or beneficiary first becomes eligible for coverage under the group health plan, the reference in paragraph (1) to ''12 months'' is deemed a reference to ''18 months''.

(b) EXCLUSION NOT APPLICABLE TO CERTAIN NEWBORNS AND CERTAIN ADOPTIONS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan, and an insurer or HMO offering health insurance coverage in connection with a group health plan, may not provide any limitation on benefits based on the existence of a preexisting condition in the case of—

(A) an individual who within the 30-day period beginning with the date of birth, or

(B) an adopted child or a child placed for adoption beginning at the time of adoption or placement if the individual, within the 30-day period beginning on the date of adoption or placement,

becomes covered under a group health plan or otherwise becomes covered under health insurance coverage (or covered for medical assistance under title XIX of the Social Security Act).

(2) LOSS IF BREAK IN COVERAGE.—Paragraph (1) shall no longer apply to an individual if the individual does not have any coverage described in section 101(b)(3)(B)(i) for a continuous period of 60 days, not counting in such period any days that are in a waiting period for any coverage under a group health plan.

(3) PLACED FOR ADOPTION DEFINED.—In this subsection and section 103(e), the term ''placement'', or being ''placed'', for adoption, in connection with any placement for adoption of a child with any person, means the assumption and retention by such person of a legal obligation for total or partial support of such child in anticipation of adoption of such child. The child's placement with such person terminates upon the termination of such legal obligation.

(c) EXCLUSION NOT APPLICABLE TO PREGNANCY.—For purposes of this section, pregnancy shall not be treated as a preexisting condition.

(d) ELIGIBILITY PERIOD IMPOSED BY HEALTH MAINTENANCE ORGANIZATIONS AS ALTERNATIVE TO PREEXISTING CONDITION LIMITATION.—A health maintenance organization which offers health insurance coverage in connection with a group health plan and which does not use the preexisting condition limitations allowed under this section and section 101 with respect to any particular coverage option may impose an eligibility period for such coverage option, but only if such period does not exceed—

(1) 60 days, in the case of a participant or beneficiary whose initial coverage commences at the time such participant or beneficiary first becomes eligible for coverage under the plan, or

(2) 90 days, in the case of a participant or beneficiary whose initial coverage commences after the date on which such participant or beneficiary first becomes eligible for coverage.

Such an HMO may use alternative methods, from those described in the previous sentence, to address adverse selection as approved by the applicable State authority. For purposes of this subsection, the term ''eligibility period'' means a period which, under the terms of the health insurance coverage offered by the health maintenance organization, must expire before the health insurance coverage becomes effective. Any such eligibility period shall be treated for purposes of this subtitle as a waiting period under the plan and shall run concurrently with any other applicable waiting period under the plan.

SEC. 103. PROHIBITING EXCLUSIONS BASED ON HEALTH STATUS AND PROVIDING FOR ENROLLMENT PERIODS.

(a) PROHIBITION OF EXCLUSION OF PARTICIPANTS OR BENEFICIARIES BASED ON HEALTH STATUS.—

(1) IN GENERAL.—A group health plan, and an insurer or HMO offering health insurance coverage in connection with a group health plan, may not exclude an employee or his or her beneficiary from being (or continuing to be) enrolled as a participant or beneficiary under the terms of such plan or coverage based on health status (as defined in section 191(c)(6)).

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the establishment of preexisting condition limitations and restrictions to the extent consistent with the provisions of this subtitle.

(b) PROHIBITION OF DISCRIMINATION IN PREMIUM CONTRIBUTIONS OF INDIVIDUAL PARTICIPANTS OR BENEFICIARIES BASED ON HEALTH STATUS.—

(1) IN GENERAL.—A group health plan, and an insurer or HMO offering health insurance coverage in connection with a group health plan, may not require a participant or beneficiary to pay a premium or contribution which is greater than such premium or contribution for a similarly situated participant or beneficiary solely on the basis of the health status of the participant or beneficiary.

(2) CONSTRUCTION.—Nothing in this subsection is intended—

(A) to effect the premium rates an insurer or HMO may charge an employer for health insurance coverage provided in connection a group health plan,

(B) to prevent a group health plan (or insurer or HMO in health insurance coverage offered in connection with such a plan) from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention, or

(C) to prevent such a plan, insurer, or HMO from varying the premiums or contributions required of participants or beneficiaries based on factors (such as scope of benefits, geographic area of residence, or wage levels) that are not directly related to health status.

(c) ENROLLMENT OF ELIGIBLE INDIVIDUALS WHO LOSE OTHER COVERAGE.—A group health plan shall permit an uncovered employee who is otherwise eligible for coverage under the terms of the plan (or an uncovered dependent, as defined under the terms of the plan, of such an employee, if family coverage is available) to enroll for coverage under the plan under at least one benefit option if each of the following conditions is met:

(1) The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or individual.

(2) The employee stated in writing at such time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment.

(3) The employee or dependent lost coverage under a group health plan or health insurance coverage (as a result of loss of eligibility for the coverage, termination of employment, or reduction in the number of hours of employment).

(4) The employee requests such enrollment within 30 days after the date of termination of such coverage.

(d) DEPENDENT BENEFICIARIES.—

(1) IN GENERAL.—If a group health plan makes family coverage available, the plan may not require, as a condition of coverage of an individual as a dependent (as defined under the terms of the plan) of a participant in the plan, a waiting period applicable to the coverage of a dependent who—

(A) is a newborn,

(B) is an adopted child or child placed for adoption (within the meaning of section 102(b)(3)), at the time of adoption or placement, or

(C) is a spouse, at the time of marriage,

if the participant has met any waiting period applicable to that participant.

(2) TIMELY ENROLLMENT.—

(A) IN GENERAL.—Enrollment of a participant's beneficiary described in paragraph (1) shall be considered to be timely if a request for enrollment is made within 30 days of the date family coverage is first made available or, in the case described in—

(i) paragraph (1)(A), within 30 days of the date of the birth,

(ii) paragraph (1)(B), within 30 days of the date of the adoption or placement for adoption, or

(iii) paragraph (1)(C), within 30 days of the date of the marriage with such a beneficiary who is the spouse of the participant,

if family coverage is available as of such date.

(B) COVERAGE.—If available coverage includes family coverage and enrollment is made under such coverage on a timely basis under subparagraph (A), the coverage shall become effective not later than the first day of the first month beginning 15 days after the date the completed request for enrollment is received.

(e) MULTIEMPLOYER PLANS, MULTIPLE EMPLOYER HEALTH PLANS, AND MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—A group health plan which is a multi-employer plan, a multiple employer health plan (as defined in section 701(4) of the Employee Retirement Income Security Act of 1974), or a multiple

employer welfare arrangement (to the extent to which benefits under the arrangement consist of medical care) may not deny an employer whose employees are covered under such a plan or arrangement continued access to the same or different coverage under the terms of such a plan or arrangement, other than—

(1) for nonpayment of contributions,

(2) for fraud or other intentional misrepresentation of material fact by the employer,

(3) for noncompliance with material plan or arrangement provisions,

(4) because the plan or arrangement is ceasing to offer any coverage in a geographic area,

(5) for failure to meet the terms of an applicable collective bargaining agreement, to renew a collective bargaining or other agreement requiring or authorizing contributions to the plan, or to employ employees covered by such an agreement,

(6) in the case of a plan or arrangement to which subparagraph (C), (D), or (E) of section 3(40) of the Employee Retirement Income Security Act of 1974 applies, to the extent necessary to meet the requirements of such subparagraph, or

(7) in the case of a multiple employer health plan (as defined in section 701(4) of such Act), for failure to meet the requirements under part 7 of subtitle B of title I of such Act for exemption under section 514(b)(6)(B) of such Act.

SEC. 104. ENFORCEMENT.

(a) ENFORCEMENT THROUGH COBRA PROVISIONS IN INTERNAL REVENUE CODE.—

(1) APPLICATION OF COBRA SANCTIONS.—Subsection (a) of section 4980B of the Internal Revenue Code of 1986 is amended by striking ''the requirements of'' and all that follows and inserting ''the requirements of—

''(1) subsection (f) with respect to any qualified beneficiary, or

''(2) subject to subsection (h)—

''(A) section 101 or 102 of the Health Coverage Availability and Affordability Act of 1996 with respect to any individual covered under the group health plan, or

''(B) section 103 (other than subsection (e)) of such Act with respect to any individual.''.

(2) NOTICE REQUIREMENT.—Section 4980B(f)(6)(A) of such Code is amended by inserting before the period the following: ''and subtitle A of title I of the Health Coverage Availability and Affordability Act of 1996''.

(3) SPECIAL RULES.—Section 4980B of such Code is amended by adding at the end the following:

''(h) SPECIAL RULES.—For purposes of applying this section in the case of requirements described in subsection (a)(2) relating to section 101, section 102, or section 103 (other than subsection (e)) of the Health Coverage Availability and Affordability Act of 1996—

''(1) IN GENERAL.—

''(A) DEFINITION OF GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term in section 191(a) of the Health Coverage Availability and Affordability Act of 1996.

''(B) QUALIFIED BENEFICIARY.—Subsections (b), (c), and (e) shall be applied by substituting the term 'individual' for the term 'qualified beneficiary' each place it appears.

''(C) NONCOMPLIANCE PERIOD.—Clause (ii) of subsection (b)(2)(B) and the second sentence of subsection (b)(2) shall not apply.

''(D) LIMITATION ON TAX.—Subparagraph (B) of subsection (c)(3) shall not apply.

''(E) LIABILITY FOR TAX.—Paragraph (2) of subsection (e) shall not apply.

''(2) DEFERRAL TO STATE REGULATION.—No tax shall be imposed by this section on any failure to meet the requirements of such section by any entity which offers health insurance coverage and which is an insurer or health maintenance organization (as defined in section 191(c) of the Health Coverage Availability and Affordability Act of 1996) regulated by a State unless the Secretary of Health and Human Services has made the determination described in section 104(c)(2) of such Act with respect to such State, section, and entity.

''(3) LIMITATION FOR INSURED PLANS.—In the case of a group health plan of a small employer (as defined in section 191 of the Health Coverage Availability and Affordability Act of 1996) that provides health care benefits solely through a contract with an insurer or health maintenance organization (as defined in such section), no tax shall be imposed by this section upon the employer on a failure to meet such requirements if the failure is solely because of the product offered by the insurer or organization under such contract.

''(4) LIMITATION ON IMPOSITION OF TAX.—In no case shall a tax be imposed by this section for a failure to meet such a requirement if—

''(A) a civil money penalty has been imposed by the Secretary of Labor under part 5 of subtitle A of title I of the Employee Retirement Income Security Act of 1974 with respect to such failure, or

''(B) a civil money penalty has been imposed by the Secretary of Health and Human Services under section 104(c) of the Health Coverage Availability and Affordability Act of 1996 with respect to such failure.''.

(b) ENFORCEMENT THROUGH ERISA SANCTIONS FOR CERTAIN GROUP HEALTH PLANS.—

(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, sections 101 through 103 of this subtitle (and subtitle D insofar as it is applicable to such sections) shall be deemed to be provisions of title I of the Employee Retirement Income Security Act of 1974 for purposes of applying such title.

(2) FEDERAL ENFORCEMENT ONLY IF NO ENFORCEMENT THROUGH STATE.—The Secretary of Labor shall enforce each section referred to in paragraph (1) with respect to any entity which is an insurer or health maintenance organization regulated by a State only if the Secretary of Labor determines that such State has not provided for enforcement of State laws which govern the same matters as are governed by such section and which require compliance by such entity with at least the same requirements as those provided under such section.

(3) LIMITATIONS ON LIABILITY.—

(A) NO APPLICATION WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No liability shall be imposed under this subsection on the basis of any failure during any period for which it is established to the satisfaction of the Secretary of Labor that none of the persons against whom the liability would be imposed knew, or exercising reasonable diligence would have known, that such failure existed.

(B) NO APPLICATION WHERE FAILURE CORRECTED WITHIN 30 DAYS.—No liability shall be imposed under this subsection on the basis of any failure if such failure was due to reasonable cause and not to willful neglect, and such failure is corrected during the 30-day period beginning on the first day any of the persons against whom the liability would be imposed knew, or exercising reasonable diligence would have known, that such failure existed.

(4) AVOIDING DUPLICATION OF CERTAIN PENALTIES.—In no case shall a civil money penalty be imposed under the authority provided under paragraph (1) for a violation of this subtitle for which an excise tax has been imposed under section 4980B of the Internal Revenue Code of 1986 or a civil money penalty imposed under subsection (c).

(c) ENFORCEMENT THROUGH CIVIL MONEY PENALTIES.—

(1) IMPOSITION.—

(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, any group health plan, insurer, or organization that fails to meet a requirement of this subtitle (other than section 103(e)) is subject to a civil money penalty under this section.

(B) LIABILITY FOR PENALTY.—Rules similar to the rules described in section 4980B(e) of the Internal Revenue Code of 1986 for liability for a tax imposed under section 4980B(a) of such Code shall apply to liability for a penalty imposed under subparagraph (A).

(C) AMOUNT OF PENALTY.—

(i) IN GENERAL.—The maximum amount of penalty imposed under this paragraph is $100 for each day for each individual with respect to which such a failure occurs.

(ii) CONSIDERATIONS IN IMPOSITION.—In determining the amount of any penalty to be assessed under this paragraph, the Secretary of Health and Human Services shall take into account the previous record of compliance of the person being assessed with the applicable requirements of this subtitle, the gravity of the violation, and the overall limitations for unintentional failures provided under section 4980B(c)(4) of the Internal Revenue Code of 1986.

(iii) LIMITATIONS.—

(I) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No civil money penalty shall be imposed under this paragraph on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons against whom the penalty would be imposed knew, or exercising reasonable diligence would have known, that such failure existed.

(II) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No civil money penalty shall be imposed under this paragraph on any failure if such failure was due to reasonable cause and not to willful neglect, and such failure is corrected during the 30-day period beginning on the first day any of the persons against whom the penalty would be imposed knew, or exercising reasonable diligence would have known, that such failure existed.

(D) ADMINISTRATIVE REVIEW.—

(i) OPPORTUNITY FOR HEARING.—The person assessed shall be afforded an opportunity for hearing by the Secretary upon request made within 30 days after the date of the issuance of a notice of assessment. In such hearing the decision shall be made on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested, the assessment shall constitute a final and unappealable order.

(ii) HEARING PROCEDURE.—If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 30 days after the date of the decision of the judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subparagraph (D).

(E) JUDICIAL REVIEW.—

(i) FILING OF ACTION FOR REVIEW.—Any person against whom an order imposing a civil money penalty has been entered after an agency hearing under this paragraph may obtain review by the United States district court for any district in which such person is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within 30 days from the date of such order, and simultaneously sending a copy of such notice be registered mail to the Secretary.

(ii) CERTIFICATION OF ADMINISTRATIVE RECORD.—The Secretary shall promptly cer-

tify and file in such court the record upon which the penalty was imposed.

(iii) STANDARD FOR REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

(iv) APPEAL.—Any final decision, order, or judgment of such district court concerning such review shall be subject to appeal as provided in chapter 83 of title 28 of such Code.

(F) FAILURE TO PAY ASSESSMENT; MAINTENANCE OF ACTION.—

(i) FAILURE TO PAY ASSESSMENT.—If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General who shall recover the amount assessed by action in the appropriate United States district court.

(ii) NONREVIEWABILITY.—In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(G) PAYMENT OF PENALTIES.—Except as otherwise provided, penalties collected under this paragraph shall be paid to the Secretary (or other officer) imposing the penalty and shall be available without appropriation and until expended for the purpose of enforcing the provisions with respect to which the penalty was imposed.

(2) FEDERAL ENFORCEMENT ONLY IF NO ENFORCEMENT THROUGH STATE.—Paragraph (1) shall apply to enforcement of the requirements of section 101, 102, or 103 (other than section 103(e)) with respect to any entity which offers health insurance coverage and which is an insurer or HMO regulated by a State only if the Secretary of Health and Human Services has determined that such State has not provided for enforcement of State laws which govern the same matters as are governed by such section and which require compliance by such entity with at least the same requirements as those provided under such section.

(3) NONDUPLICATION OF SANCTIONS.—In no case shall a civil money penalty be imposed under this subsection for a violation of this subtitle for which an excise tax has been imposed under section 4980B of the Internal Revenue Code of 1986 or for which a civil money penalty has been imposed under the authority provided under subsection (b).

(d) COORDINATION IN ADMINISTRATION.—The Secretaries of the Treasury, Labor, and Health and Human Services shall issue regulations that are nonduplicative to carry out this subtitle. Such regulations shall be issued in a manner that assures coordination and nonduplication in their activities under this subtitle.

Subtitle B—Certain Requirements for Insurers and HMOs in the Group and Individual Markets

PART 1—AVAILABILITY OF GROUP HEALTH INSURANCE COVERAGE

SEC. 131. GUARANTEED AVAILABILITY OF GENERAL COVERAGE IN THE SMALL GROUP MARKET.

(a) ISSUANCE OF COVERAGE.—

(1) IN GENERAL.—Subject to the succeeding subsections of this section, each insurer or HMO that offers health insurance coverage in the small group market in a State—

(A) must accept every small employer in the State that applies for such coverage; and

(B) must accept for enrollment under such coverage every eligible individual (as defined in paragraph (2)) who applies for enrollment during the initial period in which the individual first becomes eligible for coverage under the group health plan and may not place any restriction which is inconsistent with section 103(a) on an individual being a participant or beneficiary so long as such individual is an eligible individual.

(2) ELIGIBLE INDIVIDUAL DEFINED.—In this section, the term ''eligible individual'' means, with respect to an insurer or HMO that offers health insurance coverage to any small employer in the small group market, such an individual in relation to the employer as shall be determined—

(A) in accordance with the terms of such plan,

(B) as provided by the insurer or HMO under rules of the insurer or HMO which are uniformly applicable, and

(C) in accordance with all applicable State laws governing such insurer or HMO.

(b) SPECIAL RULES FOR NETWORK PLANS AND HMOS.—

(1) IN GENERAL.—In the case of an insurer that offers health insurance coverage in the small group market through a network plan and in the case of an HMO that offers health insurance coverage in connection with such a plan, the insurer or HMO may—

(A) limit the employers that may apply for such coverage to those with eligible individuals whose place of employment or residence is in the service area for such plan or HMO;

(B) limit the individuals who may be enrolled under such coverage to those whose place of residence or employment is within the service area for such plan or HMO; and

(C) within the service area of such plan or HMO, deny such coverage to such employers if the insurer or HMO demonstrates that—

(i) it will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations to existing group contract holders and enrollees, and

(ii) it is applying this paragraph uniformly to all employers without regard to the claims experience of those employers and their employees (and their beneficiaries) or the health status of such employees and beneficiaries.

(2) 180-DAY SUSPENSION UPON DENIAL OF COVERAGE.—An insurer or HMO, upon denying health insurance coverage in any service area in accordance with paragraph (1)(C), may not offer coverage in the small group market within such service area for a period of 180 days after such coverage is denied.

(c) SPECIAL RULE FOR FINANCIAL CAPACITY LIMITS.—

(1) IN GENERAL.—An insurer or HMO may deny health insurance coverage in the small group market if the insurer or HMO demonstrates to the applicable State authority that—

(A) it does not have the financial reserves necessary to underwrite additional coverage, and

(B) it is applying this paragraph uniformly to all employers without regard to the claims experience or duration of coverage of those employers and their employees (and their beneficiaries) or the health status of such employees and beneficiaries.

(2) 180-DAY SUSPENSION UPON DENIAL OF COVERAGE.—An insurer or HMO upon denying health insurance coverage in connection with group health plans in any service area in accordance with paragraph (1) may not offer coverage in connection with group health plans in the small group market within such service area for a period of 180 days after such coverage is denied.

(d) EXCEPTION TO REQUIREMENT FOR ISSUANCE OF COVERAGE BY REASON OF FAILURE BY PLAN TO MEET CERTAIN MINIMUM PARTICIPATION OR CONTRIBUTION RULES.—

(1) IN GENERAL.—Subsection (a) shall not apply in the case of any group health plan with respect to which—

(A) participation rules of an insurer or HMO which are described in paragraph (2) are not met, or

(B) contribution rules of an insurer or HMO which are described in paragraph (3) are not met.

(2) PARTICIPATION RULES.—For purposes of paragraph (1)(A), participation rules (if any) of an insurer or HMO shall be treated as met with respect to a group health plan only if such rules are uniformly applicable and in accordance with applicable State law and the number or percentage of eligible individuals who, under the plan, are participants or beneficiaries equals or exceeds a level which is determined in accordance with such rules.

(3) CONTRIBUTION RULES.—For purposes of paragraph (1)(B), contribution rules (if any) of an insurer or HMO shall be treated as met with respect to a group health plan only if such rules are in accordance with applicable State law.

SEC. 132. GUARANTEED RENEWABILITY OF GROUP COVERAGE.

(a) IN GENERAL.—Except as provided in this section, if an insurer or health maintenance organization offers health insurance coverage in the small or large group market, the insurer or organization must renew or continue in force such coverage at the option of the employer.

(b) GENERAL EXCEPTIONS.—An insurer or organization may nonrenew or discontinue health insurance coverage offered an employer based only on one or more of the following:

(1) NONPAYMENT OF PREMIUMS.—The employer has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the insurer or organization has not received timely premium payments.

(2) FRAUD.—The employer has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(3) VIOLATION WITH PARTICIPATION OR CONTRIBUTION RULES.—The employer has failed to comply with a material plan provision relating to participation or contribution rules in accordance with section 131(d).

(4) TERMINATION OF PLAN.—Subject to subsection (c), the insurer or organization is ceasing to offer coverage in the small or large group market in a State (or, in the case of a network plan or HMO, in a geographic area).

(5) MOVEMENT OUTSIDE SERVICE AREA.—The employer has changed the place of employment in such manner that employees and dependents reside and are employed outside the service area of the insurer or organization or outside the area for which the insurer or organization is authorized to do business.

Paragraph (5) shall apply to an insurer or HMO only if it is applied uniformly without regard to the claims experience of employers and their employees (and their beneficiaries) or the health status of such employees and beneficiaries.

(c) EXCEPTIONS FOR UNIFORM TERMINATION OF COVERAGE.—

(1) PARTICULAR TYPE OF COVERAGE NOT OFFERED.—In any case in which a insurer or HMO decides to discontinue offering a particular type of health insurance coverage in the small or large group market, coverage of such type may be discontinued by the insurer or organization only if—

(A) the insurer or organization provides notice to each employer provided coverage of this type in such market (and participants and beneficiaries covered under such coverage) of such discontinuation at least 90 days prior to the date of the discontinuation of such coverage;

(B) the insurer or organization offers to each employer in the small employer or large employer market provided coverage of this type, the option to purchase any other

health insurance coverage currently being offered by the insurer or organization for employers in such market; and

(C) in exercising the option to discontinue coverage of this type and in offering one or more replacement coverage, the insurer or organization acts uniformly without regard to the health status or insurability of participants or beneficiaries covered or new participants or beneficiaries who may become eligible for such coverage.

(2) DISCONTINUANCE OF ALL COVERAGE.—

(A) IN GENERAL.—Subject to subparagraph (C), in any case in which an insurer or HMO elects to discontinue offering all health insurance coverage in the small group market or the large group market, or both markets, in a State, health insurance coverage may be discontinued by the insurer or organization only if—

(i) the insurer or organization provides notice to the applicable State authority and to each employer (and participants and beneficiaries covered under such coverage) of such discontinuation at least 180 days prior to the date of the expiration of such coverage, and

(ii) all health insurance issued or delivered for issuance in the State in such market (or markets) are discontinued and coverage under such health insurance coverage in such market (or markets) is not renewed.

(B) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under subparagraph (A) in one or both markets, the insurer or organization may not provide for the issuance of any health insurance coverage in the market and State involved during the 5-year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

(d) EXCEPTION FOR UNIFORM MODIFICATION OF COVERAGE.—At the time of coverage renewal, an insurer or HMO may modify the coverage offered to a group health plan in the group health market so long as such modification is effective on a uniform basis among group health plans with that type of coverage.

PART 2—AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE

SEC. 141. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE TO CERTAIN INDIVIDUALS WITH PRIOR GROUP COVERAGE.

(a) GOALS.—The goals of this section are—

(1) to guarantee that any qualifying individual (as defined in subsection (b)(1)) is able to obtain qualifying coverage (as defined in subsection (b)(2)); and

(2) to assure that qualifying individuals obtaining such coverage receive credit for their prior coverage toward the new coverage's preexisting condition exclusion period (if any) in a manner consistent with subsection (b)(3).

(b) QUALIFYING INDIVIDUAL AND HEALTH INSURANCE COVERAGE DEFINED.—In this section—

(1) QUALIFYING INDIVIDUAL.—The term ''qualifying individual'' means an individual—

(A)(i) for whom, as of the date on which the individual seeks coverage under this section, the aggregate of the qualified coverage periods (as defined in section 101(b)(3)(B)) is 18 or more months and (ii) whose most recent prior coverage was under a group health plan, governmental plan, or church plan (or health insurance coverage offered in connection with any such plan);

(B) who is not eligible for coverage under (i) a group health plan, (ii) part A or part B of title XVIII of the Social Security Act, or (iii) a State plan under title XIX of such Act (or any successor program), and does not have individual health insurance coverage;

(C) with respect to whom the most recent coverage within the coverage period described in subparagraph (A)(i) was not terminated based on a factor described in paragraph (1) or (2) of section 132(b);

(D) if the individual had been offered the option of continuation coverage under a COBRA continuation provision or under a similar State program, who elected such coverage; and

(E) who, if the individual elected such continuation coverage, has exhausted such continuation coverage.

In applying subparagraph (A)(i), the reference in section 101(b)(3)(B)(ii) to a 60-day break in coverage is deemed a reference to a 60-day break in any coverage described in section 101(b)(3)(B)(i).

(2) QUALIFYING COVERAGE.—

(A) IN GENERAL.—The term ''qualifying coverage'' means, with respect to an insurer or HMO in relation to an qualifying individual, individual health insurance coverage for which the actuarial value of the benefits is not less than—

(i) the weighted average actuarial value of the benefits provided by all the individual health insurance coverage issued by the insurer or HMO in the State during the previous year (not including coverage issued under this section), or

(ii) the weighted average of the actuarial value of the benefits provided by all the individual health insurance coverage issued by all insurers and HMOs in the State during the previous year (not including coverage issued under this section),

as elected by the plan or by the State under subsection (c)(1).

(B) ASSUMPTIONS.—For purposes of subparagraph (A), the actuarial value of benefits provided under individual health insurance coverage shall be calculated based on a standardized population and a set of standardized utilization and cost factors.

(3) CREDITING FOR PREVIOUS COVERAGE.—Crediting is consistent with this paragraph only if any preexisting condition exclusion period is reduced at least to the extent such a period would be reduced if the coverage under this section were under a group health plan to which section 101(a) applies. In carrying out this subsection, provisions similar to the provisions of section 101(c) shall apply.

(c) OPTIONAL STATE ESTABLISHMENT OF MECHANISMS TO ACHIEVE GOALS OF GUARANTEEING AVAILABILITY OF COVERAGE.—

(1) IN GENERAL.—Any State may establish, to the extent of the State's authority, public or private mechanisms reasonably designed to meet the goals specified in subsection (a). If a State implements such a mechanism by the deadline specified in paragraph (4), the State may elect to have such mechanisms apply instead of having subsection (d)(3) apply in the State. An election under this paragraph shall be by notice from the chief executive officer of the State to the Secretary of Health and Human Services on a timely basis consistent with the deadlines specified in paragraph (4). In establishing what is qualifying coverage under such a mechanism under this subsection, a State may exercise the election described in subsection (b)(2)(A) with respect to each insurer or HMO in the State (or on a collective basis after exercising such election for each such insurer or HMO).

(2) TYPES OF MECHANISMS.—State mechanisms under this subsection may include one or more (or a combination) of the following:

(A) Health insurance coverage pools or programs authorized or established by the State.

(B) Mandatory group conversion policies.

(C) Guaranteed issue of one or more plans of individual health insurance coverage to qualifying individuals.

(D) Open enrollment by one or more insurers or HMOs.

The mechanisms described in the previous sentence are not an exclusive list of the mechanisms (or combinations of mechanisms) that may be used under this subsection.

(3) SAFE HARBOR FOR BENEFITS UNDER CURRENT RISK POOLS.—In the case of a State that has a health insurance coverage pool or risk pool in effect on March 12, 1996, and that implements the mechanism described in paragraph (2)(A), the benefits under such mechanism (or benefits the actuarial value of which is not less than the actuarial value of such current benefits, using the assumptions described in subsection (b)(2)(B)) are deemed, for purposes of this section, to constitute qualified coverage.

(4) DEADLINE FOR STATE IMPLEMENTATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the deadline under this paragraph is July 1, 1997.

(B) EXTENSION TO PERMIT LEGISLATION.—The deadline under this paragraph is July 1, 1998, in the case of a State the legislature of which does not have a regular legislative session at any time between January 1, 1997, and June 30, 1997.

(C) CONSTRUCTION.—Nothing in this section shall be construed as preventing a State from—

(i) implementing guaranteed availability mechanisms before the deadline,

(ii) continuing in effect mechanisms that are in effect before the date of the enactment of this Act,

(iii) offering guaranteed availability of coverage that is not qualifying coverage, or

(iv) offering guaranteed availability of coverage to individuals who are not qualifying individuals.

(d) FALLBACK PROVISIONS.—

(1) NO STATE ELECTION.—If a State has not provided notice to the Secretary of an election on a timely basis under subsection (c), the Secretary shall notify the State that paragraph (3) will be applied in the State.

(2) PRELIMINARY DETERMINATION AFTER STATE ELECTION.—If—

(A) a State has provided notice of an election on a timely basis under subsection (c), and

(B) the Secretary finds, after consultation with the chief executive officer of the State and the insurance commissioner or chief insurance regulatory official of the State, that such a mechanism (for which notice was provided) is not reasonably designed to meet the goals specified in subsection (a),

the Secretary shall notify the State of such preliminary determination, of the consequences under paragraph (3) of a failure to implement such a mechanism, and permit the State a reasonable opportunity in which to modify the mechanism (or to adopt another mechanism) that is reasonably designed to meet the goals specified in subsection (a). The Secretary shall not make such a determination on any basis other than the basis described in subparagraph (B). If, after providing such notice and opportunity, the Secretary finds that the State has not implemented such a mechanism, the Secretary shall notify the State that paragraph (3) will be applied in the State.

(3) DESCRIPTION OF FALLBACK MECHANISM.—As provided under paragraphs (1) and (2) and subject to paragraph (5), each insurer or HMO in the State involved that issues individual health insurance coverage—

(A) shall offer qualifying health insurance coverage, in which qualifying individuals obtaining such coverage receive credit for their prior coverage toward the new coverage's preexisting condition exclusion period (if any) in a manner consistent with subsection

(b)(3), to each qualifying individual in the State, and

(B) may not decline to issue such coverage to such an individual based on health status (except as permitted under paragraph (4)).

(4) APPLICATION OF NETWORK AND CAPACITY LIMITS.—Under regulations, the provisions of subsections (b) and (c) of section 131 shall apply to an individual in the individual health insurance market under this subsection in the same manner as they apply under section 131 to an employer in the small group market.

(5) TERMINATION OF FALLBACK MECHANISM.—The provisions of this subsection shall cease to apply to a State if the Secretary finds that a State has implemented a mechanism that is reasonably designed to meet the goals specified in subsection (a), and until the Secretary finds that such mechanism is no longer being implemented.

(e) CONSTRUCTION.—

(1) PREMIUMS.—Nothing in this section shall be construed to affect the determination of an insurer or HMO as to the amount of the premium payable under an individual health insurance coverage under applicable state law.

(2) MARKET REQUIREMENTS.—

(A) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that an insurer or HMO offering health insurance coverage only in connection with a group health plan or an association offer individual health insurance coverage.

(B) CONVERSION POLICIES.—An insurer or HMO offering health insurance coverage in connection with a group health plan under subtitle A shall not be deemed to be an insurer or HMO offering an individual health insurance coverage solely because such insurer or HMO offers a conversion policy.

(3) DISREGARD OF ASSOCIATION COVERAGE.—An insurer or HMO that offers health insurance coverage only in connection with a group health plan or in connection with individuals based on affiliation with one or more bona fide associations is not considered, for purposes of this subtitle, to be offering individual health insurance coverage.

(4) MARKETING OF PLANS.—Nothing in this section shall be construed to prevent a State from requiring insurer or HMOs offering individual health insurance coverage to actively market such coverage.

SEC. 142. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE.

(a) GUARANTEED RENEWABILITY.—Subject to the succeeding provisions of this section, an insurer or HMO that provides individual health insurance coverage to an individual shall renew or continue such coverage at the option of the individual.

(b) NONRENEWAL PERMITTED IN CERTAIN CASES.—An insurer or HMO may nonrenew or discontinue individual health insurance coverage of an individual only based on one or more of the following:

(1) NONPAYMENT.—The individual fails to pay payment of premiums or contributions in accordance with the terms of the coverage or the insurer or organization has not failed to receive timely premium payments.

(2) FRAUD.—The individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(3) TERMINATION OF COVERAGE.—Subject to subsection (c), the insurer or HMO is ceasing to offer health insurance coverage in the individual market in a State (or, in the case of a network plan or HMO, in a geographic area).

(4) MOVEMENT OUTSIDE SERVICE AREA.—The individual has changed residence and resides outside the service area of the insurer or organization or outside the area for which the insurer or organization is authorized to do business.

Paragraph (4) shall apply to an insurer or HMO only if it is applied uniformly without regard to the claims experience of employers and their employees (and their beneficiaries) or the health status of such employees and beneficiaries.

(c) TERMINATION OF INDIVIDUAL COVERAGE.—The provisions of section 132(c) shall apply to this section in the same manner as they apply under section 132, except that any reference to an employer or market is deemed a reference to the covered individual or the individual market, respectively.

(d) EXCEPTION FOR UNIFORM MODIFICATION OF COVERAGE.—The provisions of section 132(d) shall apply to individual health insurance coverage in the individual market under this section in the same manner as it applies to health insurance coverage offered in connection with a group health plan in the group market under such section.

PART 3—ENFORCEMENT

SEC. 151. INCORPORATION OF PROVISIONS FOR STATE ENFORCEMENT WITH FEDERAL FALLBACK AUTHORITY.

The provisions of paragraphs (1) and (2) of section 104(c) shall apply to enforcement of requirements in each section in part 1 or part 2 with respect to insurers and HMOs regulated by a State in the same manner as such provisions apply to enforcement of requirements in section 101, 102, or 103 with respect to insurers and HMOs regulated by a State.

Subtitle C—Affordable and Available Health Coverage Through Multiple Employer Pooling Arrangements

SEC. 161. CLARIFICATION OF DUTY OF THE SECRETARY OF LABOR TO IMPLEMENT PROVISIONS OF CURRENT LAW PROVIDING FOR EXEMPTIONS AND SOLVENCY STANDARDS FOR MULTIPLE EMPLOYER HEALTH PLANS.

(a) RULES GOVERNING REGULATION OF MULTIPLE EMPLOYER HEALTH PLANS.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by the preceding provisions of this title) is amended by inserting after part 6 the following new part:

"PART 7—RULES GOVERNING REGULATION OF MULTIPLE EMPLOYER HEALTH PLANS

"SEC. 701. DEFINITIONS.

''For purposes of this part—

''(1) FULLY INSURED.—A particular benefit under a group health plan or a multiple employer welfare arrangement is 'fully insured' if such benefit (irrespective of any recourse available against other parties) is provided by an insurer or a health maintenance organization in a manner so that such benefit constitutes insurance regulated by the law of a State (within the meaning of section 514(b)(2)(A)).

''(2) INSURER.—The term 'insurer' means an insurance company, insurance service, or insurance organization which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2)(A)).

''(3) HEALTH MAINTENANCE ORGANIZATION.—The terms 'health maintenance organization' means—

''(A) a Federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act (42 U.S.C. 300e(a))),

''(B) an organization recognized under State law as a health maintenance organization, or

''(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization,

if it is subject to State law which regulates insurance (within the meaning of section 514(b)(2)(A)).

''(4) MULTIPLE EMPLOYER HEALTH PLAN.—The term 'multiple employer health plan' means a multiple employer welfare arrangement which provides medical care and which is or has been exempt under section 514(b)(6)(B).

''(5) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with a multiple employer welfare arrangement, any employer if any of its employees, or any of the individuals who are dependents (as defined under the terms of the arrangement) of its employees, are or were covered under such arrangement in connection with the employment of the employees.

''(6) SPONSOR.—The term 'sponsor' means, in connection with a multiple employer welfare arrangement, the association or other entity which establishes or maintains the arrangement.

''(7) STATE INSURANCE COMMISSIONER.—The term 'State insurance commissioner' means the insurance commissioner (or similar official) of a State.

"SEC. 702. CLARIFICATION OF DUTY OF THE SECRETARY TO IMPLEMENT PROVISIONS OF CURRENT LAW PROVIDING FOR EXEMPTIONS AND SOLVENCY STANDARDS FOR MULTIPLE EMPLOYER HEALTH PLANS.

''(a) TREATMENT AS EMPLOYEE WELFARE BENEFIT PLAN WHICH IS A GROUP HEALTH PLAN.—

''(1) IN GENERAL.—A multiple employer welfare arrangement—

''(A) under which the benefits consist solely of medical care (disregarding such incidental benefits as the Secretary shall specify by regulation), and

''(B) under which some or all benefits are not fully insured,

shall be treated for purposes of subtitle A and the other parts of this title as an employee welfare benefit plan which is a group health plan if the arrangement is exempt under section 514(b)(6)(B) in accordance with this part.

''(2) EXCEPTION.—In the case of a multiple employer welfare arrangement which would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of section 3(40)(C)(ii), paragraph (1) shall apply with respect to such arrangement, but only with respect to benefits provided thereunder which constitute medical care.

''(b) TREATMENT UNDER PREEMPTION RULES.—

''(1) IN GENERAL.—The Secretary shall prescribe regulations described in section 514(b)(6)(B)(i), applicable to multiple employer welfare arrangements described in subparagraphs (A) and (B) of subsection (a)(1), providing a procedure for granting exemptions from section 514(b)(6)(A)(ii) with respect to such arrangements. Under such regulations, any such arrangement treated under subsection (a) as an employee welfare benefit plan shall be deemed to be an arrangement described in section 514(b)(6)(B)(ii).

''(2) STANDARDS.—Under the procedure prescribed pursuant to paragraph (1), the Secretary shall grant an arrangement described in subsection (a) an exemption described in subsection (a) only if the Secretary finds that—

''(A) such exemption—

''(i) is administratively feasible,

''(ii) is not adverse to the interests of the individuals covered under the arrangement, and

''(iii) is protective of the rights and benefits of the individuals covered under the arrangement,

''(B) the application for the exemption meets the requirements of paragraph (3), and

''(C) the requirements of sections 703 and 704 are met with respect to the arrangement.

''(3) INFORMATION TO BE INCLUDED IN APPLICATION FOR EXEMPTION.—An application for an exemption described in subsection (a) meets the requirements of this paragraph only if it includes, in a manner and form prescribed in regulations of the Secretary, at least the following information:

''(A) IDENTIFYING INFORMATION.—The names and addresses of—

''(i) the sponsor, and

''(ii) the members of the board of trustees of the arrangement.

''(B) STATES IN WHICH ARRANGEMENT INTENDS TO DO BUSINESS.—The States in which individuals covered under the arrangement are to be located and the number of such individuals expected to be located in each such State.

''(C) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

''(D) PLAN DOCUMENTS.—A copy of the documents governing the arrangement (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits and coverage that will be provided to individuals covered under the arrangement.

''(E) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the arrangement and contract administrators and other service providers.

''(F) FUNDING REPORT.—A report setting forth information determined as of a date within the 120-day period ending with the date of the application, including the following:

''(i) RESERVES.—A statement, certified by the board of trustees of the arrangement, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 705 are or will be met in accordance with regulations which the Secretary shall prescribe.

''(ii) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the arrangement for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the arrangement. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

''(iii) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the arrangement and a projection of the assets, liabilities, income, and expenses of the arrangement for the 12-month period referred to in clause (ii). The income statement shall identify separately the arrangement's administrative expenses and claims.

''(iv) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the arrangement.

''(v) OTHER INFORMATION.—Any other information which may be prescribed in regulations of the Secretary as necessary to carry out the purposes of this part.

''(4) FILING FEE.—Under the procedure prescribed pursuant to paragraph (1), a multiple employer welfare arrangement shall pay to the Secretary at the time of filing an application for an exemption referred to in subsection (a) a filing fee in the amount of $5,000, which shall be available, to the extent provided in appropriation Acts, to the Secretary for the sole purpose of administering the exemption procedures applicable with respect to such arrangement.

''(5) CLASS EXEMPTION TREATMENT FOR EXISTING LARGE ARRANGEMENTS.—Under the procedure prescribed pursuant to paragraph (1), if—

''(A) at the time of application for an exemption under section 514(b)(6)(B) with respect to an arrangement which has been in existence as of the date of the enactment of the Health Coverage Availability and Affordability Act of 1996 for at least 3 years, either (A) the arrangement covers at least 1,000 participants and beneficiaries, or (B) with respect to the arrangement there are at least 2,000 employees of eligible participating employers,

''(B) a complete application for the exemption with respect to the arrangement has been filed and is pending, and

''(C) the application meets such requirements (if any) as the Secretary may provide with respect to class exemptions under this subsection,

the exemption shall be treated as having been granted with respect to the arrangement unless and until the Secretary provides appropriate notice that the exemption has been denied.

''(c) FILING NOTICE OF EXEMPTION WITH STATES.—An exemption granted under section 514(b)(6)(B) to a multiple employer welfare arrangement shall not be effective unless written notice of such exemption is filed with the State insurance commissioner of each State in which at least 5 percent of the individuals covered under the arrangement are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed. The Secretary may by regulation provide in specified cases for the application of the preceding sentence with lesser percentages in lieu of such 5 percent amount.

''(d) NOTICE OF MATERIAL CHANGES.—In the case of any multiple employer welfare arrangement exempt under section 514(b)(6)(B), descriptions of material changes in any information which was required to be submitted with the application for the exemption under this part shall be filed in such form and manner as shall be prescribed in regulations of the Secretary. The Secretary may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the exemption.

''(e) REPORTING REQUIREMENTS.—Under regulations of the Secretary, the requirements of sections 102, 103, and 104 shall apply with respect to any multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) in the same manner and to the same extent as such requirements apply to employee welfare benefit plans, irrespective of whether such exemption continues in effect. The annual report required under section 103 for any plan year in the case of any such multiple employer welfare arrangement shall also include information described in subsection (b)(3)(F) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed not later than 90 days after the close of the plan year.

''(f) ENGAGEMENT OF QUALIFIED ACTUARY.—The board of trustees of each multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) shall engage, on behalf of all covered individuals, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

''(1) are in the aggregate reasonably related to the experience of the arrangement and to reasonable expectations, and

''(2) represent such actuary's best estimate of anticipated experience under the arrangement.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

''SEC. 703. REQUIREMENTS RELATING TO SPONSORS, BOARDS OF TRUSTEES, AND PLAN OPERATIONS.

''(a) IN GENERAL.—A complete application for an exemption under section 514(b)(6)(B) shall include information which the Secretary determines to be complete and accurate and sufficient to demonstrate that the following requirements are met with respect to the arrangement:

''(1) SPONSOR.—The sponsor is, and has been (together with its immediate predecessor, if any) for a continuous period of not less than 5 years before the date of the application, organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a trade association, an industry association, a professional association, or a chamber of commerce (or similar business group, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care (within the meaning of section 607(1)), and the applicant demonstrates to the satisfaction of the Secretary that the sponsor is established as a permanent entity which receives the active support of its members and collects dues or contributions from its members on a periodic basis, without conditioning such dues or contributions on the basis of the health status of the employees of such members or the dependents of such employees or on the basis of participation in a group health plan. Any sponsor consisting of an association of entities meeting the preceding requirements of this paragraph shall be treated as meeting the requirements of this paragraph.

''(2) BOARD OF TRUSTEES.—The arrangement is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement, and the board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the arrangement and to meet all requirements of this title applicable to the arrangement. The members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business. No such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the arrangement, except that officers or employees of a sponsor which is a service provider (other than a contract administrator) to the arrangement may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the arrangement other than on behalf of the sponsor. The board has sole authority to approve applications for participation in the arrangement and to contract with a service provider to administer the day-to-day affairs of the arrangement.

''(3) COVERED PERSONS.—The instruments governing the arrangement include a written instrument which provides that, effective upon becoming an arrangement exempt under section 514(b)(6)(B)—

''(A) all participating employers must be members or affiliated members of the sponsor, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or affiliated member of the sponsor, participating employers may also include such employer,

''(B) all individuals thereafter commencing coverage under the arrangement must be—

''(i) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers, or

''(ii) the beneficiaries of individuals described in clause (i), and

''(C) no participating employer may provide health insurance coverage in the individual market for any employee not covered under the arrangement which is similar to the coverage contemporaneously provided to employees of the employer under the arrangement, if such exclusion of the employee from coverage under the arrangement is based in whole or in part on the health status of the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the arrangement.

''(4) INCLUSION OF ELIGIBLE EMPLOYERS AND EMPLOYEES.—No employer described in paragraph (3) is excluded as a participating employer (except to the extent that requirements of the type referred to in section 131(d)(2) of the Health Coverage Availability and Affordability Act of 1996 are not met) and the requirements of section 103 of such Act (as referred to in section 104(b)(1) of such Act) are met.

''(5) RESTRICTION ON VARIATIONS OF PREMIUM RATES.—Premium rates under the arrangement with respect to any particular employer do not vary on the basis of the claims experience of such employer alone.

''(b) TREATMENT OF FRANCHISE NETWORKS.—In the case of a multiple employer welfare arrangement which is established and maintained by a franchisor for a franchise network consisting of its franchisees, the requirements of subsection (a)(1) shall not apply with respect to such network in any case in which such requirements would be met if the franchisor were deemed to be the sponsor referred to in subsection (a)(1), such network were deemed to be an association described in subsection (a)(1), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in subsection (a)(1).

''(c) CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.—In the case of a multiple employer welfare arrangement in existence on March 6, 1996, which would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of section 3(40)(C)(ii) or (to the extent provided in regulations of the Secretary) solely for the failure to meet the requirements of subparagraph (D) or (F) of section 3(40)—

''(1) subsection (a)(1) shall not apply, and

''(2) the joint board of trustees shall be considered the board of trustees required under subsection (a)(2).

''(d) CERTAIN ARRANGEMENTS NOT MEETING SINGLE EMPLOYER REQUIREMENT.—

''(1) IN GENERAL.—In any case in which the majority of the employees covered under a multiple employer welfare arrangement are employees of a single employer (within the meaning of clauses (i) and (ii) of section 3(40)(B)), if all other employees covered under the arrangement are employed by employers who are related to such single employer—

''(A) subsection (a)(1) shall not apply if the sponsor of the arrangement is the person who would be the plan sponsor if the related employers were disregarded in determining whether the requirements of section 3(40)(B) are met, and

''(B) subsection (a)(2) shall be treated as satisfied if the board of trustees is the named fiduciary in connection with the arrangement.

''(2) RELATED EMPLOYERS.—For purposes of paragraph (1), employers are 'related' if there is among all such employers a common ownership interest or a substantial commonality of business operations based on common suppliers or customers.

''SEC. 704. OTHER REQUIREMENTS FOR EXEMPTION.

''A multiple employer welfare arrangement exempt under section 514(b)(6)(B) shall meet the following requirements:

''(1) CONTENTS OF GOVERNING INSTRUMENTS.—The instruments governing the arrangement include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

''(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A)),

''(B) provides that the sponsor of the arrangement is to serve as plan sponsor (referred to in section 3(16)(B)), and

''(C) incorporates the requirements of section 705.

''(2) CONTRIBUTION RATES.—The contribution rates referred to in section 702(b)(3)(F)(ii) are adequate.

''(3) REGULATORY REQUIREMENTS.—Such other requirements as the Secretary may prescribe by regulation as necessary to carry out the purposes of this part.

''SEC. 705. MAINTENANCE OF RESERVES.

''(a) IN GENERAL.—Each multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) and under which benefits are not fully insured shall establish and maintain reserves, consisting of—

''(1) a reserve sufficient for unearned contributions,

''(2) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities, and

''(3) a reserve, in an amount recommended by the qualified actuary, for any other obligations of the arrangement.

''(b) MINIMUM AMOUNT FOR CERTAIN RESERVES.—The total of the reserves described in subsection (a)(2) shall not be less than an amount equal to the greater of—

''(1) 25 percent of expected incurred claims and expenses for the plan year, or

''(2) $400,000.

''(c) REQUIRED MARGIN.—In determining the amounts of reserves required under this section in connection with any multiple employer welfare arrangement, the qualified actuary shall include a margin for error and other fluctuations taking into account the specific circumstances of such arrangement.

''(d) ADDITIONAL REQUIREMENTS.—The Secretary may provide such additional requirements relating to reserves and excess/stop loss coverage as the Secretary considers appropriate. Such requirements may be provided, by regulation or otherwise, with respect to any arrangement or any class of arrangements.

''(e) ADJUSTMENTS FOR EXCESS/STOP LOSS COVERAGE.—The Secretary may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any arrangement or class of arrangements to take into account excess/stop loss coverage provided with respect to such arrangement or arrangements.

''(f) ALTERNATIVE MEANS OF COMPLIANCE.—The Secretary may permit an arrangement to substitute, for all or part of the requirements of this section, such security, guarantee, hold-harmless arrangement, or other financial arrangement as the Secretary determines to be adequate to enable the arrangement to fully meet all its financial obligations on a timely basis. The Secretary may take into account, for purposes of this subsection, evidence provided by the arrangement or sponsor which demonstrates an assumption of liability with respect to the arrangement. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the arrangement in the form of assessments of participating employers, security, or other financial arrangement.

''SEC. 706. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

''Except as provided in section 707(b), a multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) may terminate only if the board of trustees—

''(1) not less than 60 days before the proposed termination date, provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date,

''(2) develops a plan for winding up the affairs of the arrangement in connection with such termination in a manner which will result in timely payment of all benefits for which the arrangement is obligated, and

''(3) submits such plan in writing to the Secretary.

Actions required under this paragraph shall be taken in such form and manner as may be prescribed in regulations of the Secretary.

''SEC. 707. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

''(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—A multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) shall continue to meet the requirements of section 705, irrespective of whether such exemption continues in effect. The board of trustees of such arrangement shall determine quarterly whether the requirements of section 705 are met. In any case in which the committee determines that there is reason to believe that there is or will be a failure to meet such requirements, or the Secretary makes such a determination and so notifies the committee, the committee shall immediately notify the qualified actuary engaged by the arrangement, and such actuary shall, not later than the end of the next following month, make such recommendations to the committee for corrective action as the actuary determines necessary to ensure compliance with section 705. Not later than 10 days after receiving from the actuary recommendations for corrective actions, the committee shall notify the Secretary (in such form and manner as the Secretary may prescribe by regulation) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the committee has taken or plans to take in response to such recommendations. The committee shall thereafter report to the Secretary, in such form and frequency as the Secretary may specify to the committee, regarding corrective action taken by the committee until the requirements of section 705 are met.

''(b) MANDATORY TERMINATION.—In any case in which—

''(1) the Secretary has been notified under subsection (a) of a failure of a multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) to meet the requirements of section 705 and has not been notified by the board of trustees of the arrangement that corrective action has restored compliance with such requirements, and

''(2) the Secretary determines that the continuing failure to meet the requirements of section 705 can be reasonably expected to result in a continuing failure to pay benefits for which the arrangement is obligated,

the board of trustees of the arrangement shall, at the direction of the Secretary, terminate the arrangement and, in the course of the termination, take such actions as the Secretary may require, including recovering for the arrangement any liability under section 705(f), as necessary to ensure that the affairs of the arrangement will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the arrangement is obligated.

''SEC. 708. ADDITIONAL RULES REGARDING STATE AUTHORITY.

''(a) EXCLUSION OF ARRANGEMENTS FROM THE SMALL GROUP MARKET IN ANY STATE UPON STATE'S CERTIFICATION OF GUARANTEED ACCESS TO HEALTH INSURANCE COVERAGE IN SUCH STATE.—

''(1) IN GENERAL.—If a State certifies to the Secretary that such State provides to its residents guaranteed access to health insurance coverage, during the period for which such certification is in effect, the law of such State may regulate any health care coverage provided in the small group market in such State (or prohibit the provision of such coverage) by a multiple employer welfare arrangement which is otherwise exempt under section 514(b)(6)(B) and whose sponsor is described in section 703(a)(1), notwithstanding such exemption. Any such certification shall be in effect for such period, not greater than 3 years, as is designated in such certification. Such certification shall apply with respect to such arrangements as are identified, individually or by class, in the certification.

''(2) GUARANTEED ACCESS.—For purposes of this subsection, the certification by a State that such State provides 'guaranteed access' to health insurance coverage to the residents of such State means—

''(A) certification that the number of residents of such State who are covered by a group health plan or otherwise have health insurance coverage exceeds 90 percent of the total number of the residents of such State, or

''(B) certification that—

''(i) the small group market in such State provides guaranteed issue for employees with respect to at least one option of health insurance coverage offered by insurers and health maintenance organizations in such market, and

''(ii) the State has implemented rating reforms in the small group market in such State which are designed to make health insurance coverage more affordable.

''(b) EXCEPTIONS.—

''(1) CERTAIN MULTISTATE ASSOCIATIONS.—Subsection (a) shall not apply in the case of a multiple employer welfare arrangement operating in any State which has made a certification under subsection (a)(2)(B) if—

''(A) in the application for the exemption under section 514(b)(6)(B), the sponsor of such arrangement demonstrates to the Secretary (in such form and manner as shall be prescribed in regulations of the Secretary) that—

''(i) such sponsor operates in the majority of the 50 States and in at least 2 of the regions of the United States, and

''(ii) the arrangement covers, or is to cover (in the case of a newly established arrangement), at least 7,500 participants and beneficiaries, and

''(B) at the time of such application, the arrangement does not have pending against it any enforcement action by the State.

''(2) EXISTING ARRANGEMENTS.—Subsection (a) shall not apply with respect to an arrangement operating in any State if—

''(A) such arrangement was operating in such State as of March 6, 1996, and

''(B) at the time of the application for the exemption under section 514(b)(6), the arrangement does not have pending against it any enforcement action by the State.

''(3) LIMITATIONS.—Paragraphs (1) and (2) shall not apply in the case of any State which has made a certification under subsection (a) and which, as of January 1, 1996, had enacted a law that either—

''(A) provided guaranteed issue of individual health insurance coverage offered by insurers and health maintenance organizations in the individual market using pure community rating and did not provide for any transition period (after the effective date of the guaranteed issue requirement) in the implementation of pure community rating; or

''(B) required insurers offering health insurance coverage in connection with group health plans to reimburse insurers offering individual health insurance coverage for losses resulting from those insurers offering individual health insurance coverage on an open enrollment basis.

Regulations under this part may provide for an exemption from the applicability of paragraph (1) in the case of certain arrangements that are limited to a single industry.

''(c) ASSESSMENT AUTHORITY WITH RESPECT TO NEW ARRANGEMENTS.—

''(1) IN GENERAL.—Notwithstanding section 514, a State may impose by law a premium tax on multiple employer welfare arrangements which are otherwise exempt under section 514(b)(6)(B) and the sponsor of which is described in section 703(a)(1)—

''(A) in the case of an arrangement established after March 6, 1996, and

''(B) in the case of an arrangement in existence as of March 6, 1996, if the arrangement commenced operations in such State after March 6, 1996.

''(2) PREMIUM TAX.—For purposes of this subsection, the term 'premium tax' imposed by a State on a multiple employer welfare arrangement means any tax imposed by such State if—

''(A) such tax is computed by applying a rate to the amount of premiums or contributions received by the arrangement from participating employers located in such State with respect to individuals covered under the arrangement who are residents of such State,

''(B) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan,

''(C) such tax is otherwise nondiscriminatory, and

''(D) the amount of any such tax assessed on the arrangement is reduced by the amount of any tax or assessment imposed by the State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage (or other insurance related to the provision of medical care under the arrangement) provided by such insurers or health maintenance organizations in such State to such arrangement.

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

''(1) SMALL GROUP MARKET.—The term 'small group market' means the health insurance coverage market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) on the basis of employment or other relationship with respect to a small employer.

''(2) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a calandar year, an employer who employs at least 2 but fewer than 51 employees on a typical business day in the year. For purposes of this paragraph, 2 or more trades or businesses, whether or not incorporated, shall be deemed a single employer if such trades or businesses are within the same control group (within the meaning of section 3(40)(B)(ii)).

''(3) REGION.—The term 'region' means any of the following regions:

''(A) The East Region, consisting of the States of Maine, New Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, and Ohio, and the District of Columbia.

''(B) The Southeast Region, consisting of the States of Texas, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, and Tennessee.

''(C) The Midwest Region, consisting of the States of Montana, South Dakota, North Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Wisconsin, Michigan, Illinois, and Indiana.

''(D) The West Region, consisting of the States of Oregon, Washington, Idaho, Nevada, California, New Mexico, Arizona, Nebraska, Wyoming, Hawaii, Alaska, Colorado, and Utah.''.

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6)(A)(i) of such Act (29 U.S.C. 1144(b)(6)(A)(i)) is amended by striking ''is fully insured'' and inserting ''under which all benefits are fully insured'', and by inserting ''and which is not described in section 702(a)(1)'' after ''subparagraph (B)''.

(2) Section 514(b)(6)(B) of such Act (29 U.S.C. 1144(b)(6)(B)) is amended—

(A) by inserting ''(i)'' after ''(B)'';

(B) by striking ''which are not fully insured'' and inserting ''under which any benefit is not fully insured''; and

(C) by striking ''Any such exemption'' and inserting:

''(ii) Subject to part 7, any exemption under clause (i)''.

(c) CONFORMING AMENDMENT TO DEFINITION OF PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 1002(16)(B)) is amended by adding at the end the following new sentence: ''Such term also includes the sponsor (as defined in section 701(6)) of a multiple employer welfare arrangement which is or has been a multiple employer health plan (as defined in section 701(4)).''.

(d) DEFINITIONS.—

(1) GROUP HEALTH PLAN.—Section 3 of such Act (29 U.S.C. 1002) is amended by adding at the end the following new paragraph:

''(42) Except as otherwise provided in this title, the term 'group health plan' means an employee welfare benefit plan to the extent that the plan provides medical care (within the meaning of section 607(1)) to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise.''.

(2) INCLUSION OF CERTAIN PARTNERS AND SELF-EMPLOYED SPONSORS IN DEFINITION OF PARTICIPANT.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended—

(A) by inserting ''(A)'' after ''(7)''; and

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

''(B) In the case of a group health plan, such term includes—

''(i) in connection with a group health plan maintained by a partnership, an individual who is a partner in relation to the partnership, or

''(ii) in connection with a group health plan maintained by a self-employed individual (under which one or more employees are participants), the self-employed individual,

if such individual is or may become eligible to receive a benefit under the plan or such individual's beneficiaries may be eligible to receive any such benefit.''.

(3) HEALTH INSURANCE COVERAGE.—Section 3 of such Act (as amended by paragraph (1)) is amended further by adding at the end the following new paragraph:

''(43)(A) Except as provided in subparagraph (B), the term 'health insurance coverage' means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract offered by an insurer or a health maintenance organization.

''(B) Such term does not include coverage under any separate policy, certificate, or contract only for one or more of any of the following:

''(i) Coverage for accident, credit-only, vision, disability income, long-term care, nursing home care, community-based care dental, on-site medical clinics, or employee assistance programs, or any combination thereof.

''(ii) Medicare supplemental health insurance (within the meaning of section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1))) and similar supplemental coverage provided under a group health plan.

''(iii) Coverage issued as a supplement to liability insurance.

''(iv) Liability insurance, including general liability insurance and automobile liability insurance.

''(v) Workers' compensation or similar insurance.

''(vi) Automobile medical-payment insurance.

''(vii) Coverage for a specified disease or illness.

''(viii) Hospital or fixed indemnity insurance.

''(ix) Short-term limited duration insurance.

''(x) Such other coverage, comparable to that described in previous clauses, as may be specified in regulations.''.

(4) MEDICAL CARE.—Section 607(1) of such Act (29 U.S.C. 1167(1)) is amended—

(A) by striking ''The term'' and inserting the following:

''(A) IN GENERAL.—The term'';

(B) by striking ''(as defined'' and all that follows through ''1986)''; and

(C) by adding at the end the following new subparagraph:

''(B) MEDICAL CARE.—For purposes of this paragraph, the term 'medical care' means—

''(i) amounts paid for, or items or services in the form of, the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for, or items or services provided for, the purpose of affecting any structure or function of the body,

''(ii) amounts paid for, or services in the form of, transportation primarily for and essential to medical care referred to in clause (i), and

''(iii) amounts paid for insurance covering medical care referred to in clauses (i) and (ii).''.

(5) OTHER DEFINITIONS.—Section 514 of such Act is further amended by adding at the end the following new subsection:

''(e) For purposes of this section, the terms 'fully insured', 'health maintenance organization', and 'insurer' have the meanings given such terms in section 701.''.

(e) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (as amended by section 102(g)) is amended by inserting after the item relating to section 609 the following new items:

''PART 7—RULES GOVERNING REGULATION OF MULTIPLE EMPLOYER HEALTH PLANS

''Sec. 701. Definitions.

''Sec. 702. Clarification of duty of the Secretary to implement provisions of current law provising for exemptions and solvency standards for multiple employer health plans.

''Sec. 703. Requirements relating to sponsors, boards of trustees, and plan operations.

''Sec. 704. Other requirements for exemption.

''Sec. 705. Maintenance of reserves.

''Sec. 706. Notice requirements for voluntary termination.

''Sec. 707. Corrective actions and mandatory termination.

''Sec. 708. Additional rules regarding State authority.

SEC. 162. AFFORDABLE AND AVAILABLE FULLY INSURED HEALTH COVERAGE THROUGH VOLUNTARY HEALTH INSURANCE ASSOCIATIONS.

Section 514 of the Employee Retirement Income Security Act of 1974 is amended—

(1) by redesignating subsections (d) as subsection (e); and

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

''(d)(1) The provisions of this title shall supercede any and all State laws which regulate insurance insofar as they may now or hereafter—

''(A) preclude an insurer or health maintenance organization from offering health insurance coverage under voluntary health insurance associations,

''(B) preclude an insurer or health maintenance organization from setting premium rates under a voluntary health insurance association based on the claims experience of the voluntary health insurance association (without varying the premium rates of any particular employer on the basis of the claims experience of such employer alone), or

''(C) require—

''(i) health insurance coverage in connection with a voluntary health insurance association to include specific items or services consisting of medical care, or

''(ii) an insurer or health maintenance organization offering health insurance coverage in connection with a voluntary health insurance association to include in such health insurance coverage specific items or services consisting of medical care,

except to the extent that such State laws prohibit an exclusion for a specific disease in such health insurance coverage.

Subparagraph (C) shall apply only with respect to items and services which shall be specified in a list which shall be prescribed in regulations of the Secretary.

''(2)(A) If a State certifies to the Secretary that such State provides to its residents guaranteed access to health insurance coverage, during the period for which such certification is in effect, the law of such State may regulate any health insurance coverage provided in the small group market in such State (or prohibit the provision of such coverage) by a voluntary health insurance association. Any such certification shall be in effect for such period, not greater than 3 years, as is designated in such certification.

''(B) For purposes of this paragraph, the certification by a State that such State provides 'guaranteed access' to health insurance coverage to the residents of such State means—

''(i) certification that the number of residents of such State who are covered by a group health plan or otherwise have health insurance coverage exceeds 90 percent of the total number of the residents of such State, or

''(ii) certification that—

''(I) the small group market in such State provides guaranteed issue for employees with respect to at least one option of health insurance coverage offered by insurers and health maintenance organizations in such market, and

''(II) the State has implemented rating reforms in the small group market in such State which are designed to make health insurance coverage more affordable.

''(3)(A) Paragraph (2) shall not apply in the case of any voluntary health insurance association with respect to any State if the qualified association demonstrates to the Secretary (in such form and manner as shall be prescribed in regulations of the Secretary) that—

''(i) such qualified association operates in the majority of the 50 States and in at least 2 of the regions of the United States,

''(ii) the arrangement covers, or is to cover (in the case of a newly established arrangement), at least 7,500 participants and beneficiaries, and

''(iii) under the terms of the arrangement, either—

''(I) the qualified association does not exclude from membership any small employer in the State, or

''(II) the arrangement accepts every small employer in the State that applies for coverage.

''(B)(i) Subject to clause (ii), paragraph (2) shall not apply with respect to a voluntary health insurance association operating in any State if such association was operating in such State as of March 6, 1996.

''(ii) Clause (i) shall apply in the case of an arrangement in connection with any State only if the qualified association demonstrates to the Secretary (in such form and manner as shall be prescribed in regulations of the Secretary) either—

''(I) that the qualified association does not exclude from membership any small employer in the State, or

''(II) that the arrangement accepts every small employer in such State that applies for coverage.

''(C) Subparagraphs (A) and (B) shall not apply in the case of any State which has made a certification under paragraph (2) and which, as of January 1, 1996, had enacted a law that either—

''(i) provided guaranteed issue of individual health insurance coverage offered by insurers and health maintenance organizations in the individual market using pure community rating and did not provide for any transition period (after the effective date of the guaranteed issue requirement) in the implementation of pure community rating; or

''(ii) required insurers offering health insurance coverage in connection with group health plans to reimburse insurers offering individual health insurance coverage for losses resulting from those insurers offering individual health insurance coverage on an open enrollment basis.

''(5) For purposes of this subsection—

''(A) The term 'voluntary health insurance association' means a multiple employer welfare arrangement—

''(i) under which benefits include medical care (within the meaning of section 607(1)),

''(ii) under which all benefits consisting of such medical care are fully insured,

''(iii) which is maintained by a qualified association,

''(iv) under which no employer is excluded as a participating employer (except to the extent that requirements of the type referred to in section 131(d)(2) of the Health Coverage Availability and Affordability Act of 1996 are not met), the requirements of section 103 of such Act (as referred to in section 104(b)(1) of such Act) are met, and all health insurance coverage options are aggressively marketed to eligible employees and their dependents, and

''(v) under which, with respect to the operations of the arrangement in any State, the health insurance coverage is provided by an insurer or health maintenance organization to which the laws of such State applies.

''(B) The term 'qualified association' means an association with respect to which the following requirements are met:

''(i) The sponsor of the association is, and has been (together with its immediate predecessor, if any) for a continuous period of not less than 5 years, organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose, as a trade association, an industry association, a professional association, or a chamber of commerce (or similar business group), for substantial purposes other than that of obtaining or providing medical care (within the meaning of section 607(1)).

''(ii) The sponsor of the association is established as a permanent entity which receives the active support of its members.

''(iii) The constitution and bylaws of the association provide for periodic meetings on at least an annual basis.

''(iv) The association collects dues or contributions from its members on a periodic basis, without conditioning such dues or contributions on the basis of the health status of the employees of such members or the dependents of such employees or on the basis of participation in a group health plan or voluntary health insurance association.

Such term includes a group of qualified associations, as defined in the preceding provisions of this clause.

''(C) The term 'small group market' means the health insurance coverage market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) on the basis of employment or other relationship with respect to a small employer.

''(D) The term 'small employer' means, in connection with a group health plan with respect to a calandar year, an employer who employs at least 2 but fewer than 51 employees on a typical business day in the year. For purposes of this paragraph, 2 or more trades or businesses, whether or not incorporated, shall be deemed a single employer if such trades or businesses are within the same control group (within the meaning of section 3(40)(B)(ii)).

''(E) The term 'region' means any of the following regions:

''(i) The East Region, consisting of the States of Maine, New Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, and Ohio and the District of Columbia.

''(ii) The Southeast Region, consisting of the States of Texas, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, and Tennessee.

''(iii) The Midwest Region, consisting of the States of Montana, South Dakota, North Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Wisconsin, Michigan, Illinois, and Indiana.

''(iv) The West Region, consisting of the States of Oregon, Washington, Idaho, Nevada, California, New Mexico, Arizona, Nebraska, Wyoming, Hawaii, Alaska, Colorado, and Utah.''.

SEC. 163. STATE AUTHORITY FULLY APPLICABLE TO SELF-INSURED MULTIPLE EMPLOYER WELFARE ARRANGEMENTS PROVIDING MEDICAL CARE WHICH ARE NOT EXEMPTED UNDER NEW PART 7.

(a) IN GENERAL.—Section 514(b)(6)(A)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(6)(A)(ii)) is amended by inserting before the period the following: '', except that, in any such case, if the arrangement provides medical care (within the meaning of section 607(1)), such a law of any State may apply without limitation under this title''.

(b) CROSS-REFERENCE.—Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) (as amended by section 301) is amended by adding at the end the following new subparagraph:

''(G) For additional rules relating to exemption from subparagraph (A)(ii) of multiple employer health plans, see part 7.''.

SEC. 164. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting ''for any plan year of any such plan, or any fiscal year of any such other arrangement,'' after ''single employer'', and by inserting ''during such year or at any time during the preceding 1-year period'' after ''control group'';

(2) in clause (iii)—

(A) by striking ''common control shall not be based on an interest of less than 25 percent'' and inserting ''an interest of greater than 25 percent may not be required as the minimum interest necessary for common control''; and

(B) by striking ''similar to'' and inserting ''consistent and coextensive with'';

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

''(iv) in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only 1 participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement,''.

SEC. 165. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

(a) IN GENERAL.—Section 3(40)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)(i)) is amended to read as follows:

''(i)(I) under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, and (II) in accordance with subparagraphs (C), (D), and (E),''.

(b) LIMITATIONS.—Section 3(40) of such Act (29 U.S.C. 1002(40)) is amended by adding at the end the following new subparagraphs:

''(C) A plan or other arrangement is established or maintained in accordance with this subparagraph only if the following requirements are met:

''(i) The plan or other arrangement, and the employee organization or any other entity sponsoring the plan or other arrangement, do not—

''(I) utilize the services of any licensed insurance agent or broker for soliciting or enrolling employers or individuals as participating employers or covered individuals under the plan or other arrangement, or

''(II) pay a commission or any other type of compensation to a person, other than a full time employee of the employee organization (or a member of the organization to the extent provided in regulations of the Secretary), that is related either to the volume or number of employers or individuals solicited or enrolled as participating employers or covered individuals under the plan or other arrangement, or to the dollar amount or size of the contributions made by participating employers or covered individuals to the plan or other arrangement,

except to the extent that the services used by the plan, arrangement, organization, or other entity consist solely of preparation of documents necessary for compliance with the reporting and disclosure requirements of part 1 or administrative, investment, or consulting services unrelated to solicitation or enrollment of covered individuals.

''(ii) As of the end of the preceding plan year, the number of covered individuals under the plan or other arrangement who are identified to the plan or arrangement and who are neither—

''(I) employed within a bargaining unit covered by any of the collective bargaining agreements with a participating employer (nor covered on the basis of an individual's employment in such a bargaining unit), nor

''(II) present employees (or former employees who were covered while employed) of the sponsoring employee organization, of an employer who is or was a party to any of the collective bargaining agreements, or of the plan or other arrangement or a related plan or arrangement (nor covered on the basis of such present or former employment),

does not exceed 15 percent of the total number of individuals who are covered under the plan or arrangement and who are present or former employees who are or were covered under the plan or arrangement pursuant to a collective bargaining agreement with a participating employer. The requirements of the preceding provisions of this clause shall be treated as satisfied if, as of the end of the preceding plan year, such covered individuals are comprised solely of individuals who were covered individuals under the plan or other arrangement as of the date of the enactment of the Health Coverage Availability and Affordability Act 1996 and, as of the end of the preceding plan year, the number of such covered individuals does not exceed 25 percent of the total number of present and former employees enrolled under the plan or other arrangement.

''(iii) The employee organization or other entity sponsoring the plan or other arrangement certifies to the Secretary each year, in a form and manner which shall be prescribed in regulations of the Secretary that the plan or other arrangement meets the requirements of clauses (i) and (ii).

''(D) A plan or arrangement is established or maintained in accordance with this subparagraph only if—

''(i) all of the benefits provided under the plan or arrangement are fully insured (as defined in section 701(2)), or

''(ii)(I) the plan or arrangement is a multiemployer plan, and

''(II) the requirements of clause (B) of the proviso to clause (5) of section 302(c) of the Labor Management Relations Act, 1947 (29

U.S.C. 186(c)) are met with respect to such plan or other arrangement.

''(E) A plan or arrangement is established or maintained in accordance with this subparagraph only if—

''(i) the plan or arrangement is in effect as of the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, or

''(ii) the employee organization or other entity sponsoring the plan or arrangement—

''(I) has been in existence for at least 3 years or is affiliated with another employee organization which has been in existence for at least 3 years, or

''(II) demonstrates to the satisfaction of the Secretary that the requirements of subparagraphs (C) and (D) are met with respect to the plan or other arrangement.''.

(c) CONFORMING AMENDMENTS TO DEFINITIONS OF PARTICIPANT AND BENEFICIARY.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended by adding at the end the following new sentence: ''Such term includes an individual who is a covered individual described in paragraph (40)(C)(ii).''.

SEC. 166. TREATMENT OF CHURCH PLANS.

(a) SPECIAL RULES FOR CHURCH PLANS.—

(1) IN GENERAL.—Part 7 of subtitle B of title I of such Act (as added and amended by the preceding provisions of this Act) is amended by adding at the end the following new section:

''SEC. 709. SPECIAL RULES FOR CHURCH PLANS.

''(a) ELECTION FOR CHURCH PLANS.—

''(1) IN GENERAL.—Notwithstanding section 4(b)(2), if the church or convention or association of churches which maintains a church plan covered under this section makes an election with respect to such plan under this subsection (in such form and manner as the Secretary may by regulations prescribe), then, subject to this section, the provisions of this part (and other provisions of this title to the extent that they apply to group health plans which are multiple employer welfare arrangements) shall apply to such church plan, with respect to benefits provided under such plan consisting of medical care, as if—

''(A) section 4(b)(2) did not contain an exclusion for church plans, and

''(B) such plan were an arrangement eligible to apply for an exemption under this part.

''(2) ELECTION IRREVOCABLE.—An election under this subsection with respect to any church plan shall be binding with respect to such plan, and, once made, shall be irrevocable.

''(b) COVERED CHURCH PLANS.—A church plan is covered under this section if such plan provides benefits which include medical care and some or all of such benefits are not fully insured.

''(c) SPONSOR AND BOARD OF TRUSTEES.—For purposes of this part, in the case of a church plan to which this part applies pursuant to an election under subsection (a), in treating such plan as if it were a multiple employer welfare arrangement under this part—

''(1) the church, convention or association of churches, or other organization described in section 3(33)(C)(i) which is the entity maintaining the plan shall be treated as the sponsor referred to in section 703(a)(1), and the requirements of section 703(a)(1) shall not apply, and

''(2) the board of trustees, board of directors, or other similar governing body of such sponsor shall be treated as the board of trustees referred to in section 703(a)(2), and the requirements of section 703(a)(2) shall be deemed satisfied with respect to the board of trustees.

''(d) DEEMED SATISFACTION OF TRUST REQUIREMENTS.—The requirements of section 403 shall not be treated as not satisfied with respect to a church plan to which this part applies pursuant to an election under subsection (a) solely because assets of the plan are held by an organization described in section 3(33)(C)(i), if—

''(1) such organization is incorporated separately from the church or convention or association of churches involved, and

''(2) such assets with respect to medical care are separately accounted for.

''(e) DEEMED SATISFACTION OF EXCLUSIVE BENEFIT REQUIREMENTS.—The requirements of section 404 shall not be treated as not satisfied with respect to a church plan to which this part applies pursuant to an election under subsection (a) solely because assets of the plan which are in excess of reserves required for exemption under section 514(b)(6)(B) are held in a fund in which such assets are pooled with assets of other church plans, if the assets held by such fund may not, under the terms of the plan and the terms governing such fund, be used for, or diverted to, any purpose other than for the exclusive benefit of the participants and beneficiaries of the church plans whose assets are pooled in such fund.

''(f) INAPPLICABILITY OF CERTAIN PROVISIONS.—

''(1) PROHIBITED TRANSACTIONS.—Section 406 shall not apply to a church plan by reason of an election under subsection (a).

''(2) CONTINUATION COVERAGE.—Section 601 shall not apply to a church plan by reason of an election under subsection (a).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4(b)(2) of such Act (29 U.S.C. 1003(b)(2)) is amended by inserting before the semicolon the following: '', except with respect to provisions made applicable under any election made under section 704(a) of this Act''.

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (a), by inserting ''(including a church plan which is not exempt under section 4(b)(2) by reason of an election under section 704)'' before the period in the first sentence; and

(B) in subsection (b)(2)(B), by inserting ''and including a church plan which is not exempt under section 4(b)(2) by reason of an election under section 704'' after ''death benefits''.

(c) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (as amended by the preceding provisions of this title) is further amended by inserting after the item relating to section 703 the following new item:

''Sec. 709. Special rules for church plans.''.

SEC. 167. ENFORCEMENT PROVISIONS RELATING TO MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.

(a) ENFORCEMENT OF FILING REQUIREMENTS.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) (as amended by sections 102(c)) is further amended—

(1) in subsection (a)(6), by striking ''paragraph (2) or (5)'' and inserting ''paragraph (2), (5), or (6)''; and

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

''(6) The Secretary may assess a civil penalty against any person of up to $1,000 a day from the date of such person's failure or refusal to file the information required to be filed with the Secretary under section 101(g).''.

(b) ACTIONS BY STATES IN FEDERAL COURT.—Section 502(a) of such Act (29 U.S.C. 1132(a)) is amended—

(1) in paragraph (8), by striking ''or'' at the end;

(2) in paragraph (9), by striking the period and inserting '', or''; and

(3) by adding at the end the following:

''(10) by a State official having authority under the law of such State to enforce the laws of such State regulating insurance, to enjoin any act or practice which violates any requirement under part 7 for an exemption under section 514(b)(6)(B) which such State has the power to enforce pursuant to section 506(c)(1).''.

(c) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of such Act (29 U.S.C. 1131) is amended—

(1) by inserting ''(a)'' after ''SEC. 501.''; and

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

''(b) Any person who, either willfully or with willful blindness, falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, an arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

''(1) being a multiple employer welfare arrangement to which an exemption has been granted under section 514(b)(6)(B),

''(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, or

''(3) being a plan or arrangement with respect to which the requirements of subparagraph (C), (D), or (E) of section 3(40) are met, shall, upon conviction, be imprisoned not more than five years, be fined under title 18, United States Code, or both.''.

(d) CESSATION OF ACTIVITIES IN ABSENCE OF EFFECTIVE STATE REGULATION UNLESS STANDARDS UNDER ERISA EXEMPTION ARE MET.—Section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

''(n)(1) Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of a multiple employer welfare arrangement providing benefits consisting of medical care (within the meaning of section 607(1)) that—

''(A) is not licensed, registered, or otherwise approved under the insurance laws of the States in which the arrangement offers or provides benefits, and

''(B) if there is in effect with respect to such arrangement an exemption under section 514(b)(6)(B), is not operating in accordance with the requirements under part 7 for such an exemption,

a district court of the United States shall enter an order requiring that the arrangement cease activities.

''(2) Paragraph (1) shall not apply in the case of a multiple employer welfare arrangement if the arrangement shows that—

''(A) all benefits under it referred to in paragraph (1) are fully insured, within the meaning of section 701(1), and

''(B) with respect to each State in which the arrangement offers or provides benefits, the arrangement is operating in accordance with applicable State insurance laws that are not superseded under section 514.

''(3) The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the arrangement.''.

(e) RESPONSIBILITY FOR CLAIMS PROCEDURE.—Section 503 of such Act (29 U.S.C. 1133) is amended by adding at the end (after and below paragraph (2)) the following new

sentence: ''The terms of each multiple employer health plan (within the meaning of section 701(4)) shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.''.

SEC. 168. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

''(c) STATE AUTHORITY WITH RESPECT TO MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—

''(1) STATE ENFORCEMENT.—

''(A) AGREEMENTS WITH STATES.—A State may enter into an agreement with the Secretary for delegation to the State of some or all of the Secretary's authority under sections 502 and 504 to enforce the requirements under section 514(d) or the requirements under part 7 for an exemption under section 514(b)(6)(B). The Secretary shall enter into the agreement if the Secretary determines that the delegation provided for therein would not result in a lower level or quality of enforcement of the provisions of this title.

''(B) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this paragraph may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.

''(C) CONCURRENT AUTHORITY OF THE SECRETARY.—If the Secretary delegates authority to a State in an agreement entered into under subparagraph (A), the Secretary may continue to exercise such authority concurrently with the State.

''(D) RECOGNITION OF PRIMARY DOMICILE STATE.—In entering into any agreement with a State under subparagraph (A), the Secretary shall ensure that, as a result of such agreement and all other agreements entered into under subparagraph (A), only one State will be recognized, with respect to any particular multiple employer welfare arrangement, as the primary domicile State to which authority has been delegated pursuant to such agreements.

''(2) ASSISTANCE TO STATES.—The Secretary shall—

''(A) provide enforcement assistance to the States with respect to multiple employer welfare arrangements, including, but not limited to, coordinating Federal and State efforts through the establishment of cooperative agreements with appropriate State agencies under which the Pension and Welfare Benefits Administration keeps the States informed of the status of its cases and makes available to the States information obtained by it,

''(B) provide continuing technical assistance to the States with respect to issues involving multiple employer welfare arrangements and this Act,

''(C) make readily available to the States timely and complete responses to requests for advisory opinions on issues described in subparagraph (B), and

''(D) distribute copies of all advisory opinions described in subparagraph (C) to the State insurance commissioner of each State.''.

SEC. 169. FILING AND DISCLOSURE REQUIREMENTS FOR MULTIPLE EMPLOYER WELFARE ARRANGEMENTS OFFERING HEALTH BENEFITS.

(a) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended—

(1) by redesignating subsection (g) as subsection (i); and

(2) by inserting after subsection (f) the following new subsections:

''(g) REGISTRATION OF MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—(1) Each multiple employer welfare arrangement shall file with the Secretary a registration statement described in paragraph (2) within 60 days before commencing operations (in the case of an arrangement commencing operations on or after January 1, 1997) and no later than February 15 of each year (in the case of an arrangement in operation since the beginning of such year), unless, as of the date by which such filing otherwise must be made, such arrangement provides no benefits consisting of medical care (within the meaning of section 607(1))).

''(2) Each registration statement—

''(A) shall be filed in such form, and contain such information concerning the multiple employer welfare arrangement and any persons involved in its operation (including whether coverage under the arrangement is fully insured), as shall be provided in regulations which shall be prescribed by the Secretary, and

''(B) if any benefits under the arrangement consisting of medical care (within the meaning of section 607(1)) are not fully insured, shall contain a certification that copies of such registration statement have been transmitted by certified mail to—

''(i) in the case of an arrangement which is a multiple employer health plan (as defined in section 701(4)), the State insurance commissioner of the domicile State of such arrangement, or

''(ii) in the case of an arrangement which is not a multiple employer health plan, the State insurance commissioner of each State in which the arrangement is located.

''(3) The person or persons responsible for filing the annual registration statement are—

''(A) the trustee or trustees so designated by the terms of the instrument under which the multiple employer welfare arrangement is established or maintained, or

''(B) in the case of a multiple employer welfare arrangement for which the trustee or trustees cannot be identified, or upon the failure of the trustee or trustees of an arrangement to file, the person or persons actually responsible for the acquisition, disposition, control, or management of the cash or property of the arrangement, irrespective of whether such acquisition, disposition, control, or management is exercised directly by such person or persons or through an agent designated by such person or persons.

''(4) Any agreement entered into under section 506(c) with a State as the primary domicile State with respect to any multiple employer welfare arrangement shall provide for simultaneous filings of reports required under this subsection with the Secretary and with the State insurance commissioner of such State.

''(5) For purposes of this subsection, the term 'domicile State' means, in connection with a multiple employer welfare arrangement, the State in which, according to the application for an exemption under this 514(b)(6)(B), most individuals to be covered under the arrangement are located, except that, in any case in which information contained in the latest annual report of the arrangement filed under this part indicates that most individuals covered under the arrangement are located in a different State, such term means such different State.

''(6) The Secretary may exempt from the requirements of this subsection such class of multiple employer welfare arrangements as the Secretary deems appropriate.

''(h) FILING REQUIREMENTS FOR MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—

''(1) IN GENERAL.—A multiple employer welfare arrangement which provides benefits consisting of medical care (within the meaning of section 607(1)) shall issue to each participating employer—

''(A) a document equivalent to the summary plan description required of plans under this part,

''(B) information describing the contribution rates applicable to participating employers, and

''(C) a statement indicating—

''(i) that the arrangement is not a licensed insurer under the laws of any State,

''(ii) the extent to which any benefits under the arrangement are fully insured,

''(iii) if any benefits under the arrangement are not fully insured, whether the arrangement has been granted an exemption under section 514(b)(6)(B) (or whether such an exemption has ceased to be effective).

''(2) TIME FOR DISCLOSURE.—Such information shall be issued to employers within such reasonable period of time before becoming participating employers as may be prescribed in regulations of the Secretary.''.

(b) EFFECTIVE DATES.—Section 101(g) of the Employee Retirement Income Security Act of 1974 (added by subsection (a)) shall take effect on the date of the enactment of this Act. Section 101(h) of such Act (added by subsection (a)) shall take effect as provided in section 171.

SEC. 170. SINGLE ANNUAL FILING FOR ALL PARTICIPATING EMPLOYERS.

(a) IN GENERAL.—Section 110 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1030) is amended by adding at the end the following new subsection:

''(c) The Secretary shall prescribe by regulation or otherwise an alternative method providing for the filing of a single annual report (as referred to in section 104(a)(1)(A)) with respect to all employers who are participating employers under a multiple employer welfare arrangement under which all coverage consists of medical care (within the meaning of section 607(1)) and is fully insured (as defined in section 701(1)).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. The Secretary of Labor shall prescribe the alternative method referred to in section 110(c) of the Employee Retirement Income Security Act of 1974, as added by such amendment, within 90 days after the date of the enactment of this Act.

SEC. 171. EFFECTIVE DATE; TRANSITIONAL RULE.

(a) EFFECTIVE DATE.—Except as otherwise provided in section 170(b), the amendments made by this subtitle shall take effect January 1, 1998. The Secretary shall issue all regulations necessary to carry out the amendments made by this subtitle before January 1, 1998.

(b) TRANSITIONAL RULE.—

(1) IN GENERAL.—If the sponsor of a multiple employer welfare arrangement which, as of the effective date specified in subsection (a), provides benefits consisting of medical care (within the meaning of section 607(1) of the Employee Retirement Income Security Act of 1974) files with the Secretary of Labor an application for an exemption under section 514(b)(6)(B) of such Act within 180 days after such date and the Secretary has not, as of 90 days after receipt of such application, found such application to be materially deficient, then section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) shall not apply with respect to such arrangement during the period following such date and ending on the earlier of—

(A) the date on which the Secretary denies the application under the amendments made by this title or determines, in the Secretary's sole discretion, that such exclusion from coverage under the provisions of such section 514(b)(6)(A) of such arrangement

would be detrimental to the interests of individuals covered under such arrangement, or

(B) 18 months after such effective date.

(2) NO PENDING STATE ACTION.—Subparagraph (A) shall apply in the case of an arrangement only if, at the time of the application for the exemption under section 514(b)(6)(B), the arrangement does not have pending against it an enforcement action by a State.

Subtitle D—Definitions; General Provisions

SEC. 191. DEFINITIONS; SCOPE OF COVERAGE.

(a) GROUP HEALTH PLAN.—

(1) DEFINITION.—Subject to the succeeding provisions of this subsection and subsection (d)(1), the term ''group health plan'' means an employee welfare benefit plan to the extent that the plan provides medical care (as defined in subsection (c)(9)) to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise, and includes a group health plan (within the meaning of section 5000(b)(1) of the Internal Revenue Code of 1986).

(2) LIMITATION OF REQUIREMENTS TO PLANS WITH 2 OR MORE EMPLOYEE PARTICIPANTS.—The requirements of subtitle A and part 1 of subtitle B shall apply in the case of a group health plan for any plan year, or for health insurance coverage offered in connection with a group health plan for a year, only if the group health plan has two or more participants as current employees on the first day of the plan year.

(3) EXCLUSION OF PLANS WITH LIMITED COVERAGE.—An employee welfare benefit plan shall be treated as a group health plan under this title only with respect to medical care which is provided under the plan and which does not consist of coverage excluded from the definition of health insurance coverage under subsection (c)(4)(B).

(4) TREATMENT OF CHURCH PLANS.—

(A) EXCLUSION.—The requirements of this title insofar as they apply to group health plans shall not apply to church plans.

(B) OPTIONAL DISREGARD IN DETERMINING PERIOD OF COVERAGE.—For purposes of applying section 101(b)(3)(B)(i), a group health plan may elect to disregard periods of coverage of an individual under a church plan that, pursuant to subparagraph (A), is not subject to the requirements of this title.

(5) TREATMENT OF GOVERNMENTAL PLANS.—

(A) ELECTION TO BE EXCLUDED.—If the plan sponsor of a governmental plan which is a group health plan to which the provisions of this subtitle otherwise apply makes an election under this paragraph for any specified period (in such form and manner as the Secretary of Health and Human Services may by regulations prescribe), then the requirements of this title insofar as they apply to group health plans shall not apply to such governmental plans for such period.

(B) OPTIONAL DISREGARD IN DETERMINING PERIOD OF COVERAGE IF ELECTION MADE.—For purposes of applying section 101(b)(3)(B)(i), a group health plan may elect to disregard periods of coverage of an individual under a governmental plan that, under an election under subparagraph (A), is not subject to the requirements of this title.

(6) TREATMENT OF MEDICAID PLAN AS GROUP HEALTH PLAN.—A State plan under title XIX of the Social Security Act shall be treated as a group health plan for purposes of applying section 101(c)(1), unless the State elects not to be so treated.

(7) TREATMENT OF MEDICARE AND INDIAN HEALTH SERVICE PROGRAMS AS GROUP HEALTH PLAN.—Title XVIII of the Social Security Act and a program of the Indian Health Service shall be treated as a group health plan for purposes of applying section 101(c)(1).

(b) INCORPORATION OF CERTAIN DEFINITIONS IN EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Except as provided in this section, the terms ''beneficiary'', ''church plan'', ''employee'', ''employee welfare benefit plan'', ''employer'', ''governmental plan'', ''multiemployer plan'', ''multiple employer welfare arrangement'', ''participant'', ''plan sponsor'', and ''State'' have the meanings given such terms in section 3 of the Employee Retirement Income Security Act of 1974.

(c) OTHER DEFINITIONS.—For purposes of this title:

(1) APPLICABLE STATE AUTHORITY.—The term ''applicable State authority'' means, with respect to an insurer or health maintenance organization in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State involved with respect to such insurer or organization.

(2) BONA FIDE ASSOCIATION.—The term ''bona fide association'' means an association which—

(A) has been actively in existence for at least 5 years,

(B) has been formed and maintained in good faith for purposes other than obtaining insurance,

(C) does not condition membership in the association on health status,

(D) makes health insurance coverage offered through the association available to all members regardless of health status,

(E) does not make health insurance coverage offered through the association available to any individual who is not a member (or dependent of a member) of the association at the time the coverage is initially issued,

(F) does not impose preexisting condition exclusions except in a manner consistent with the requirements of sections 101 and 102 as they relate to group health plans, and

(G) provides for renewal and continuation of health insurance coverage in a manner consistent with the requirements of section 132 as they relate to the renewal and continuation in force of coverage in a group market.

(3) COBRA CONTINUATION PROVISION.—The term ''COBRA continuation provision'' means any of the following:

(A) Section 4980B of the Internal Revenue Code of 1986, other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines.

(B) Part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.), other than section 609.

(C) Title XXII of the Public Health Service Act.

(4) HEALTH INSURANCE COVERAGE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''health insurance coverage'' means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract offered by an insurer or a health maintenance organization.

(B) EXCEPTION.—Such term does not include coverage under any separate policy, certificate, or contract only for one or more of any of the following:

(i) Coverage for accident, credit-only, vision, disability income, long-term care, nursing home care, community-based care dental, on-site medical clinics, or employee assistance programs, or any combination thereof.

(ii) Medicare supplemental health insurance (within the meaning of section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1))) and similar supplemental coverage provided under a group health plan.

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers' compensation or similar insurance.

(vi) Automobile medical-payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Such other coverage, comparable to that described in previous clauses, as may be specified in regulations prescribed under this title.

(5) HEALTH MAINTENANCE ORGANIZATION; HMO.—The terms ''health maintenance organization'' and ''HMO'' mean—

(A) a Federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act (42 U.S.C. 300e(a))),

(B) an organization recognized under State law as a health maintenance organization, or

(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization,

if (other than for purposes of part 2 of subtitle B) it is subject to State law which regulates insurance (within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974).

(6) HEALTH STATUS.—The term ''health status'' includes, with respect to an individual, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.

(7) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term ''individual health insurance coverage'' means health insurance coverage offered to individuals if the coverage is not offered in connection with a group health plan (other than such a plan that has fewer than two participants as current employees on the first day of the plan year).

(8) INSURER.—The term ''insurer'' means an insurance company, insurance service, or insurance organization which is licensed to engage in the business of insurance in a State and which (except for purposes of part 2 of subtitle B) is subject to State law which regulates insurance (within the meaning of section 514(b)(2)(A) of the Employee Retirement Income Security Act of 1974).

(9) MEDICAL CARE.—The term ''medical care'' means—

(A) amounts paid for, or items or services in the form of, the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for, or items or services provided for, the purpose of affecting any structure or function of the body,

(B) amounts paid for, or services in the form of, transportation primarily for and essential to medical care referred to in subparagraph (A), and

(C) amounts paid for insurance covering medical care referred to in subparagraphs (A) and (B).

(10) NETWORK PLAN.—The term ''network plan'' means, with respect to health insurance coverage, an arrangement of an insurer or a health maintenance organization under which the financing and delivery of medical care are provided, in whole or in part, through a defined set of providers under contract with the insurer or health maintenance organization.

(11) WAITING PERIOD.—The term ''waiting period'' means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the minimum period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the plan.

(d) TREATMENT OF PARTNERSHIPS.—

(1) TREATMENT AS A GROUP HEALTH PLAN.—Any plan, fund, or program which would not be (but for this paragraph) an employee welfare benefit plan and which is established or maintained by a partnership, to the extent that such plan, fund, or program provides medical care to present or former partners in the partnership or to their dependents (as defined under the terms of the plan, fund, or program), directly or through insurance, reimbursement, or otherwise, shall be treated (subject to paragraph (1)) as an employee welfare benefit plan which is a group health plan.

(2) TREATMENT OF PARTNERSHIP AND PARTNERS AND EMPLOYER AND PARTICIPANTS.—In the case of a group health plan—

(A) the term ''employer'' includes the partnership in relation to any partner; and

(B) the term ''participant'' includes—

(i) in connection with a group health plan maintained by a partnership, an individual who is a partner in relation to the partnership, or

(ii) in connection with a group health plan maintained by a self-employed individual (under which one or more employees are participants), the self-employed individual,

if such individual is or may become eligible to receive a benefit under the plan or such individual's beneficiaries may be eligible to receive any such benefit.

(e) DEFINITIONS RELATING TO MARKETS AND SMALL EMPLOYERS.—As used in this title:

(1) INDIVIDUAL MARKET.—The term ''individual market'' means the market for health insurance coverage offered to individuals and not to employers or in connection with a group health plan and does not include the market for such coverage issued only by an insurer or HMO that makes such coverage available only on the basis of affiliation with a bona fide association (as defined in subsection (c)(2)).

(2) LARGE GROUP MARKET.—The term ''large group market'' means the market for health insurance coverage offered to employers (other than small employers) on behalf of their employees (and their dependents) and does not include health insurance coverage available solely in connection with a bona fide association (as defined in subsection (c)(2)).

(3) SMALL EMPLOYER.—The term ''small employer'' means, in connection with a group health plan with respect to a calendar year, an employer who employs at least 2 but fewer than 51 employees on a typical business day in the year. All persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer for purposes of this title.

(4) SMALL GROUP MARKET.—The term ''small group market'' means the health insurance market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) on the basis of employment or other relationship with respect to a small employer and does not include health insurance coverage available solely in connection with a bona fide association (as defined in subsection (c)(2)).

SEC. 192. STATE FLEXIBILITY TO PROVIDE GREATER PROTECTION.

(a) STATE FLEXIBILITY TO PROVIDE GREATER PROTECTION.—Subject to subsection (b), nothing in this subtitle or subtitle A or B shall be construed to preempt State laws—

(1) that relate to matters not specifically addressed in such subtitles; or

(2) that require insurers or HMOs—

(A) to impose a limitation or exclusion of benefits relating to the treatment of a pre-existing condition for a period that is shorter than the applicable period provided for under such subtitles;

(B) to allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 60-day periods provided for under sections 101(b)(3)(A), 101(b)(3)(B)(ii), and 102(b)(2); or

(C) in defining pre-existing condition, to have a look-back period that is shorter than the 6-month period described in section 101(b)(1)(A).

(b) NO OVERRIDE OF ERISA PREEMPTION.—Except as provided specifically in subtitle C, nothing in this Act shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 193. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided for in this title, the provisions of this title shall apply with respect to—

(1) group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after January 1, 1998, and

(2) individual health insurance coverage issued, renewed, in effect, or operated on or after July 1, 1998.

(b) CONSIDERATION OF PREVIOUS COVERAGE.—The Secretaries of Health and Human Services, Treasury, and Labor shall jointly establish rules regarding the treatment (in determining qualified coverage periods under sections 102(b) and 141(b)) of coverage before the applicable effective date specified in subsection (a).

(c) TIMELY ISSUANCE OF REGULATIONS.—The Secretaries of Health and Human Services, the Treasury, and Labor shall issue such regulations on a timely basis as may be required to carry out this title.

SEC. 194. RULE OF CONSTRUCTION.

Nothing in this title or any amendment made thereby may be construed to require (or to authorize any regulation that requires) the coverage of any specific procedure, treatment, or service under a group health plan or health insurance coverage.

SEC. 195. FINDINGS RELATING TO EXERCISE OF COMMERCE CLAUSE AUTHORITY.

Congress finds the following in relation to the provisions of this title:

(1) Provisions in group health plans and health insurance coverage that impose certain pre-existing conditions impact the ability of employees to seek employment in interstate commerce, thereby impeding such commerce.

(2) Health insurance coverage is commercial in nature and is in and affects interstate commerce.

(3) It is a necessary and proper exercise of Congressional authority to impose requirements under this title on group health plans and health insurance coverage (including coverage offered to individuals previously covered under group health plans) in order to promote commerce among the States.

(4) Congress, however, intends to defer to States, to the maximum extent practicable, in carrying out such requirements with respect to insurers and health maintenance organizations that are subject to State regulation, consistent with the provisions of the Employee Retirement Income Security Act of 1974.

TITLE II—PREVENTING HEALTH CARE FRAUD AND ABUSE; ADMINISTRATIVE SIMPLIFICATION; MEDICAL LIABILITY REFORM

SEC. 200. REFERENCES IN TITLE.

Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

Subtitle A—Fraud and Abuse Control Program

SEC. 201. FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

''FRAUD AND ABUSE CONTROL PROGRAM

''SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

''(1) IN GENERAL.—Not later than January 1, 1997, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

''(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to health plans,

''(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

''(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse,

''(D) to provide for the modification and establishment of safe harbors and to issue advisory opinions and special fraud alerts pursuant to section 1128D, and

''(E) to provide for the reporting and disclosure of certain final adverse actions against health care providers, suppliers, or practitioners pursuant to the data collection system established under section 1128E.

''(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

''(3) GUIDELINES.—

''(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

''(B) INFORMATION GUIDELINES.—

''(i) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

''(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

''(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

''(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to

exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

''(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

''(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

''(1) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payor, or otherwise.

''(2) CREDITING.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

''(c) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

''(1) a policy of health insurance;

''(2) a contract of a service benefit organization; and

''(3) a membership agreement with a health maintenance organization or other prepaid health plan.''.

(b) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

''(k) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

''(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

''(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

''(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

''(i) such gifts and bequests as may be made as provided in subparagraph (B);

''(ii) such amounts as may be deposited in the Trust Fund as provided in sections 242(b) and 249(c) of the Health Coverage Availability and Affordability Act of 1996, and title XI; and

''(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

''(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

''(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

''(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

''(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XIX, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

''(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

''(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

''(3) APPROPRIATED AMOUNTS TO ACCOUNT FOR FRAUD AND ABUSE CONTROL PROGRAM, ETC.—

''(A) DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND JUSTICE.—

''(i) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (C), to be available without further appropriation, in an amount not to exceed—

''(I) for fiscal year 1997, $104,000,000,

''(II) for each of the fiscal years 1998 through 2003, the limit for the preceding fiscal year, increased by 15 percent; and

''(III) for each fiscal year after fiscal year 2003, the limit for fiscal year 2003.

''(ii) MEDICARE AND MEDICAID ACTIVITIES.—For each fiscal year, of the amount appropriated in clause (i), the following amounts shall be available only for the purposes of the activities of the Office of the Inspector General of the Department of Health and Human Services with respect to the medicare and medicaid programs—

''(I) for fiscal year 1997, not less than $60,000,000 and not more than $70,000,000;

''(II) for fiscal year 1998, not less than $80,000,000 and not more than $90,000,000;

''(III) for fiscal year 1999, not less than $90,000,000 and not more than $100,000,000;

''(IV) for fiscal year 2000, not less than $110,000,000 and not more than $120,000,000;

''(V) for fiscal year 2001, not less than $120,000,000 and not more than $130,000,000;

''(VI) for fiscal year 2002, not less than $140,000,000 and not more than $150,000,000; and

''(VII) for each fiscal year after fiscal year 2002, not less than $150,000,000 and not more than $160,000,000.

''(B) FEDERAL BUREAU OF INVESTIGATION.—There are hereby appropriated from the general fund of the United States Treasury and hereby appropriated to the Account for transfer to the Federal Bureau of Investigation to carry out the purposes described in subparagraph (C), to be available without further appropriation—

''(i) for fiscal year 1997, $47,000,000;

''(ii) for fiscal year 1998, $56,000,000;

''(iii) for fiscal year 1999, $66,000,000;

''(iv) for fiscal year 2000, $76,000,000;

''(v) for fiscal year 2001, $88,000,000;

''(vi) for fiscal year 2002, $101,000,000; and

''(vii) for each fiscal year after fiscal year 2002, $114,000,000.

''(C) USE OF FUNDS.—The purposes described in this subparagraph are to cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

''(i) prosecuting health care matters (through criminal, civil, and administrative proceedings);

''(ii) investigations;

''(iii) financial and performance audits of health care programs and operations;

''(iv) inspections and other evaluations; and

''(v) provider and consumer education regarding compliance with the provisions of title XI.

''(4) APPROPRIATED AMOUNTS TO ACCOUNT FOR MEDICARE INTEGRITY PROGRAM.—

''(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under section 1893, subject to subparagraph (B) and to be available without further appropriation.

''(B) AMOUNTS SPECIFIED.—The amount appropriated under subparagraph (A) for a fiscal year is as follows:

''(i) For fiscal year 1997, such amount shall be not less than $430,000,000 and not more than $440,000,000.

''(ii) For fiscal year 1998, such amount shall be not less than $490,000,000 and not more than $500,000,000.

''(iii) For fiscal year 1999, such amount shall be not less than $550,000,000 and not more than $560,000,000.

''(iv) For fiscal year 2000, such amount shall be not less than $620,000,000 and not more than $630,000,000.

''(v) For fiscal year 2001, such amount shall be not less than $670,000,000 and not more than $680,000,000.

''(vi) For fiscal year 2002, such amount shall be not less than $690,000,000 and not more than $700,000,000.

''(vii) For each fiscal year after fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

''(5) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.''.

SEC. 202. MEDICARE INTEGRITY PROGRAM.

(a) ESTABLISHMENT OF MEDICARE INTEGRITY PROGRAM.—Title XVIII is amended by adding at the end the following new section:

''MEDICARE INTEGRITY PROGRAM

''SEC. 1893. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible private entities to carry out the activities described in subsection (b).

''(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are as follows:

''(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

''(2) Audit of cost reports.

''(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

''(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

''(5) Developing (and periodically updating) a list of items of durable medical equipment in accordance with section 1834(a)(15) which are subject to prior authorization under such section.

''(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract under the

Program to carry out any of the activities described in subsection (b) if—

''(1) the entity has demonstrated capability to carry out such activities;

''(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

''(3) the entity demonstrates to the Secretary that the entity's financial holdings, interests, or relationships will not interfere with its ability to perform the functions to be required by the contract in an effective and impartial manner; and

''(4) the entity meets such other requirements as the Secretary may impose.

In the case of the activity described in subsection (b)(5), an entity shall be deemed to be eligible to enter into a contract under the Program to carry out the activity if the entity is a carrier with a contract in effect under section 1842.

''(d) PROCESS FOR ENTERING INTO CONTRACTS.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary shall by regulation establish, except that such procedures shall include the following:

''(1) The Secretary shall determine the appropriate number of separate contracts which are necessary to carry out the Program and the appropriate times at which the Secretary shall enter into such contracts.

''(2)(A) Except as provided in subparagraph (B), the provisions of section 1153(e)(1) shall apply to contracts and contracting authority under this section.

''(B) Competitive procedures must be used when entering into new contracts under this section, or at any other time considered appropriate by the Secretary, except that the Secretary may contract with entities that are carrying out the activities described in this section pursuant to agreements under section 1816 or contracts under section 1842 in effect on the date of the enactment of this section.

''(3) A contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

''(e) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.''.

(b) ELIMINATION OF FI AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PROGRAM.—

(1) RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

''(l) No agency or organization may carry out (or receive payment for carrying out) any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893.''.

(2) RESPONSIBILITIES OF CARRIERS UNDER PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

''(6) No carrier may carry out (or receive payment for carrying out) any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).''.

SEC. 203. BENEFICIARY INCENTIVE PROGRAMS.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall provide an explanation of benefits under the medicare program under title XVIII of the Social Security Act with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(b) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(c) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

SEC. 204. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH CARE PROGRAMS.

(a) IN GENERAL.—Section 1128B (42 U.S.C. 1320a–7b) is amended as follows:

(1) In the heading, by striking ''MEDICARE OR STATE HEALTH CARE PROGRAMS'' and inserting ''FEDERAL HEALTH CARE PROGRAMS''.

(2) In subsection (a)(1), by striking ''a program under title XVIII or a State health care program (as defined in section 1128(h))'' and inserting ''a Federal health care program''.

(3) In subsection (a)(5), by striking ''a program under title XVIII or a State health care program'' and inserting ''a Federal health care program''.

(4) In the second sentence of subsection (a)—

(A) by striking ''a State plan approved under title XIX'' and inserting ''a Federal health care program'', and

(B) by striking ''the State may at its option (notwithstanding any other provision of that title or of such plan)'' and inserting ''the administrator of such program may at its option (notwithstanding any other provision of such program)''.

(5) In subsection (b), by striking ''title XVIII or a State health care program'' each place it appears and inserting ''a Federal health care program''.

(6) In subsection (c), by inserting ''(as defined in section 1128(h))'' after ''a State health care program''.

(7) By adding at the end the following new subsection:

''(f) For purposes of this section, the term 'Federal health care program' means—

''(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States Government (other than the health insurance program under chapter 89 of title 5, United States Code); or

''(2) any State health care program, as defined in section 1128(h).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

SEC. 205. GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS.

Title XI (42 U.S.C. 1301 et seq.), as amended by section 201, is amended by inserting after section 1128C the following new section:

''GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS

''SEC. 1128D. (a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

''(1) IN GENERAL.—

''(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1997, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

''(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

''(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) and shall not serve as the basis for an exclusion under section 1128(b)(7);

''(iii) advisory opinions to be issued pursuant to subsection (b); and

''(iv) special fraud alerts to be issued pursuant to subsection (c).

''(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

''(C) REPORT.—The Inspector General of the Department of Health and Human Serv-

ices (in this section referred to as the 'Inspector General') shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

''(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

''(A) An increase or decrease in access to health care services.

''(B) An increase or decrease in the quality of health care services.

''(C) An increase or decrease in patient freedom of choice among health care providers.

''(D) An increase or decrease in competition among health care providers.

''(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

''(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f)).

''(G) An increase or decrease in the potential overutilization of health care services.

''(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

''(i) whether to order a health care item or service; or

''(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

''(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

''(b) ADVISORY OPINIONS.—

''(1) ISSUANCE OF ADVISORY OPINIONS.—The Secretary shall issue written advisory opinions as provided in this subsection.

''(2) MATTERS SUBJECT TO ADVISORY OPINIONS.—The Secretary shall issue advisory opinions as to the following matters:

''(A) What constitutes prohibited remuneration within the meaning of section 1128B(b).

''(B) Whether an arrangement or proposed arrangement satisfies the criteria set forth in section 1128B(b)(3) for activities which do not result in prohibited remuneration.

''(C) Whether an arrangement or proposed arrangement satisfies the criteria which the Secretary has established, or shall establish by regulation for activities which do not result in prohibited remuneration.

''(D) What constitutes an inducement to reduce or limit services to individuals entitled to benefits under title XVIII or title XIX or title XXI within the meaning of section 1128B(b).

''(E) Whether any activity or proposed activity constitutes grounds for the imposition of a sanction under section 1128, 1128A, or 1128B.

''(3) MATTERS NOT SUBJECT TO ADVISORY OPINIONS.—Such advisory opinions shall not address the following matters:

''(A) Whether the fair market value shall be, or was paid or received for any goods, services or property.

''(B) Whether an individual is a bona fide employee within the requirements of section 3121(d)(2) of the Internal Revenue Code of 1986.

''(4) EFFECT OF ADVISORY OPINIONS.—

''(A) BINDING AS TO SECRETARY AND PARTIES INVOLVED.—Each advisory opinion issued by the Secretary shall be binding as to the Secretary and the party or parties requesting the opinion.

''(B) FAILURE TO SEEK OPINION.—The failure of a party to seek an advisory opinion may not be introduced into evidence to prove that the party intended to violate the provisions of sections 1128, 1128A, or 1128B.

''(5) REGULATIONS.—

''(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary shall issue regulations to carry out this section. Such regulations shall provide for—

''(i) the procedure to be followed by a party applying for an advisory opinion;

''(ii) the procedure to be followed by the Secretary in responding to a request for an advisory opinion;

''(iii) the interval in which the Secretary shall respond;

''(iv) the reasonable fee to be charged to the party requesting an advisory opinion; and

''(v) the manner in which advisory opinions will be made available to the public.

''(B) SPECIFIC CONTENTS.—Under the regulations promulgated pursuant to subparagraph (A)—

''(i) the Secretary shall be required to respond to a party requesting an advisory opinion by not later than 30 days after the request is received; and

''(ii) the fee charged to the party requesting an advisory opinion shall be equal to the costs incurred by the Secretary in responding to the request.

''(c) SPECIAL FRAUD ALERTS.—

''(1) IN GENERAL.—

''(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under the medicare program or a State health care program, as defined in section 1128(h) (in this subsection referred to as a 'special fraud alert').

''(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

''(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

''(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

''(B) the volume and frequency of the conduct that would be identified in the special fraud alert.''.

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

SEC. 211. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

''(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.''.

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1128(b) (42 U.S.C. 1320a–7(b)) is amended to read as follows:

''(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, under Federal or State law—

''(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

''(i) in connection with the delivery of a health care item or service, or

''(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

''(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.''.

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

''(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.''.

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking ''CONVICTION'' and inserting ''MISDEMEANOR CONVICTION''; and

(B) by striking ''criminal offense'' and inserting ''criminal offense consisting of a misdemeanor''.

SEC. 212. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

''(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

''(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

''(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.''.

SEC. 213. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

''(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—(A) Any individual—

''(i) who has a direct or indirect ownership or control interest in a sanctioned entity and who knows or should know (as defined in section 1128A(i)(6)) of the action constituting the basis for the conviction or exclusion described in subparagraph (B); or

''(ii) who is an officer or managing employee (as defined in section 1126(b)) of such an entity.

''(B) For purposes of subparagraph (A), the term 'sanctioned entity' means an entity—

''(i) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

''(ii) that has been excluded from participation under a program under title XVIII or under a State health care program.''.

SEC. 214. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended by striking ''may prescribe)'' and inserting ''may prescribe, except that such period may not be less than 1 year)''.

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c–5(b)(2)) is amended by striking ''shall remain'' and inserting ''shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain''.

(b) REPEAL OF ''UNWILLING OR UNABLE'' CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended—

(1) in the second sentence, by striking ''and determines'' and all that follows through ''such obligations,''; and

(2) by striking the third sentence.

SEC. 215. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking ''the Secretary may terminate'' and all that follows and inserting ''in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

''(A) has failed substantially to carry out the contract;

''(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

''(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).''.

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

''(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

''(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

''(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

''(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.''.

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

''(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

''(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

''(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization's attention;

''(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

''(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.''.

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking ''an agreement'' and inserting ''a written agreement''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

SEC. 216. ADDITIONAL EXCEPTION TO ANTI-KICKBACK PENALTIES FOR DISCOUNTING AND MANAGED CARE ARRANGEMENTS.

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

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

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

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

''(F) any remuneration between an organization and an individual or entity providing items or services, or a combination thereof, pursuant to a written agreement between the organization and the individual or entity if the organization is an eligible organization under section 1876 or if the written agreement places the individual or entity at substantial financial risk for the cost or utilization of the items or services, or a combination thereof, which the individual or entity is obligated to provide, whether through a withhold, capitation, incentive pool, per diem payment, or any other similar risk arrangement which places the individual or entity at substantial financial risk.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to written agreements entered into on or after January 1, 1997.

SEC. 217. CRIMINAL PENALTY FOR FRAUDULENT DISPOSITION OF ASSETS IN ORDER TO OBTAIN MEDICAID BENEFITS.

Section 1128B(a) (42 U.S.C. 1320a–7b(a)) is amended—

(1) by striking ''or'' at the end of paragraph (4);

(2) by adding ''or'' at the end of paragraph (5); and

(3) by inserting after paragraph (5) the following new paragraph:

''(6) knowingly and willfully disposes of assets (including by any transfer in trust) in order for an individual to become eligible for medical assistance under a State plan under title XIX, if disposing of the assets results in the imposition of a period of ineligibility for such assistance under section 1917(c),''.

SEC. 218. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect January 1, 1997.

Subtitle C—Data Collection

SEC. 221. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.), as amended by sections 201 and 205, is amended by inserting after section 1128D the following new section:

''HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM

''SEC. 1128E. (a) GENERAL PURPOSE.—Not later than January 1, 1997, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

''(b) REPORTING OF INFORMATION.—

''(1) IN GENERAL.—Each Government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

''(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

''(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

''(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

''(C) The nature of the final adverse action and whether such action is on appeal.

''(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

''(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

''(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly

(but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

''(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

''(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

''(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

''(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

''(B) procedures in the case of disputed accuracy of the information.

''(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

''(d) ACCESS TO REPORTED INFORMATION.—

''(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

''(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee shall be sufficient to recover the full costs of operating the database. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

''(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

''(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

''(1) FINAL ADVERSE ACTION.—

''(A) IN GENERAL.—The term 'final adverse action' includes:

''(i) Civil judgments against a health care provider, supplier, or practitioner in Federal or State court related to the delivery of a health care item or service.

''(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

''(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

''(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

''(II) any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, nonrenewability, or otherwise, or

''(III) any other negative action or finding by such Federal or State agency that is publicly available information.

''(iv) Exclusion from participation in Federal or State health care programs.

''(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

''(B) EXCEPTION.—The term does not include any action with respect to a malpractice claim.

''(2) PRACTITIONER.—The terms 'licensed health care practitioner', 'licensed practitioner', and 'practitioner' mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

''(3) GOVERNMENT AGENCY.—The term 'Government agency' shall include:

''(A) The Department of Justice.

''(B) The Department of Health and Human Services.

''(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

''(D) State law enforcement agencies.

''(E) State medicaid fraud control units.

''(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

''(4) HEALTH PLAN.—The term 'health plan' has the meaning given such term by section 1128C(c).

''(5) DETERMINATION OF CONVICTION.—For purposes of paragraph (1), the existence of a conviction shall be determined under paragraph (4) of section 1128(i).''.

(b) IMPROVED PREVENTION IN ISSUANCE OF MEDICARE PROVIDER NUMBERS.—Section 1842(r) (42 U.S.C. 1395u(r)) is amended by adding at the end the following new sentence: ''Under such system, the Secretary may impose appropriate fees on such physicians to cover the costs of investigation and recertification activities with respect to the issuance of the identifiers.''.

Subtitle D—Civil Monetary Penalties

SEC. 231. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A (42 U.S.C. 1320a–7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking ''programs under title XVIII'' and inserting ''Federal health care programs (as defined in section 1128B(f)(1))''.

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

''(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Health Coverage Availability and Affordability Act of 1996 (as estimated by the Secretary) shall be deposited into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C).''.

(3) In subsection (i)—

(A) in paragraph (2), by striking ''title V, XVIII, XIX, or XX of this Act'' and inserting ''a Federal health care program (as defined in section 1128B(f))'',

(B) in paragraph (4), by striking ''a health insurance or medical services program under title XVIII or XIX of this Act'' and inserting ''a Federal health care program (as so defined)'', and

(C) in paragraph (5), by striking ''title V, XVIII, XIX, or XX'' and inserting ''a Federal health care program (as so defined)''.

(4) By adding at the end the following new subsection:

''(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

''(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

''(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

''(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

''(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.''.

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

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

(2) by striking '', or'' at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting ''; or''; and

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

''(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection—

''(A) retains a direct or indirect ownership or control interest in an entity that is participating in a program under title XVIII or a State health care program, and who knows or should know of the action constituting the basis for the exclusion; or

''(B) is an officer or managing employee (as defined in section 1126(b)) of such an entity;''.

(c) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking ''$2,000'' and inserting ''$10,000'';

(2) by inserting ''; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs'' after ''false or misleading information was given''; and

(3) by striking ''twice the amount'' and inserting ''3 times the amount''.

(d) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) in subparagraph (A) by striking ''claimed,'' and inserting ''claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based

on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,'';

(2) in subparagraph (C), by striking ''or'' at the end; and

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

''(E) is for a medical or other item or service that a person knows or should know is not medically necessary; or''.

(e) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) (42 U.S.C. 1320c–5(b)(3)) is amended by striking ''the actual or estimated cost'' and inserting ''up to $10,000 for each instance''.

(f) PROCEDURAL PROVISIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)), as amended by section 215(a)(2), is amended by adding at the end the following new subparagraph:

''(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (B)(i) or (C)(i) in the same manner as such provisions apply to a civil money penalty or proceeding under section 1128A(a).''.

(g) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended—

(A) by striking ''or'' at the end of paragraph (3);

(B) by striking the semicolon at the end of paragraph (4) and inserting ''; or''; and

(D) by inserting after paragraph (4) the following new paragraph:

''(5) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program (as so defined);''.

(2) REMUNERATION DEFINED.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by adding at the end the following new paragraph:

''(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

''(A) the waiver of coinsurance and deductible amounts by a person, if—

''(i) the waiver is not offered as part of any advertisement or solicitation;

''(ii) the person does not routinely waive coinsurance or deductible amounts; and

''(iii) the person—

''(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

''(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

''(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

''(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payers, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996; or

''(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.''.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1997.

SEC. 232. CLARIFICATION OF LEVEL OF INTENT REQUIRED FOR IMPOSITION OF SANCTIONS.

(a) CLARIFICATION OF LEVEL OF KNOWLEDGE REQUIRED FOR IMPOSITION OF CIVIL MONETARY PENALTIES.—

(1) IN GENERAL.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) in paragraphs (1) and (2), by inserting ''knowingly'' before ''presents'' each place it appears; and

(B) in paragraph (3), by striking ''gives'' and inserting ''knowingly gives or causes to be given''.

(2) DEFINITION OF STANDARD.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)), as amended by section 231(g)(2), is amended by adding at the end the following new paragraph:

''(7) The term 'should know' means that a person, with respect to information—

''(A) acts in deliberate ignorance of the truth or falsity of the information; or

''(B) acts in reckless disregard of the truth or falsity of the information,

and no proof of specific intent to defraud is required.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to acts or omissions occurring on or after January 1, 1997.

SEC. 233. PENALTY FOR FALSE CERTIFICATION FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1128A(b) (42 U.S.C. 1320a–7a(b)) is amended by adding at the end the following new paragraph:

''(3)(A) Any physician who executes a document described in subparagraph (B) with respect to an individual knowing that all of the requirements referred to in such subparagraph are not met with respect to the individual shall be subject to a civil monetary penalty of not more than the greater of—

''(i) $5,000, or

''(ii) three times the amount of the payments under title XVIII for home health services which are made pursuant to such certification.

''(B) A document described in this subparagraph is any document that certifies, for purposes of title XVIII, that an individual meets the requirements of section 1814(a)(2)(C) or 1835(a)(2)(A) in the case of home health services furnished to the individual.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to certifications made on or after the date of the enactment of this Act.

Subtitle E—Revisions to Criminal Law

SEC. 241. DEFINITIONS RELATING TO FEDERAL HEALTH CARE OFFENSE.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

''§ 24. Definitions relating to Federal health care offense

''(a) As used in this title, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

''(1) section 669, 1035, 1347, or 1518 of this title; or

''(2) section 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of this title, if the violation or conspiracy relates to a health care benefit program.

''(b) As used in this title, the term 'health care benefit program' means any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by inserting after the item relating to section 23 the following new item:

''24. Definitions relating to Federal health care offense.''.

SEC. 242. HEALTH CARE FRAUD.

(a) OFFENSE.—

(1) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''§ 1347. Health care fraud

''Whoever knowingly executes, or attempts to execute, a scheme or artifice—

''(1) to defraud any health care benefit program; or

''(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program,

in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365 of this title), such person shall be fined under this title or imprisoned not more than 20 years, or both; and if the violation results in death, such person shall be fined under this title, or imprisoned for any term of years or for life, or both.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1347. Health care fraud.''.

(b) CRIMINAL FINES DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—The Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act (42 U.S.C. 1395i) an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. 243. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following:

''§ 669. Theft or embezzlement in connection with health care

''(a) Whoever embezzles, steals, or otherwise without authority knowingly converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health care benefit program, shall be fined under this title or imprisoned not more than 10 years, or both; but if the value of such property does not exceed the sum of $100 the defendant shall be fined under this title or imprisoned not more than one year, or both.

''(b) As used in this section, the term 'health care benefit program' has the meaning given such term in section 1347(b) of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

''669. Theft or embezzlement in connection with health care.''.

SEC. 244. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1035. False statements relating to health care matters

''(a) Whoever, in any matter involving a health care benefit program, knowingly—

''(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or

''(2) makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry,

in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) As used in this section, the term 'health care benefit program' has the meaning given such term in section 1347(b) of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following new item:

''1035. False statements relating to health care matters.''.

SEC. 245. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"§ 1518. Obstruction of criminal investigations of health care offenses

''(a) Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a violation of a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new item:

''1518. Obstruction of criminal investigations of health care offenses.''.

SEC. 246. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following:

''(F) Any act or activity constituting an offense involving a Federal health care offense.''.

SEC. 247. INJUNCTIVE RELIEF RELATING TO HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by inserting ''or'' at the end of subparagraph (B); and

(3) by adding at the end the following:

''(C) committing or about to commit a Federal health care offense.''.

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting ''or a Federal health care offense'' after ''title)''.

SEC. 248. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding after section 3485 the following:

"§ 3486. Authorized investigative demand procedures

''(a) AUTHORIZATION.—In any investigation relating to any act or activity involving a Federal health care offense, the Attorney General or the Attorney General's designee may issue in writing and cause to be served a subpoena requiring the production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control. A subpoena shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

''(b) SERVICE.—A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

''(c) ENFORCEMENT.—In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

''(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a summons under this section, who complies in good faith with the summons and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

''(e) LIMITATION ON USE.—(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefor.

''(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

''(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3485 the following new item:

''3486. Authorized investigative demand procedures.''.

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting ''or a Department of Justice subpoena (issued under section 3486 of title 18),'' after ''subpoena''.

SEC. 249. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

''(6) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.''.

(b) CONFORMING AMENDMENT.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting ''or (a)(6)'' after ''(a)(1)''.

(c) PROPERTY FORFEITED DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—After the payment of the costs of asset forfeiture has been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 301(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) COSTS OF ASSET FORFEITURE.—For purposes of paragraph (1), the term ''payment of the costs of asset forfeiture'' means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services;

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

SEC. 250. RELATION TO ERISA AUTHORITY.

Nothing in this subtitle shall be construed as affecting the authority of the Secretary of Labor under section 506(b) of the Employee Retirement Income Security Act of 1974, including the Secretary's authority with respect to violations of title 18, United States Code (as amended by this subtitle).

Subtitle F—Administrative Simplification

SEC. 251. PURPOSE.

It is the purpose of this subtitle to improve the medicare program under title XVIII of the Social Security Act, the medicaid program under title XIX of such Act, and the efficiency and effectiveness of the health care system, by encouraging the development of a health information system through the establishment of standards and requirements for the electronic transmission of certain health information.

SEC. 252. ADMINISTRATIVE SIMPLIFICATION.

(a) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.) is amended by adding at the end the following:

''PART C—ADMINISTRATIVE SIMPLIFICATION

''DEFINITIONS

''SEC. 1171. For purposes of this part:

''(1) CLEARINGHOUSE.—The term 'clearinghouse' means a public or private entity that processes or facilitates the processing of nonstandard data elements of health information into standard data elements.

''(2) CODE SET.—The term 'code set' means any set of codes used for encoding data elements, such as tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes.

''(3) HEALTH CARE PROVIDER.—The term 'health care provider' includes a provider of services (as defined in section 1861(u)), a provider of medical or other health services (as defined in section 1861(s)), and any other person furnishing health care services or supplies.

''(4) HEALTH INFORMATION.—The term 'health information' means any information, whether oral or recorded in any form or medium that—

''(A) is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or clearinghouse; and

''(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

''(5) HEALTH PLAN.—The term 'health plan' means a plan which provides, or pays the cost of, health benefits. Such term includes the following, and any combination thereof:

''(A) Part A or part B of the medicare program under title XVIII.

''(B) The medicaid program under title XIX.

''(C) A medicare supplemental policy (as defined in section 1882(g)(1)).

''(D) A long-term care policy, including a nursing home fixed indemnity policy (unless the Secretary determines that such a policy does not provide sufficiently comprehensive coverage of a benefit so that the policy should be treated as a health plan).

''(E) Health benefits of an employee welfare benefit plan, as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), but only to the extent the plan is established or maintained for the purpose of providing health benefits and has 50 or more participants (as defined in section 3(7) of such Act).

''(F) An employee welfare benefit plan or any other arrangement which is established or maintained for the purpose of offering or providing health benefits to the employees of 2 or more employers.

''(G) The health care program for active military personnel under title 10, United States Code.

''(H) The veterans health care program under chapter 17 of title 38, United States Code.

''(I) The Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), as defined in section 1073(4) of title 10, United States Code.

''(J) The Indian health service program under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

''(K) The Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code.

''(6) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term 'individually identifiable health information' means any information, including demographic information collected from an individual, that—

''(A) is created or received by a health care provider, health plan, employer, or clearinghouse; and

''(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, and—

''(i) identifies the individual; or

''(ii) with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

''(7) STANDARD.—The term 'standard', when used with reference to a data element of health information or a transaction referred to in section 1173(a)(1), means any such data element or transaction that meets each of the standards and implementation specifications adopted or established by the Secretary with respect to the data element or transaction under sections 1172 through 1174.

''(8) STANDARD SETTING ORGANIZATION.—The term 'standard setting organization' means a standard setting organization accredited by the American National Standards Institute, including the National Council for Prescription Drug Programs, that develops standards for information transactions, data elements, or any other standard that is necessary to, or will facilitate, the implementation of this part.

''GENERAL REQUIREMENTS FOR ADOPTION OF STANDARDS

''SEC. 1172. (a) APPLICABILITY.—Any standard adopted under this part shall apply, in whole or in part, to the following persons:

''(1) An health plan.

''(2) A clearinghouse.

''(3) A health care provider who transmits any health information in electronic form in connection with a transaction referred to in section 1173(a)(1).

''(b) REDUCTION OF COSTS.—Any standard adopted under this part shall be consistent with the objective of reducing the administrative costs of providing and paying for health care.

''(c) ROLE OF STANDARD SETTING ORGANIZATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), any standard adopted under this part shall be a standard that has been developed, adopted, or modified by a standard setting organization.

''(2) SPECIAL RULES.—

''(A) DIFFERENT STANDARDS.—The Secretary may adopt a standard that is different from any standard developed, adopted, or modified by a standard setting organization, if—

''(i) the different standard will substantially reduce administrative costs to health care providers and health plans compared to the alternatives; and

''(ii) the standard is promulgated in accordance with the rulemaking procedures of subchapter III of chapter 5 of title 5, United States Code.

''(B) NO STANDARD BY STANDARD SETTING ORGANIZATION.—If no standard setting organization has developed, adopted, or modified any standard relating to a standard that the Secretary is authorized or required to adopt under this part—

''(i) paragraph (1) shall not apply; and

''(ii) subsection (f) shall apply.

''(d) IMPLEMENTATION SPECIFICATIONS.—The Secretary shall establish specifications for implementing each of the standards adopted under this part.

''(e) PROTECTION OF TRADE SECRETS.—Except as otherwise required by law, a standard adopted under this part shall not require disclosure of trade secrets or confidential commercial information by a person required to comply with this part.

''(f) ASSISTANCE TO THE SECRETARY.—In complying with the requirements of this part, the Secretary shall rely on the recommendations of the National Committee on Vital and Health Statistics established under section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k)) and shall consult with appropriate Federal and State agencies and private organizations. The Secretary shall publish in the Federal Register any recommendation of the National Committee on Vital and Health Statistics regarding the adoption of a standard under this part.

''(g) APPLICATION TO MODIFICATIONS OF STANDARDS.—This section shall apply to a modification to a standard (including an addition to a standard) adopted under section 1174(b) in the same manner as it applies to an initial standard adopted under section 1174(a).

''STANDARDS FOR INFORMATION TRANSACTIONS AND DATA ELEMENTS

''SEC. 1173. (a) STANDARDS TO ENABLE ELECTRONIC EXCHANGE.—

''(1) IN GENERAL.—The Secretary shall adopt standards for transactions, and data elements for such transactions, to enable health information to be exchanged electronically, that are appropriate for—

''(A) the financial and administrative transactions described in paragraph (2); and

''(B) other financial and administrative transactions determined appropriate by the Secretary consistent with the goals of improving the operation of the health care system and reducing administrative costs.

''(2) TRANSACTIONS.—The transactions referred to in paragraph (1)(A) are the following:

''(A) Claims (including coordination of benefits) or equivalent encounter information.

''(B) Claims attachments.

''(C) Enrollment and disenrollment.

''(D) Eligibility.

''(E) Health care payment and remittance advice.

''(F) Premium payments.

''(G) First report of injury.

''(H) Claims status.

''(I) Referral certification and authorization.

''(3) ACCOMMODATION OF SPECIFIC PROVIDERS.—The standards adopted by the Secretary under paragraph (1) shall accommodate the needs of different types of health care providers.

''(b) UNIQUE HEALTH IDENTIFIERS.—

''(1) IN GENERAL.—The Secretary shall adopt standards providing for a standard unique health identifier for each individual, employer, health plan, and health care provider for use in the health care system. In carrying out the preceding sentence for each health plan and health care provider, the Secretary shall take into account multiple uses for identifiers and multiple locations and specialty classifications for health care providers.

''(2) USE OF IDENTIFIERS.—The standards adopted under paragraphs (1) shall specify the purposes for which a unique health identifier may be used.

''(c) CODE SETS.—

''(1) IN GENERAL.—The Secretary shall adopt standards that—

''(A) select code sets for appropriate data elements for the transactions referred to in

subsection (a)(1) from among the code sets that have been developed by private and public entities; or

''(B) establish code sets for such data elements if no code sets for the data elements have been developed.

''(2) DISTRIBUTION.—The Secretary shall establish efficient and low-cost procedures for distribution (including electronic distribution) of code sets and modifications made to such code sets under section 1174(b).

''(d) SECURITY STANDARDS FOR HEALTH INFORMATION.—

''(1) SECURITY STANDARDS.—The Secretary shall adopt security standards that—

''(A) take into account—

''(i) the technical capabilities of record systems used to maintain health information;

''(ii) the costs of security measures;

''(iii) the need for training persons who have access to health information;

''(iv) the value of audit trails in computerized record systems; and

''(v) the needs and capabilities of small health care providers and rural health care providers (as such providers are defined by the Secretary); and

''(B) ensure that a clearinghouse, if it is part of a larger organization, has policies and security procedures which isolate the activities of the clearinghouse with respect to processing information in a manner that prevents unauthorized access to such information by such larger organization.

''(2) SAFEGUARDS.—Each person described in section 1172(a) who maintains or transmits health information shall maintain reasonable and appropriate administrative, technical, and physical safeguards—

''(A) to ensure the integrity and confidentiality of the information;

''(B) to protect against any reasonably anticipated—

''(i) threats or hazards to the security or integrity of the information; and

''(ii) unauthorized uses or disclosures of the information; and

''(C) otherwise to ensure compliance with this part by the officers and employees of such person.

''(e) PRIVACY STANDARDS FOR HEALTH INFORMATION.—The Secretary shall adopt standards with respect to the privacy of individually identifiable health information transmitted in connection with the transactions referred to in subsection (a)(1). Such standards shall include standards concerning at least the following:

''(1) The rights of an individual who is a subject of such information.

''(2) The procedures to be established for the exercise of such rights.

''(3) The uses and disclosures of such information that are authorized or required.

''(f) ELECTRONIC SIGNATURE.—

''(1) IN GENERAL.—

''(A) STANDARDS.—The Secretary, in coordination with the Secretary of Commerce, shall adopt standards specifying procedures for the electronic transmission and authentication of signatures with respect to the transactions referred to in subsection (a)(1).

''(B) EFFECT OF COMPLIANCE.—Compliance with the standards adopted under subparagraph (A) shall be deemed to satisfy Federal and State statutory requirements for written signatures with respect to the transactions referred to in subsection (a)(1).

''(2) PAYMENTS FOR SERVICES AND PREMIUMS.—Nothing in this part shall be construed to prohibit payment for health care services or health plan premiums by debit, credit, payment card or numbers, or other electronic means.

''(g) TRANSFER OF INFORMATION AMONG HEALTH PLANS.—The Secretary shall adopt standards for transferring among health plans appropriate standard data elements needed for the coordination of benefits, the sequential processing of claims, and other data elements for individuals who have more than one health plan.

''TIMETABLES FOR ADOPTION OF STANDARDS

''SEC. 1174. (a) INITIAL STANDARDS.—The Secretary shall carry out section 1173 not later than 18 months after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, except that standards relating to claims attachments shall be adopted not later than 30 months after such date.

''(b) ADDITIONS AND MODIFICATIONS TO STANDARDS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall review the standards adopted under section 1173, and shall adopt modifications to the standards (including additions to the standards), as determined appropriate, but not more frequently than once every 6 months. Any addition or modification to a standard shall be completed in a manner which minimizes the disruption and cost of compliance.

''(2) SPECIAL RULES.—

''(A) FIRST 12-MONTH PERIOD.—Except with respect to additions and modifications to code sets under subparagraph (B), the Secretary may not adopt any modification to a standard adopted under this part during the 12-month period beginning on the date the standard is initially adopted, unless the Secretary determines that the modification is necessary in order to permit compliance with the standard.

''(B) ADDITIONS AND MODIFICATIONS TO CODE SETS.—

''(i) IN GENERAL.—The Secretary shall ensure that procedures exist for the routine maintenance, testing, enhancement, and expansion of code sets.

''(ii) ADDITIONAL RULES.—If a code set is modified under this subsection, the modified code set shall include instructions on how data elements of health information that were encoded prior to the modification may be converted or translated so as to preserve the informational value of the data elements that existed before the modification. Any modification to a code set under this subsection shall be implemented in a manner that minimizes the disruption and cost of complying with such modification.

''REQUIREMENTS

''SEC. 1175. (a) CONDUCT OF TRANSACTIONS BY PLANS.—

''(1) IN GENERAL.—If a person desires to conduct a transaction referred to in section 1173(a)(1) with a health plan as a standard transaction—

''(A) the health plan may not refuse to conduct such transaction as a standard transaction;

''(B) the health plan may not delay such transaction, or otherwise adversely affect, or attempt to adversely affect, the person or the transaction on the ground that the transaction is a standard transaction; and

''(C) the information transmitted and received in connection with the transaction shall be in the form of standard data elements of health information.

''(2) SATISFACTION OF REQUIREMENTS.—A health plan may satisfy the requirements under paragraph (1) by—

''(A) directly transmitting and receiving standard data elements of health information; or

''(B) submitting nonstandard data elements to a clearinghouse for processing into standard data elements and transmission by the clearinghouse, and receiving standard data elements through the clearinghouse.

''(3) TIMETABLE FOR COMPLIANCE.—Paragraph (1) shall not be construed to require a health plan to comply with any standard, implementation specification, or modification to a standard or specification adopted or established by the Secretary under sections 1172 through 1174 at any time prior to the date on which the plan is required to comply with the standard or specification under subsection (b).

''(b) COMPLIANCE WITH STANDARDS.—

''(1) INITIAL COMPLIANCE.—

''(A) IN GENERAL.—Not later than 24 months after the date on which an initial standard or implementation specification is adopted or established under sections 1172 and 1173, each person to whom the standard or implementation specification applies shall comply with the standard or specification.

''(B) SPECIAL RULE FOR SMALL HEALTH PLANS.—In the case of a small health plan, paragraph (1) shall be applied by substituting '36 months' for '24 months'. For purposes of this subsection, the Secretary shall determine the plans that qualify as small health plans.

''(2) COMPLIANCE WITH MODIFIED STANDARDS.—If the Secretary adopts a modification to a standard or implementation specification under this part, each person to whom the standard or implementation specification applies shall comply with the modified standard or implementation specification at such time as the Secretary determines appropriate, taking into account the time needed to comply due to the nature and extent of the modification. The time determined appropriate under the preceding sentence may not be earlier than the last day of the 180-day period beginning on the date such modification is adopted. The Secretary may extend the time for compliance for small insurance plans, if the Secretary determines that such extension is appropriate.

''GENERAL PENALTY FOR FAILURE TO COMPLY WITH REQUIREMENTS AND STANDARDS

''SEC. 1176. (a) GENERAL PENALTY.—

''(1) IN GENERAL.—Except as provided in subsection (b), the Secretary shall impose on any person who violates a provision of this part a penalty of not more than $100 for each such violation, except that the total amount imposed on the person for all violations of an identical requirement or prohibition during a calendar year may not exceed $25,000.

''(2) PROCEDURES.—The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil money penalty under this subsection in the same manner as such provisions apply to the imposition of a penalty under such section 1128A.

''(b) LIMITATIONS.—

''(1) OFFENSES OTHERWISE PUNISHABLE.—A penalty may not be imposed under subsection (a) with respect to an act if the act constitutes an offense punishable under section 1177.

''(2) NONCOMPLIANCE NOT DISCOVERED.—A penalty may not be imposed under subsection (a) with respect to a provision of this part if it is established to the satisfaction of the Secretary that the person liable for the penalty did not know, and by exercising reasonable diligence would not have known, that such person violated the provision.

''(3) FAILURES DUE TO REASONABLE CAUSE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a penalty may not be imposed under subsection (a) if—

''(i) the failure to comply was due to reasonable cause and not to willful neglect; and

''(ii) the failure to comply is corrected during the 30-day period beginning on the first date the person liable for the penalty knew, or by exercising reasonable diligence would have known, that the failure to comply occurred.

''(B) EXTENSION OF PERIOD.—

''(i) NO PENALTY.—The period referred to in subparagraph (A)(ii) may be extended as de-

termined appropriate by the Secretary based on the nature and extent of the failure to comply.

''(ii) ASSISTANCE.—If the Secretary determines that a person failed to comply because the person was unable to comply, the Secretary may provide technical assistance to the person during the period described in subparagraph (A)(ii). Such assistance shall be provided in any manner determined appropriate by the Secretary.

''(4) REDUCTION.—In the case of a failure to comply which is due to reasonable cause and not to willful neglect, any penalty under subsection (a) that is not entirely waived under paragraph (3) may be waived to the extent that the payment of such penalty would be excessive relative to the compliance failure involved.

''WRONGFUL DISCLOSURE OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION

''SEC. 1177. (a) OFFENSE.—A person who knowingly and in violation of this part—

''(1) uses or causes to be used a unique health identifier;

''(2) obtains individually identifiable health information relating to an individual; or

''(3) discloses individually identifiable health information to another person,

shall be punished as provided in subsection (b).

''(b) PENALTIES.—A person described in subsection (a) shall—

''(1) be fined not more than $50,000, imprisoned not more than 1 year, or both;

''(2) if the offense is committed under false pretenses, be fined not more than $100,000, imprisoned not more than 5 years, or both; and

''(3) if the offense is committed with intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm, fined not more than $250,000, imprisoned not more than 10 years, or both.

''EFFECT ON STATE LAW

''SEC. 1178. (a) GENERAL EFFECT.—

''(1) GENERAL RULE.—Except as provided in paragraph (2), a provision or requirement under this part, or a standard or implementation specification adopted or established under sections 1172 through 1174, shall supersede any contrary provision of State law, including a provision of State law that requires medical or health plan records (including billing information) to be maintained or transmitted in written rather than electronic form.

''(2) EXCEPTIONS.—A provision or requirement under this part, or a standard or implementation specification adopted or established under sections 1172 through 1174, shall not supersede a contrary provision of State law, if the provision of State law—

''(A) imposes requirements, standards, or implementation specifications that are more stringent than the requirements, standards, or implementation specifications under this part with respect to the privacy of individually identifiable health information; or

''(B) is a provision the Secretary determines—

''(i) is necessary to prevent fraud and abuse, or for other purposes; or

''(ii) addresses controlled substances.

''(b) PUBLIC HEALTH REPORTING.—Nothing in this part shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.''.

(b) CONFORMING AMENDMENTS.—

(1) REQUIREMENT FOR MEDICARE PROVIDERS.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)) is amended—

(A) by striking ''and'' at the end of subparagraph (P);

(B) by striking the period at the end of subparagraph (Q) and inserting ''; and''; and

(C) by inserting immediately after subparagraph (Q) the following new subparagraph:

''(R) to contract only with a clearinghouse (as defined in section 1171) that meets each standard and implementation specification adopted or established under part C of title XI on or after the date on which the clearinghouse is required to comply with the standard or specification.''.

(2) TITLE HEADING.—Title XI (42 U.S.C. 1301 et seq.) is amended by striking the title heading and inserting the following:

''TITLE XI—GENERAL PROVISIONS, PEER REVIEW, AND ADMINISTRATIVE SIMPLIFICATION''.

SEC. 253. CHANGES IN MEMBERSHIP AND DUTIES OF NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS.

Section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k)) is amended—

(1) in paragraph (1), by striking ''16'' and inserting ''18'';

(2) by amending paragraph (2) to read as follows:

''(2) The members of the Committee shall be appointed from among persons who have distinguished themselves in the fields of health statistics, electronic interchange of health care information, privacy and security of electronic information, population-based public health, purchasing or financing health care services, integrated computerized health information systems, health services research, consumer interests in health information, health data standards, epidemiology, and the provision of health services. Members of the Committee shall be appointed for terms of 4 years.'';

(3) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and inserting after paragraph (2) the following:

''(3) Of the members of the Committee—

''(A) 1 shall be appointed, not later than 60 days after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, by the Speaker of the House of Representatives after consultation with the minority leader of the House of Representatives;

''(B) 1 shall be appointed, not later than 60 days after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, by the President pro tempore of the Senate after consultation with the minority leader of the Senate; and

''(C) 16 shall be appointed by the Secretary.'';

(4) by amending paragraph (5) (as so redesignated) to read as follows:

''(5) The Committee—

''(A) shall assist and advise the Secretary—

''(i) to delineate statistical problems bearing on health and health services which are of national or international interest;

''(ii) to stimulate studies of such problems by other organizations and agencies whenever possible or to make investigations of such problems through subcommittees;

''(iii) to determine, approve, and revise the terms, definitions, classifications, and guidelines for assessing health status and health services, their distribution and costs, for use (I) within the Department of Health and Human Services, (II) by all programs administered or funded by the Secretary, including the Federal-State-local cooperative health statistics system referred to in subsection (e), and (III) to the extent possible as determined by the head of the agency involved, by the Department of Veterans Affairs, the Department of Defense, and other Federal agencies concerned with health and health services;

''(iv) with respect to the design of and approval of health statistical and health information systems concerned with the collection, processing, and tabulation of health statistics within the Department of Health and Human Services, with respect to the Cooperative Health Statistics System established under subsection (e), and with respect to the standardized means for the collection of health information and statistics to be established by the Secretary under subsection (j)(1);

''(v) to review and comment on findings and proposals developed by other organizations and agencies and to make recommendations for their adoption or implementation by local, State, national, or international agencies;

''(vi) to cooperate with national committees of other countries and with the World Health Organization and other national agencies in the studies of problems of mutual interest;

''(vii) to issue an annual report on the state of the Nation's health, its health services, their costs and distributions, and to make proposals for improvement of the Nation's health statistics and health information systems; and

''(viii) in complying with the requirements imposed on the Secretary under part C of title XI of the Social Security Act;

''(B) shall study the issues related to the adoption of uniform data standards for patient medical record information and the electronic exchange of such information;

''(C) shall report to the Secretary not later than 4 years after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996 recommendations and legislative proposals for such standards and electronic exchange; and

''(D) shall be responsible generally for advising the Secretary and the Congress on the status of the implementation of part C of title XI of the Social Security Act.''; and

(5) by adding at the end the following:

''(7) Not later than 1 year after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, and annually thereafter, the Committee shall submit to the Congress, and make public, a report regarding—

''(A) the extent to which persons required to comply with part C of title XI of the Social Security Act are cooperating in implementing the standards adopted under such part;

''(B) the extent to which such entities are meeting the privacy and security standards adopted under such part and the types of penalties assessed for noncompliance with such standards;

''(C) whether the Federal and State Governments are receiving information of sufficient quality to meet their responsibilities under such part;

''(D) any problems that exist with respect to implementation of such part; and

''(E) the extent to which timetables under such part are being met.''.

Subtitle G—Duplication and Coordination of Medicare-Related Plans

SEC. 261. DUPLICATION AND COORDINATION OF MEDICARE-RELATED PLANS.

(a) TREATMENT OF CERTAIN HEALTH INSURANCE POLICIES AS NONDUPLICATIVE.—Effective as if included in the enactment of section 4354 of the Omnibus Budget Reconciliation Act of 1990, section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(1) in clause (iii), by striking ''clause (i)'' and inserting ''clause (i)(II)''; and

(2) by adding at the end the following:

''(iv) For purposes of this subparagraph, a health insurance policy providing for benefits which are payable to or on behalf of an individual without regard to other health

benefit coverage of such individual is not considered to 'duplicate' any health benefits under this title, under title XIX, or under a health insurance policy, and subclauses (I) and (III) of clause (i) does not apply to such a policy.

''(v)(I) For purposes of this subparagraph, a health insurance policy (or a rider to an insurance contract which is not a health insurance policy), providing benefits for long-term care, nursing home care, home health care, or community-based care and that coordinates against or excludes items and services available or paid for under this title and (for policies sold or issued on or after 90 days after the date of enactment of this clause) that discloses such coordination or exclusion in the policy's outline of coverage, is not considered to 'duplicate' health benefits under this title.

''(II) For purposes of this subparagraph, a health insurance policy (which may be a contract with a health maintenance organization) that is a replacement product for another health insurance policy that is being terminated by the issuer, that is being provided to an individual entitled to benefits under part A on the basis of section 226(b), and that coordinates against or excludes items and services available or paid for under this title is not considered to 'duplicate' health benefits under this title.

''(III) For purposes of this clause, the terms 'coordinates' and 'coordination' mean, with respect to a policy in relation to health benefits under this title, that the policy under its terms is secondary to, or excludes from payment, items and services to the extent available or paid for under this title.

''(vi) Notwithstanding any other provision of law, no criminal or civil penalty may be imposed at any time under this subparagraph and no legal action may be brought or continued at any time in any Federal or State court if the penalty or action is based on an act or omission that occurred after November 5, 1991, and before the date of the enactment of this clause, and relates to the sale, issuance, or renewal of any health insurance policy or rider during such period, if such policy or rider meets the nonduplication requirements of clause (iv) or (v).

''(vii) A State may not impose, in the case of the sale, issuance, or renewal of a health insurance policy (other than a medicare supplemental policy) or rider to an insurance contract which is not a health insurance policy, that meets the nonduplication requirements of this section pursuant to clause (iv) or (v) to an individual entitled to benefits under part A or enrolled under part B, any requirement relating to any duplication (or nonduplication) of health benefits under such policy or rider with health benefits to which the individual is otherwise entitled to under this title.''.

(b) CONFORMING AMENDMENTS.—Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended—

(1) in subparagraph (C)—

(A) by striking ''with respect to (i)'' and inserting ''with respect to'', and

(B) by striking '', (ii) the sale'' and all that follows up to the period at the end; and

(2) by striking subparagraph (D).

Subtitle H—Medical Liability Reform

PART 1—GENERAL PROVISIONS

SEC. 271. FEDERAL REFORM OF HEALTH CARE LIABILITY ACTIONS.

(a) APPLICABILITY.—This subtitle shall apply with respect to any health care liability action brought in any State or Federal court, except that this subtitle shall not apply to—

(1) an action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the action, or

(2) an action under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(b) PREEMPTION.—This subtitle shall preempt any State law to the extent such law is inconsistent with the limitations contained in this subtitle. This subtitle shall not preempt any State law that provides for defenses or places limitations on a person's liability in addition to those contained in this subtitle or otherwise imposes greater restrictions than those provided in this subtitle.

(c) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in subsection (b) shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(d) AMOUNT IN CONTROVERSY.—In an action to which this subtitle applies and which is brought under section 1332 of title 28, United States Code, the amount of noneconomic damages or punitive damages, and attorneys' fees or costs, shall not be included in determining whether the matter in controversy exceeds the sum or value of $50,000.

(e) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this subtitle shall be construed to establish any jurisdiction in the district courts of the United States over health care liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

SEC. 272. DEFINITIONS.

As used in this subtitle:

(1) ACTUAL DAMAGES.—The term ''actual damages'' means damages awarded to pay for economic loss.

(2) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term ''alternative dispute resolution system'' or ''ADR'' means a system established under Federal or State law that provides for the resolution of health care liability claims in a manner other than through health care liability actions.

(3) CLAIMANT.—The term ''claimant'' means any person who brings a health care liability action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(4) CLEAR AND CONVINCING EVIDENCE.—The term ''clear and convincing evidence'' is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. Such measure or degree of proof is more than that required under preponderance of the evidence but less than that required for proof beyond a reasonable doubt.

(5) COLLATERAL SOURCE PAYMENTS.—The term ''collateral source payments'' means any amount paid or reasonably likely to be paid in the future to or on behalf of a claimant, or any service, product, or other benefit provided or reasonably likely to be provided in the future to or on behalf of a claimant, as a result of an injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident or workers' compensation Act;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(6) DRUG.—The term ''drug'' has the meaning given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(7) ECONOMIC LOSS.—The term ''economic loss'' means any pecuniary loss resulting from injury (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent recovery for such loss is allowed under applicable State law.

(8) HARM.—The term ''harm'' means any legally cognizable wrong or injury for which punitive damages may be imposed.

(9) HEALTH BENEFIT PLAN.—The term ''health benefit plan'' means—

(A) a hospital or medical expense incurred policy or certificate,

(B) a hospital or medical service plan contract,

(C) a health maintenance subscriber contract,

(D) a multiple employer welfare arrangement or employee benefit plan (as defined under the Employee Retirement Income Security Act of 1974), or

(E) a MedicarePlus product (offered under part C of title XVIII of the Social Security Act),

that provides benefits with respect to health care services.

(10) HEALTH CARE LIABILITY ACTION.—The term ''health care liability action'' means a civil action brought in a State or Federal court against a health care provider, an entity which is obligated to provide or pay for health benefits under any health benefit plan (including any person or entity acting under a contract or arrangement to provide or administer any health benefit), or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, in which the claimant alleges a claim (including third party claims, cross claims, counter claims, or distribution claims) based upon the provision of (or the failure to provide or pay for) health care services or the use of a medical product, regardless of the theory of liability on which the claim is based or the number of plaintiffs, defendants, or causes of action.

(11) HEALTH CARE LIABILITY CLAIM.—The term ''health care liability claim'' means a claim in which the claimant alleges that injury was caused by the provision of (or the failure to provide) health care services.

(12) HEALTH CARE PROVIDER.—The term ''health care provider'' means any person that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(13) HEALTH CARE SERVICE.—The term ''health care service'' means any service for which payment may be made under a health benefit plan including services related to the delivery or administration of such service.

(14) MEDICAL DEVICE.—The term ''medical device'' has the meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(15) NONECONOMIC DAMAGES.—The term ''noneconomic damages'' means damages paid to an individual for pain and suffering, inconvenience, emotional distress, mental anguish, loss of consortium, injury to rep-

utation, humiliation, and other nonpecuniary losses.

(16) PERSON.—The term ''person'' means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(17) PRODUCT SELLER.—The term ''product seller'' means a person who, in the course of a business conducted for that purpose, sells, distributes, rents, leases, prepares, blends, packages, labels a product, is otherwise involved in placing a product in the stream of commerce, or installs, repairs, or maintains the harm-causing aspect of a product. The term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; or

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

(18) PUNITIVE DAMAGES.—The term ''punitive damages'' means damages awarded against any person not to compensate for actual injury suffered, but to punish or deter such person or others from engaging in similar behavior in the future.

(19) STATE.—The term ''State'' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 273. EFFECTIVE DATE.

This subtitle will apply to any health care liability action brought in a Federal or State court and to any health care liability claim subject to an alternative dispute resolution system, that is initiated on or after the date of enactment of this subtitle, except that any health care liability claim or action arising from an injury occurring prior to the date of enactment of this subtitle shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

PART 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS

SEC. 281. STATUTE OF LIMITATIONS.

A health care liability action may not be brought after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of the action was discovered or should reasonably have been discovered, but in no case after the expiration of the 5-year period that begins on the date the alleged injury occurred.

SEC. 282. CALCULATION AND PAYMENT OF DAMAGES.

(a) TREATMENT OF NONECONOMIC DAMAGES.—

(1) LIMITATION ON NONECONOMIC DAMAGES.—The total amount of noneconomic damages that may be awarded to a claimant for losses resulting from the injury which is the subject of a health care liability action may not exceed $250,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury.

(2) JOINT AND SEVERAL LIABILITY.—In any health care liability action brought in State or Federal court, a defendant shall be liable only for the amount of noneconomic damages attributable to such defendant in direct proportion to such defendant's share of fault or responsibility for the claimant's actual damages, as determined by the trier of fact. In all such cases, the liability of a defendant for noneconomic damages shall be several and not joint.

(b) TREATMENT OF PUNITIVE DAMAGES.—

(1) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable State law, be awarded in any health care liability action for harm in any Federal or State court against a defendant if the claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct—

(A) specifically intended to cause harm, or

(B) conduct manifesting a conscious, flagrant indifference to the rights or safety of others.

(2) PROPORTIONAL AWARDS.—The amount of punitive damages that may be awarded in any health care liability action subject to this subtitle shall not exceed 3 times the amount of damages awarded to the claimant for economic loss, or $250,000, whichever is greater. This paragraph shall be applied by the court and shall not be disclosed to the jury.

(3) APPLICABILITY.—This subsection shall apply to any health care liability action brought in any Federal or State court on any theory where punitive damages are sought. This subsection does not create a cause of action for punitive damages. This subsection does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages.

(4) BIFURCATION.—At the request of any party, the trier of fact shall consider in a separate proceeding whether punitive damages are to be awarded and the amount of such award. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether actual damages are to be awarded.

(5) DRUGS AND DEVICES.—

(A) IN GENERAL.—(i) Punitive damages shall not be awarded against a manufacturer or product seller of a drug or medical device which caused the claimant's harm where—

(I) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm, or the adequacy of the packaging or labeling of such drug or device which caused the harm, and such drug, device, packaging, or labeling was approved by the Food and Drug Administration; or

(II) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(ii) Clause (i) shall not apply in any case in which the defendant, before or after premarket approval of a drug or device—

(I) intentionally and wrongfully withheld from or misrepresented to the Food and Drug Administration information concerning such drug or device required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and relevant to the harm suffered by the claimant, or

(II) made an illegal payment to an official or employee of the Food and Drug Administration for the purpose of securing or maintaining approval of such drug or device.

(B) PACKAGING.—In a health care liability action for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the court by clear and convincing evidence to be substantially out of compliance with such regulations.

(c) PERIODIC PAYMENTS FOR FUTURE LOSSES.—

(1) GENERAL RULE.—In any health care liability action in which the damages awarded for future economic and noneconomic loss exceeds $50,000, a person shall not be required to pay such damages in a single, lump-sum payment, but shall be permitted to make such payments periodically based on when the damages are found likely to occur, as such payments are determined by the court.

(2) FINALITY OF JUDGMENT.—The judgment of the court awarding periodic payments under this subsection may not, in the absence of fraud, be reopened at any time to contest, amend, or modify the schedule or amount of the payments.

(3) LUMP-SUM SETTLEMENTS.—This subsection shall not be construed to preclude a settlement providing for a single, lump-sum payment.

(d) TREATMENT OF COLLATERAL SOURCE PAYMENTS.—

(1) INTRODUCTION INTO EVIDENCE.—In any health care liability action, any defendant may introduce evidence of collateral source payments. If any defendant elects to introduce such evidence, the claimant may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the claimant to secure the right to such collateral source payments.

(2) NO SUBROGATION.—No provider of collateral source payments shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated the right of the claimant in a health care liability action.

(3) APPLICATION TO SETTLEMENTS.—This subsection shall apply to an action that is settled as well as an action that is resolved by a fact finder.

SEC. 283. ALTERNATIVE DISPUTE RESOLUTION.

Any ADR used to resolve a health care liability action or claim shall contain provisions relating to statute of limitations, noneconomic damages, joint and several liability, punitive damages, collateral source rule, and periodic payments which are identical to the provisions relating to such matters in this subtitle.

TITLE III—TAX-RELATED HEALTH PROVISIONS

SEC. 300. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Medical Savings Accounts

SEC. 301. MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

''SEC. 220. MEDICAL SAVINGS ACCOUNTS.

''(a) DEDUCTION ALLOWED.—In the case of an individual who is an eligible individual for any month during the taxable year, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid in cash during such taxable year by such individual to a medical savings account of such individual.

''(b) LIMITATIONS.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount allow-

able as a deduction under subsection (a) to an individual for the taxable year shall not exceed—

''(A) except as provided in subparagraph (B), the lesser of—

''(i) $2,000, or

''(ii) the annual deductible limit for any individual covered under the high deductible health plan, or

''(B) in the case of a high deductible health plan covering the taxpayer and any other eligible individual who is the spouse or any dependent (as defined in section 152) of the taxpayer, the lesser of—

''(i) $4,000, or

''(ii) the annual limit under the plan on the aggregate amount of deductibles required to be paid by all individuals.

The preceding sentence shall not apply if the spouse of such individual is covered under any other high deductible health plan.

''(2) SPECIAL RULE FOR MARRIED INDIVIDUALS.—

''(A) IN GENERAL.—This subsection shall be applied separately for each married individual.

''(B) SPECIAL RULE.—If individuals who are married to each other are covered under the same high deductible health plan, then the amounts applicable under paragraph (1)(B) shall be divided equally between them unless they agree on a different division.

''(3) COORDINATION WITH EXCLUSION FOR EMPLOYER CONTRIBUTIONS.—No deduction shall be allowed under this section for any amount paid for any taxable year to a medical savings account of an individual if—

''(A) any amount is paid to any medical savings account of such individual which is excludable from gross income under section 106(b) for such year, or

''(B) in a case described in paragraph (2)(B), any amount is paid to any medical savings account of either spouse which is so excludable for such year.

''(4) PRORATION OF LIMITATION.—

''(A) IN GENERAL.—The limitation under paragraph (1) shall be the sum of the monthly limitations for months during the taxable year that the individual is an eligible individual if—

''(i) such individual is not an eligible individual for all months of the taxable year,

''(ii) the deductible under the high deductible health plan covering such individual is not the same throughout such taxable year, or

''(iii) such limitation is determined under paragraph (1)(B) for some but not all months during such taxable year.

''(B) MONTHLY LIMITATION.—The monthly limitation for any month shall be an amount equal to 1/12 of the limitation which would (but for this paragraph and paragraph (3)) be determined under paragraph (1) if the facts and circumstances as of the first day of such month that such individual is covered under a high deductible health plan were true for the entire taxable year.

''(5) DENIAL OF DEDUCTION TO DEPENDENTS.—No deduction shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE INDIVIDUAL.—

''(A) IN GENERAL.—The term 'eligible individual' means, with respect to any month, any individual—

''(i) who is covered under a high deductible health plan as of the 1st day of such month, and

''(ii) who is not, while covered under a high deductible health plan, covered under any health plan—

''(I) which is not a high deductible health plan, and

''(II) which provides coverage for any benefit which is covered under the high deductible health plan.

''(B) CERTAIN COVERAGE DISREGARDED.—Subparagraph (A)(ii) shall be applied without regard to—

''(i) coverage for any benefit provided by permitted insurance, and

''(ii) coverage (whether through insurance or otherwise) for accidents, disability, dental care, vision care, or long-term care.

''(2) HIGH DEDUCTIBLE HEALTH PLAN.—The term 'high deductible health plan' means a health plan which—

''(A) has an annual deductible limit for each individual covered by the plan which is not less than $1,500, and

''(B) has an annual limit on the aggregate amount of deductibles required to be paid with respect to all individuals covered by the plan which is not less than $3,000.

Such term does not include a health plan if substantially all of its coverage is coverage described in paragraph (1)(B). A plan shall not fail to be treated as a high deductible health plan by reason of failing to have a deductible for preventive care if the absence of a deductible for such care is required by State law.

''(3) PERMITTED INSURANCE.—The term 'permitted insurance' means—

''(A) Medicare supplemental insurance,

''(B) insurance if substantially all of the coverage provided under such insurance relates to—

''(i) liabilities incurred under workers' compensation laws,

''(ii) tort liabilities,

''(iii) liabilities relating to ownership or use of property, or

''(iv) such other similar liabilities as the Secretary may specify by regulations,

''(C) insurance for a specified disease or illness, and

''(D) insurance paying a fixed amount per day (or other period) of hospitalization.

''(d) MEDICAL SAVINGS ACCOUNT.—For purposes of this section—

''(1) MEDICAL SAVINGS ACCOUNT.—The term 'medical savings account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

''(A) Except in the case of a rollover contribution described in subsection (f)(5), no contribution will be accepted—

''(i) unless it is in cash, or

''(ii) to the extent such contribution, when added to previous contributions to the trust for the calendar year, exceeds $4,000.

''(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

''(C) No part of the trust assets will be invested in life insurance contracts.

''(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

''(E) The interest of an individual in the balance in his account is nonforfeitable.

''(2) QUALIFIED MEDICAL EXPENSES.—

''(A) IN GENERAL.—The term 'qualified medical expenses' means, with respect to an account holder, amounts paid by such holder for medical care (as defined in section 213(d)) for such individual, the spouse of such individual, and any dependent (as defined in section 152) of such individual, but only to the extent such amounts are not compensated for by insurance or otherwise.

''(B) HEALTH INSURANCE MAY NOT BE PURCHASED FROM ACCOUNT.—

''(i) IN GENERAL.—Subparagraph (A) shall not apply to any payment for insurance.

''(ii) EXCEPTIONS.—Clause (i) shall not apply to any expense for coverage under—

''(I) a health plan during any period of continuation coverage required under any Federal law,

''(II) a qualified long-term care insurance contract (as defined in section 7702B(b)), or

''(III) a health plan during a period in which the individual is receiving unemployment compensation under any Federal or State law.

''(3) ACCOUNT HOLDER.—The term 'account holder' means the individual on whose behalf the medical savings account was established.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the following rules shall apply for purposes of this section:

''(A) Section 219(d)(2) (relating to no deduction for rollovers).

''(B) Section 219(f)(3) (relating to time when contributions deemed made).

''(C) Except as provided in section 106(b), section 219(f)(5) (relating to employer payments).

''(D) Section 408(g) (relating to community property laws).

''(E) Section 408(h) (relating to custodial accounts).

''(e) TAX TREATMENT OF ACCOUNTS.—

''(1) IN GENERAL.—A medical savings account is exempt from taxation under this subtitle unless such account has ceased to be a medical savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

''(2) ACCOUNT TERMINATIONS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to medical savings accounts, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

''(f) TAX TREATMENT OF DISTRIBUTIONS.—

''(1) AMOUNTS USED FOR QUALIFIED MEDICAL EXPENSES.—

''(A) IN GENERAL.—Any amount paid or distributed out of a medical savings account which is used exclusively to pay qualified medical expenses of any account holder (or any spouse or dependent of the holder) shall not be includible in gross income.

''(B) TREATMENT AFTER DEATH OF ACCOUNT HOLDER.—

''(i) TREATMENT IF HOLDER IS SPOUSE.—If, after the death of the account holder, the account holder's interest is payable to (or for the benefit of) the holder's spouse, the medical savings account shall be treated as if the spouse were the account holder.

''(ii) TREATMENT IF DESIGNATED HOLDER IS NOT SPOUSE.—In the case of an account holder's interest in a medical savings account which is payable to (or for the benefit of) any person other than such holder's spouse upon the death of such holder—

''(I) such account shall cease to be a medical savings account as of the date of death, and

''(II) an amount equal to the fair market value of the assets in such account on such date shall be includible if such person is not the estate of such holder, in such person's gross income for the taxable year which includes such date, or if such person is the estate of such holder, in such holder's gross income for the last taxable year of such holder.

''(2) INCLUSION OF AMOUNTS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

''(A) IN GENERAL.—Any amount paid or distributed out of a medical savings account which is not used exclusively to pay the

qualified medical expenses of the account holder or of the spouse or dependents of such holder shall be included in the gross income of such holder.

''(B) SPECIAL RULES.—For purposes of subparagraph (A)—

''(i) all medical savings accounts of the account holder shall be treated as 1 account,

''(ii) all payments and distributions during any taxable year shall be treated as 1 distribution, and

''(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

''(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—If the aggregate contributions (other than rollover contributions) for a taxable year to the medical savings accounts of an individual exceed the amount allowable as a deduction under this section for such contributions, paragraph (2) shall not apply to distributions from such accounts (in an amount not greater than such excess) if—

''(A) such distribution is received by the individual on or before the last day prescribed by law (including extensions of time) for filing such individual's return for such taxable year, and

''(B) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (B) shall be included in the gross income of the individual for the taxable year in which it is received.

''(4) PENALTY FOR DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

''(A) IN GENERAL.—The tax imposed by this chapter on the account holder for any taxable year in which there is a payment or distribution from a medical savings account of such holder which is includible in gross income under paragraph (2) shall be increased by 10 percent of the amount which is so includible.

''(B) EXCEPTION FOR DISABILITY OR DEATH.—Subparagraph (A) shall not apply if the payment or distribution is made after the account holder becomes disabled within the meaning of section 72(m)(7) or dies.

''(C) EXCEPTION FOR DISTRIBUTIONS AFTER AGE 59½.—Subparagraph (A) shall not apply to any payment or distribution after the date on which the account holder attains age 59½.

''(5) ROLLOVER CONTRIBUTION.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

''(A) IN GENERAL.—Paragraph (2) shall not apply to any amount paid or distributed from a medical savings account to the account holder to the extent the amount received is paid into a medical savings account for the benefit of such holder not later than the 60th day after the day on which the holder receives the payment or distribution.

''(B) LIMITATION.—This paragraph shall not apply to any amount described in subparagraph (A) received by an individual from a medical savings account if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in subparagraph (A) from a medical savings account which was not includible in the individual's gross income because of the application of this paragraph.

''(6) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of determining the amount of the deduction under section 213, any payment or distribution out of a medical savings account for qualified medical expenses shall not be treated as an expense paid for medical care.

''(7) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual's interest in a medical savings account to an individual's spouse or former spouse under a divorce or separation instrument described in subparagraph (A) of section 71(b)(2) shall not be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest shall, after such transfer, be treated as a medical savings account with respect to which the spouse is the account holder.

''(g) COST-OF-LIVING ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount in subsection (b)(1), (c)(2), or (d)(1)(A) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the medical care cost adjustment for such calendar year.

If any increase under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

''(2) MEDICAL CARE COST ADJUSTMENT.—For purposes of paragraph (1), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

''(A) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

''(B) such component for August of 1996.

''(h) REPORTS.—The Secretary may require the trustee of a medical savings account to make such reports regarding such account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the Secretary determines appropriate. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.''

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

''(16) MEDICAL SAVINGS ACCOUNTS.—The deduction allowed by section 220.''

(c) EXCLUSIONS FOR EMPLOYER CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

(1) EXCLUSION FROM INCOME TAX.—The text of section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

''(a) GENERAL RULE.—Except as otherwise provided in this section, gross income of an employee does not include employer-provided coverage under an accident or health plan.

''(b) CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

''(1) IN GENERAL.—In the case of an employee who is an eligible individual, gross income does not include amounts contributed by such employee's employer to any medical savings account of such employee.

''(2) COORDINATION WITH DEDUCTION LIMITATION.—The amount excluded from the gross income of an employee under this subsection for any taxable year shall not exceed the limitation under section 220(b)(1) (determined without regard to this subsection) which is applicable to such employee for such taxable year.

''(3) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of any employee solely because the employee may choose between the contributions referred to in paragraph (1) and employer contributions to another health plan of the employer.

''(4) SPECIAL RULE FOR DEDUCTION OF EMPLOYER CONTRIBUTIONS.—Any employer contribution to a medical savings account, if otherwise allowable as a deduction under this chapter, shall be allowed only for the taxable year in which paid.

''(5) DEFINITIONS.—For purposes of this subsection, the terms 'eligible individual' and 'medical savings account' have the respective meanings given to such terms by section 220.''

(2) EXCLUSION FROM EMPLOYMENT TAXES.—

(A) SOCIAL SECURITY TAXES.—

(i) Subsection (a) of section 3121 is amended by striking ''or'' at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ''; or'', and by inserting after paragraph (21) the following new paragraph:

''(22) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b).''

(ii) Subsection (a) of section 209 of the Social Security Act is amended by striking ''or'' at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting ''; or'', and by inserting after paragraph (18) the following new paragraph:

''(19) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b) of the Internal Revenue Code of 1986.''

(B) RAILROAD RETIREMENT TAX.—Subsection (e) of section 3231 is amended by adding at the end the following new paragraph:

''(10) MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS.—The term 'compensation' shall not include any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b).''

(C) UNEMPLOYMENT TAX.—Subsection (b) of section 3306 is amended by striking ''or'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ''; or'', and by inserting after paragraph (16) the following new paragraph:

''(17) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b).''

(D) WITHHOLDING TAX.—Subsection (a) of section 3401 is amended by striking ''or'' at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting ''; or'', and by inserting after paragraph (20) the following new paragraph:

''(21) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b).''

(d) MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS NOT AVAILABLE UNDER CAFETERIA PLANS.—Subsection (f) of section 125 of such Code is amended by inserting ''106(b),'' before ''117''.

(e) EXCLUSION OF MEDICAL SAVINGS ACCOUNTS FROM ESTATE TAX.—Part IV of subchapter A of chapter 11 is amended by adding at the end the following new section:

''SEC. 2057. MEDICAL SAVINGS ACCOUNTS.

''For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any medical savings account (as defined in section 220(d)) included in the gross estate.''

(f) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting ''**MEDICAL SAVINGS ACCOUNTS,**'' after ''**ACCOUNTS,**'' in the heading of such section,

(2) by striking ''or'' at the end of paragraph (1) of subsection (a),

(3) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

''(2) a medical savings account (within the meaning of section 220(d)), or'', and

(4) by adding at the end the following new subsection:

''(d) EXCESS CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—For purposes of this section, in the case of a medical savings accounts (within the meaning of section 220(d)), the term 'excess contributions' means the sum of—

''(1) the amount by which the amount contributed for the taxable year to the accounts (other than rollover contributions described in section 220(f)(5)) exceeds the amount allowable as a deduction under section 220 for such contributions, and

''(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of distributions out of the account included in gross income under section 220(f) (2) or (3) and the excess (if any) of the maximum amount allowable as a deduction under section 220 for the taxable year over the amount contributed to the accounts.

For purposes of this subsection, any contribution which is distributed out of the medical savings account in a distribution to which section 220(f)(3) applies shall be treated as an amount not contributed.''

(g) TAX ON PROHIBITED TRANSACTIONS.—

(1) Section 4975 (relating to tax on prohibited transactions) is amended by adding at the end of subsection (c) the following new paragraph:

''(4) SPECIAL RULE FOR MEDICAL SAVINGS ACCOUNTS.—An individual for whose benefit a medical savings account (within the meaning of section 220(d)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 220(e)(2) to such account.''

(2) Paragraph (1) of section 4975(e) is amended to read as follows:

''(1) PLAN.—For purposes of this section, the term 'plan' means—

''(A) a trust described in section 401(a) which forms a part of a plan, or a plan described in section 403(a), which trust or plan is exempt from tax under section 501(a),

''(B) an individual retirement account described in section 408(a),

''(C) an individual retirement annuity described in section 408(b),

''(D) a medical savings account described in section 220(d), or

''(E) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary to be described in any preceding subparagraph of this paragraph.''

(h) FAILURE TO PROVIDE REPORTS ON MEDICAL SAVINGS ACCOUNTS.—

(1) Subsection (a) of section 6693 (relating to failure to provide reports on individual retirement accounts or annuities) is amended to read as follows:

''(a) REPORTS.—

''(1) IN GENERAL.—If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.

''(2) PROVISIONS.—The provisions referred to in this paragraph are—

''(A) subsections (i) and (l) of section 408 (relating to individual retirement plans), and

''(B) section 220(h) (relating to medical savings accounts).''

(i) EXCEPTION FROM CAPITALIZATION OF POLICY ACQUISITION EXPENSES.—Subparagraph (B) of section 848(e)(1) (defining specified insurance contract) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) any contract which is a medical savings account (as defined in section 220(d)).''.

(j) CLERICAL AMENDMENTS.—

(1) The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following:

''Sec. 220. Medical savings accounts.

''Sec. 221. Cross reference.''

(2) The table of sections for part IV of subchapter A of chapter 11 is amended by adding at the end the following new item:

''Sec. 2057. Medical savings accounts.''

(k) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle B—Increase in Deduction for Health Insurance Costs of Self-Employed Individuals

SEC. 311. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—

''(A) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined under the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
1998	35 percent
1999, 2000, or 2001	40 percent
2002	45 percent
2003 or thereafter	50 percent.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle C—Long-Term Care Services and Contracts

PART I—GENERAL PROVISIONS

SEC. 321. TREATMENT OF LONG-TERM CARE INSURANCE.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by inserting after section 7702A the following new section:

"SEC. 7702B. TREATMENT OF QUALIFIED LONG-TERM CARE INSURANCE.

''(a) IN GENERAL.—For purposes of this title—

''(1) a qualified long-term care insurance contract shall be treated as an accident and health insurance contract,

''(2) amounts (other than policyholder dividends, as defined in section 808, or premium refunds) received under a qualified long-term care insurance contract shall be treated as amounts received for personal injuries and sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 213(d)),

''(3) any plan of an employer providing coverage under a qualified long-term care insurance contract shall be treated as an accident and health plan with respect to such coverage,

''(4) except as provided in subsection (e)(3), amounts paid for a qualified long-term care insurance contract providing the benefits described in subsection (b)(2)(A) shall be treated as payments made for insurance for purposes of section 213(d)(1)(D), and

''(5) a qualified long-term care insurance contract shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

''(b) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—For purposes of this title—

''(1) IN GENERAL.—The term 'qualified long-term care insurance contract' means any insurance contract if—

''(A) the only insurance protection provided under such contract is coverage of qualified long-term care services,

''(B) such contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

''(C) such contract is guaranteed renewable,

''(D) such contract does not provide for a cash surrender value or other money that can be—

''(i) paid, assigned, or pledged as collateral for a loan, or

''(ii) borrowed,

other than as provided in subparagraph (E) or paragraph (2)(C),

''(E) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits, and

''(F) such contract meets the requirements of subsection (f).

''(2) SPECIAL RULES.—

''(A) PER DIEM, ETC. PAYMENTS PERMITTED.—A contract shall not fail to be described in subparagraph (A) or (B) of paragraph (1) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

''(B) SPECIAL RULES RELATING TO MEDICARE.—

''(i) Paragraph (1)(B) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

''(ii) No provision of law shall be construed or applied so as to prohibit the offering of a qualified long-term care insurance contract on the basis that the contract coordinates its benefits with those provided under such title.

''(C) REFUNDS OF PREMIUMS.—Paragraph (1)(E) shall not apply to any refund on the death of the insured, or on a complete surrender or cancellation of the contract, which cannot exceed the aggregate premiums paid under the contract. Any refund on a complete surrender or cancellation of the contract shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

''(c) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services, which—

''(A) are required by a chronically ill individual, and

''(B) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

''(2) CHRONICALLY ILL INDIVIDUAL.—

''(A) IN GENERAL.—The term 'chronically ill individual' means any individual who has been certified by a licensed health care practitioner as—

''(i) being unable to perform (without substantial assistance from another individual)

at least 2 activities of daily living for a period of at least 90 days due to a loss of functional capacity,

''(ii) having a level of disability similar (as determined by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in clause (i), or

''(iii) requiring substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the preceding 12-month period a licensed health care practitioner has certified that such individual meets such requirements.

''(B) ACTIVITIES OF DAILY LIVING.—For purposes of subparagraph (A), each of the following is an activity of daily living:

''(i) Eating.

''(ii) Toileting.

''(iii) Transferring.

''(iv) Bathing.

''(v) Dressing.

''(vi) Continence.

Nothing in this section shall be construed to require a contract to take into account all of the preceding activities of daily living.

''(3) MAINTENANCE OR PERSONAL CARE SERVICES.—The term 'maintenance or personal care services' means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

''(4) LICENSED HEALTH CARE PRACTITIONER.—The term 'licensed health care practitioner' means any physician (as defined in section 1861(r)(1) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

''(d) AGGREGATE PAYMENTS IN EXCESS OF LIMITS.—

''(1) IN GENERAL.—If the aggregate amount of periodic payments under all qualified long-term care insurance contracts with respect to an insured for any period exceeds the dollar amount in effect for such period under paragraph (3), such excess payments shall be treated as made for qualified long-term care services only to the extent of the costs incurred by the payee (not otherwise compensated for by insurance or otherwise) for qualified long-term care services provided during such period for such insured.

''(2) PERIODIC PAYMENTS.—For purposes of paragraph (1), the term 'periodic payment' means any payment (whether on a periodic basis or otherwise) made without regard to the extent of the costs incurred by the payee for qualified long-term care services.

''(3) DOLLAR AMOUNT.—The dollar amount in effect under this subsection shall be $175 per day (or the equivalent amount in the case of payments on another periodic basis).

''(4) INFLATION ADJUSTMENT.—In the case of a calendar year after 1997, the dollar amount contained in paragraph (3) shall be increased at the same time and in the same manner as amounts are increased pursuant to section 213(d)(10).

''(e) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE CONTRACT.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by a rider on or as part of a life insurance contract—

''(1) IN GENERAL.—This section shall apply as if the portion of the contract providing such coverage is a separate contract.

''(2) APPLICATION OF 7702.—Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to a life insurance contract, as of any date—

''(A) by the sum of any charges (but not premium payments) against the life insurance contract's cash surrender value (within the meaning of section 7702(f)(2)(A)) for such coverage made to that date under the contract, less

''(B) any such charges the imposition of which reduces the premiums paid for the contract (within the meaning of section 7702(f)(1)).

''(3) APPLICATION OF SECTION 213.—No deduction shall be allowed under section 213(a) for charges against the life insurance contract's cash surrender value described in paragraph (2), unless such charges are includible in income as a result of the application of section 72(e)(10) and the rider is a qualified long-term care insurance contract under subsection (b).

''(4) PORTION DEFINED.—For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to the coverage under a qualified long-term care insurance contract.''

(b) LONG-TERM CARE INSURANCE NOT PERMITTED UNDER CAFETERIA PLANS OR FLEXIBLE SPENDING ARRANGEMENTS.—

(1) CAFETERIA PLANS.—Section 125(f) is amended by adding at the end the following new sentence: ''Such term shall not include any long-term care insurance contract (as defined in section 4980C).''

(2) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106 (relating to contributions by employer to accident and health plans), as amended by section 301(c), is amended by adding at the end the following new subsection:

''(c) INCLUSION OF LONG-TERM CARE BENEFITS PROVIDED THROUGH FLEXIBLE SPENDING ARRANGEMENTS.—

''(1) IN GENERAL.—Effective on and after January 1, 1997, gross income of an employee shall include employer-provided coverage for qualified long-term care services (as defined in section 7702B(c)) to the extent that such coverage is provided through a flexible spending or similar arrangement.

''(2) FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which—

''(A) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

''(B) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage.''

(c) CONTINUATION COVERAGE EXCISE TAX NOT TO APPLY.—Subsection (f) of section 4980B is amended by adding at the end the following new paragraph:

''(9) CONTINUATION OF LONG-TERM CARE COVERAGE NOT REQUIRED.—A group health plan shall not be treated as failing to meet the requirements of this subsection solely by reason of failing to provide coverage under any qualified long-term care insurance contract (as defined in section 7702B(b)).''

(d) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7702A the following new item:

''Sec. 7702B. Treatment of qualified long-term care insurance.''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued after December 31, 1996.

(2) CONTINUATION OF EXISTING POLICIES.—In the case of any contract issued before January 1, 1997, which met the long-term care insurance requirements of the State in which the contract was sitused at the time the contract was issued—

(A) such contract shall be treated for purposes of the Internal Revenue Code of 1986 as a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), and

(B) services provided under, or reimbursed by, such contract shall be treated for such purposes as qualified long-term care services (as defined in section 7702B(c) of such Code).

(3) EXCHANGES OF EXISTING POLICIES.—If, after the date of enactment of this Act and before January 1, 1998, a contract providing for long-term care insurance coverage is exchanged solely for a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), no gain or loss shall be recognized on the exchange. If, in addition to a qualified long-term care insurance contract, money or other property is received in the exchange, then any gain shall be recognized to the extent of the sum of the money and the fair market value of the other property received. For purposes of this paragraph, the cancellation of a contract providing for long-term care insurance coverage and reinvestment of the cancellation proceeds in a qualified long-term care insurance contract within 60 days thereafter shall be treated as an exchange.

(4) ISSUANCE OF CERTAIN RIDERS PERMITTED.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a rider which is treated as a qualified long-term care insurance contract under section 7702B, and

(B) the addition of any provision required to conform any other long-term care rider to be so treated,

shall not be treated as a modification or material change of such contract.

SEC. 322. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) GENERAL RULE.—Paragraph (1) of section 213(d) (defining medical care) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

''(C) for qualified long-term care services (as defined in section 7702B(c)), or''.

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 213(d)(1) (as redesignated by subsection (a)) is amended by inserting before the period ''or for any qualified long-term care insurance contract (as defined in section 7702B(b))''.

(2)(A) Paragraph (1) of section 213(d) is amended by adding at the end the following new flush sentence:

''In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in paragraph (10)) shall be taken into account under subparagraph (D).''

(B) Subsection (d) of section 213 is amended by adding at the end the following new paragraphs:

''(10) ELIGIBLE LONG-TERM CARE PREMIUMS.—

''(A) IN GENERAL.—For purposes of this section, the term 'eligible long-term care premiums' means the amount paid during a taxable year for any qualified long-term care insurance contract (as defined in section 7702B(b)) covering an individual, to the extent such amount does not exceed the limitation determined under the following table:

"In the case of an individual with an attained age before the close of the taxable year of:	The limitation is:
40 or less	$ 200
More than 40 but not more than 50 ...	375
More than 50 but not more than 60	750
More than 60 but not more than 70 ...	2,000
More than 70	2,500.

''(B) INDEXING.—

''(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount contained in subparagraph (A) shall be increased by the medical care cost adjustment of such amount for such calendar year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

''(ii) MEDICAL CARE COST ADJUSTMENT.—For purposes of clause (i), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

''(I) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

''(II) such component for August of 1996.

The Secretary shall, in consultation with the Secretary of Health and Human Services, prescribe an adjustment which the Secretary determines is more appropriate for purposes of this paragraph than the adjustment described in the preceding sentence, and the adjustment so prescribed shall apply in lieu of the adjustment described in the preceding sentence.

''(11) CERTAIN PAYMENTS TO RELATIVES TREATED AS NOT PAID FOR MEDICAL CARE.—An amount paid for a qualified long-term care service (as defined in section 7702B(c)) provided to an individual shall be treated as not paid for medical care if such service is provided—

''(A) by the spouse of the individual or by a relative (directly or through a partnership, corporation, or other entity) unless the service is provided by a licensed professional with respect to such service, or

''(B) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this paragraph, the term 'relative' means an individual bearing a relationship to the individual which is described in any of paragraphs (1) through (8) of section 152(a). This paragraph shall not apply for purposes of section 105(b) with respect to reimbursements through insurance.''

(3) Paragraph (6) of section 213(d) is amended—

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

(B) by striking ''paragraph (1)(C)'' in subparagraph (A) and inserting ''paragraph (1)(D)''.

(4) Paragraph (7) of section 213(d) is amended by striking ''subparagraphs (A) and (B)'' and inserting ''subparagraphs (A), (B), and (C)''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

(2) DEDUCTION FOR LONG-TERM CARE SERVICES.—Amounts paid for qualified long-term care services (as defined in section 7702B(c) of the Internal Revenue Code of 1986, as added by this Act) furnished in any taxable year beginning before January 1, 1998, shall not be taken into account under section 213 of the Internal Revenue Code of 1986.

SEC. 323. REPORTING REQUIREMENTS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new section:

''SEC. 6050Q. CERTAIN LONG-TERM CARE BENEFITS.

''(a) REQUIREMENT OF REPORTING.—Any person who pays long-term care benefits shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

''(1) the aggregate amount of such benefits paid by such person to any individual during any calendar year, and

''(2) the name, address, and TIN of such individual.

''(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

''(1) the name of the person making the payments, and

''(2) the aggregate amount of long-term care benefits paid to the individual which are required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

''(c) LONG-TERM CARE BENEFITS.—For purposes of this section, the term 'long-term care benefit' means—

''(1) any amount paid under a long-term care insurance policy (within the meaning of section 4980C(e)), and

''(2) payments which are excludable from gross income by reason of section 101(g).''.

(b) PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

''(ix) section 6050Q (relating to certain long-term care benefits),''.

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (Q) through (T) as subparagraphs (R) through (U), respectively, and by inserting after subparagraph (P) the following new subparagraph:

''(Q) section 6050Q(b) (relating to certain long-term care benefits),''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

''Sec. 6050Q. Certain long-term care benefits.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits paid after December 31, 1996.

PART II—CONSUMER PROTECTION PROVISIONS

SEC. 325. POLICY REQUIREMENTS.

Section 7702B (as added by section 321) is amended by adding at the end the following new subsection:

''(f) CONSUMER PROTECTION PROVISIONS.—

''(1) IN GENERAL.—The requirements of this subsection are met with respect to any contract if any long-term care insurance policy issued under the contract meets—

''(A) the requirements of the model regulation and model Act described in paragraph (2),

''(B) the disclosure requirement of paragraph (3), and

''(C) the requirements relating to nonforfeitability under paragraph (4).

''(2) REQUIREMENTS OF MODEL REGULATION AND ACT.—

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to any policy if such policy meets—

''(i) MODEL REGULATION.—The following requirements of the model regulation:

''(I) Section 7A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 7A.

''(II) Section 7B (relating to prohibitions on limitations and exclusions).

''(III) Section 7C (relating to extension of benefits).

''(IV) Section 7D (relating to continuation or conversion of coverage).

''(V) Section 7E (relating to discontinuance and replacement of policies).

''(VI) Section 8 (relating to unintentional lapse).

''(VII) Section 9 (relating to disclosure), other than section 9F thereof.

''(VIII) Section 10 (relating to prohibitions against post-claims underwriting).

''(IX) Section 11 (relating to minimum standards).

''(X) Section 12 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation protection shall permit the signature to be on an application or on a separate form.

''(XI) Section 23 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

''(ii) MODEL ACT.—The following requirements of the model Act:

''(I) Section 6C (relating to preexisting conditions).

''(II) Section 6D (relating to prior hospitalization).

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) MODEL PROVISIONS.—The terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of January 1993).

''(ii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

''(iii) DETERMINATION.—For purposes of this section and section 4980C, the determination of whether any requirement of a model regulation or the model Act has been met shall be made by the Secretary.

''(3) DISCLOSURE REQUIREMENT.—The requirement of this paragraph is met with respect to any policy if such policy meets the requirements of section 4980C(d)(1).

''(4) NONFORFEITURE REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to any level premium long-term care insurance policy, if the issuer of such policy offers to the policyholder, including any group policyholder, a nonforfeiture provision meeting the requirements of subparagraph (B).

''(B) REQUIREMENTS OF PROVISION.—The nonforfeiture provision required under subparagraph (A) shall meet the following requirements:

''(i) The nonforfeiture provision shall be appropriately captioned.

''(ii) The nonforfeiture provision shall provide for a benefit available in the event of a default in the payment of any premiums and the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying policies approved by the Secretary for the same policy form.

''(iii) The nonforfeiture provision shall provide at least one of the following:

''(I) Reduced paid-up insurance.

''(II) Extended term insurance.

''(III) Shortened benefit period.

''(IV) Other similar offerings approved by the Secretary.

''(5) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this subsection, the term 'long-term care insurance policy' has the meaning given such term by section 4980C(e).''.

SEC. 326. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

(a) IN GENERAL.—Chapter 43 is amended by adding at the end the following new section:

''SEC. 4980C. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

''(a) GENERAL RULE.—There is hereby imposed on any person failing to meet the requirements of subsection (c) or (d) a tax in the amount determined under subsection (b).

''(b) AMOUNT.—

''(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be $100 per policy for each day any requirements of subsection (c) or (d) are not met with respect to each long-term care insurance policy.

''(2) WAIVER.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that payment of the tax would be excessive relative to the failure involved.

''(c) RESPONSIBILITIES.—The requirements of this subsection are as follows:

''(1) REQUIREMENTS OF MODEL PROVISIONS.—

''(A) MODEL REGULATION.—The following requirements of the model regulation must be met:

''(i) Section 13 (relating to application forms and replacement coverage).

''(ii) Section 14 (relating to reporting requirements), except that the issuer shall also report at least annually the number of claims denied during the reporting period for each class of business (expressed as a percentage of claims denied), other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition.

''(iii) Section 20 (relating to filing requirements for marketing).

''(iv) Section 21 (relating to standards for marketing), including inaccurate completion of medical histories, other than sections 21C(1) and 21C(6) thereof, except that—

''(I) in addition to such requirements, no person shall, in selling or offering to sell a long-term care insurance policy, misrepresent a material fact; and

''(II) no such requirements shall include a requirement to inquire or identify whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance.

''(v) Section 22 (relating to appropriateness of recommended purchase).

''(vi) Section 24 (relating to standard format outline of coverage).

''(vii) Section 25 (relating to requirement to deliver shopper's guide).

''(B) MODEL ACT.—The following requirements of the model Act must be met:

''(i) Section 6F (relating to right to return), except that such section shall also apply to denials of applications and any refund shall be made within 30 days of the return or denial.

''(ii) Section 6G (relating to outline of coverage).

''(iii) Section 6H (relating to requirements for certificates under group plans).

''(iv) Section 6I (relating to policy summary).

''(v) Section 6J (relating to monthly reports on accelerated death benefits).

''(vi) Section 7 (relating to incontestability period).

''(C) DEFINITIONS.—For purposes of this paragraph, the terms 'model regulation' and 'model Act' have the meanings given such terms by section 7702B(f)(2)(B).

''(2) DELIVERY OF POLICY.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is approved, the issuer shall deliver to the applicant (or policyholder or certificateholder) the policy (or certificate) of insurance not later than 30 days after the date of the approval.

''(3) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a long-term care insurance policy is denied, the issuer shall, within 60 days of the date of a written request by the policyholder or certificateholder (or representative)—

''(A) provide a written explanation of the reasons for the denial, and

''(B) make available all information directly relating to such denial.

''(d) DISCLOSURE.—The requirements of this subsection are met if the issuer of a long-term care insurance policy discloses in such policy and in the outline of coverage required under subsection (c)(1)(B)(ii) that the policy is intended to be a qualified long-term care insurance contract under section 7702B(b).

''(e) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this section, the term 'long-term care insurance policy' means any product which is advertised, marketed, or offered as long-term care insurance.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end the following new item:

''Sec. 4980C. Requirements for issuers of long-term care insurance policies.''.

SEC. 327. COORDINATION WITH STATE REQUIREMENTS.

Nothing in this part shall prevent a State from establishing, implementing, or continuing in effect standards related to the protection of policyholders of long-term care insurance policies (as defined in section 4980C(e) of the Internal Revenue Code of 1986), if such standards are not in conflict with or inconsistent with the standards established under such Code.

SEC. 328. EFFECTIVE DATES.

(a) IN GENERAL.—The provisions of, and amendments made by, this part shall apply to contracts issued after December 31, 1996. The provisions of section 321(g) (relating to transition rule) shall apply to such contracts.

(b) ISSUERS.—The amendments made by section 326 shall apply to actions taken after December 31, 1996.

Subtitle D—Treatment of Accelerated Death Benefits

SEC. 331. TREATMENT OF ACCELERATED DEATH BENEFITS BY RECIPIENT.

(a) IN GENERAL.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

''(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

''(1) IN GENERAL.—For purposes of this section, the following amounts shall be treated as an amount paid by reason of the death of an insured:

''(A) Any amount received under a life insurance contract on the life of an insured who is a terminally ill individual.

''(B) Any amount received under a life insurance contract on the life of an insured who is a chronically ill individual (as defined in section 7702B(c)(2)) but only if such amount is received under a rider or other provision of such contract which is treated as a qualified long-term care insurance contract under section 7702B and such amount is treated under section 7702B (after the application of subsection (d) thereof) as a payment for qualified long-term care services (as defined in such section).

''(2) TREATMENT OF VIATICAL SETTLEMENTS.—

''(A) IN GENERAL.—In the case of a life insurance contract on the life of an insured described in paragraph (1), if—

''(i) any portion of such contract is sold to any viatical settlement provider, or

''(ii) any portion of the death benefit is assigned to such a provider,

the amount paid for such sale or assignment shall be treated as an amount paid under the life insurance contract by reason of the death of such insured.

''(B) VIATICAL SETTLEMENT PROVIDER.—The term 'viatical settlement provider' means any person regularly engaged in the trade or business of purchasing, or taking assignments of, life insurance contracts on the lives of insureds described in paragraph (1) if—

''(i) such person is licensed for such purposes in the State in which the insured resides, or

''(ii) in the case of an insured who resides in a State not requiring the licensing of such persons for such purposes—

''(I) such person meets the requirements of sections 8 and 9 of the Viatical Settlements Model Act of the National Association of Insurance Commissioners, and

''(II) meets the requirements of the Model Regulations of the National Association of Insurance Commissioners (relating to standards for evaluation of reasonable payments) in determining amounts paid by such person in connection with such purchases or assignments.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) TERMINALLY ILL INDIVIDUAL.—The term 'terminally ill individual' means an individual who has been certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 24 months or less after the date of the certification.

''(B) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)).

''(4) EXCEPTION FOR BUSINESS-RELATED POLICIES.—This subsection shall not apply in the case of any amount paid to any taxpayer other than the insured if such taxpayer has an insurable interest with respect to the life of the insured by reason of the insured being a director, officer, or employee of the taxpayer or by reason of the insured being financially interested in any trade or business carried on by the taxpayer.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after December 31, 1996.

SEC. 332. TAX TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

(a) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

''(g) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—For purposes of this part—

''(1) IN GENERAL.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

''(2) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider on a life insurance

contract if the only payments under the rider are payments meeting the requirements of section 101(g).

''(3) EXCEPTION FOR LONG-TERM CARE RIDERS.—Paragraph (1) shall not apply to any rider which is treated as a long-term care insurance contract under section 7702B.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect on January 1, 1997.

(2) ISSUANCE OF RIDER NOT TREATED AS MATERIAL CHANGE.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a qualified accelerated death benefit rider (as defined in section 818(g) of such Code (as added by this Act)), and

(B) the addition of any provision required to conform an accelerated death benefit rider to the requirements of such section 818(g),

shall not be treated as a modification or material change of such contract.

Subtitle E—High-Risk Pools

SEC. 341. EXEMPTION FROM INCOME TAX FOR STATE-SPONSORED ORGANIZATIONS PROVIDING HEALTH COVERAGE FOR HIGH-RISK INDIVIDUALS.

(a) IN GENERAL.—Subsection (c) of section 501 (relating to list of exempt organizations) is amended by adding at the end the following new paragraph:

''(26) Any membership organization if—

''(A) such organization is established by a State exclusively to provide coverage for medical care (as defined in section 213(d)) on a not-for-profit basis to individuals described in subparagraph (B) through—

''(i) insurance issued by the organization, or

''(ii) a health maintenance organization under an arrangement with the organization,

''(B) the only individuals receiving such coverage through the organization are individuals—

''(i) who are residents of such State, and

''(ii) who, by reason of the existence or history of a medical condition, are unable to acquire medical care coverage for such condition through insurance or from a health maintenance organization or are able to acquire such coverage only at a rate which is substantially in excess of the rate for such coverage through the membership organization,

''(C) the composition of the membership in such organization is specified by such State, and

''(D) no part of the net earnings of the organization inures to the benefit of any private shareholder or individual.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle F—Organizations Subject to Section 833

SEC. 351. ORGANIZATIONS SUBJECT TO SECTION 833.

(a) IN GENERAL.—Section 833(c) (relating to organization to which section applies) is amended by adding at the end the following new paragraph:

''(4) TREATMENT AS EXISTING BLUE CROSS OR BLUE SHIELD ORGANIZATION.—

''(A) IN GENERAL.—Paragraph (2) shall be applied to an organization described in subparagraph (B) as if it were a Blue Cross or Blue Shield organization.

''(B) APPLICABLE ORGANIZATION.—An organization is described in this subparagraph if it—

''(i) is organized under, and governed by, State laws which are specifically and exclusively applicable to not-for-profit health insurance or health service type organizations, and

''(ii) is not a Blue Cross or Blue Shield organization or health maintenance organization.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 1996.

TITLE IV—REVENUE OFFSETS

SEC. 400. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Repeal of Bad Debt Reserve Method for Thrift Savings Associations

SEC. 401. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is amended by adding at the end the following new subsections:

''(f) TERMINATION OF RESERVE METHOD.—Subsections (a), (b), (c), and (d) shall not apply to any taxable year beginning after December 31, 1995.

''(g) 6-YEAR SPREAD OF ADJUSTMENTS.—

''(1) IN GENERAL.—In the case of any taxpayer who is required by reason of subsection (f) to change its method of computing reserves for bad debts—

''(A) such change shall be treated as a change in a method of accounting,

''(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

''(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

''(i) shall be determined by taking into account only applicable excess reserves, and

''(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

''(2) APPLICABLE EXCESS RESERVES.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

''(i) the balance of the reserves described in subsection (c)(1) (other than the supplemental reserve) as of the close of the taxpayer's last taxable year beginning before December 31, 1995, over

''(ii) the lesser of—

''(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

''(II) the balance of the reserves described in subclause (I), reduced in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

''(B) SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 581) which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995—

''(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before such date if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A), and

''(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5) and (6) or subsection (e)(1).

''(3) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If, during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in paragraph (2)(A)(ii) and the supplemental reserve; except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

''(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

''(A) IN GENERAL.—In the case of a bank which meets the residential loan requirement of subparagraph (B) for the first taxable year beginning after December 31, 1995, or for the following taxable year—

''(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

''(ii) such taxable year shall be disregarded in determining—

''(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

''(II) the amount of such adjustment.

''(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

''(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term 'residential loan' means any loan described in clause (v) of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

''(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning on or before December 31, 1995. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after such date, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary.

''(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1), subparagraph (B) shall be applied with respect to such group.

''(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995:

''(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii), there shall be taken into account only the excess (if any) of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

''(B) TREATMENT UNDER ELECTIVE CUT-OFF METHOD.—For purposes of applying section 585(c)(4)—

''(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

''(ii) no amount shall be includible in gross income by reason of such reduction.

''(6) SUSPENDED RESERVE INCLUDED AS SECTION 381(c) ITEMS.—The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 381(c).

''(7) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

''(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

''(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

''(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spin-offs, and other reorganizations.''

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence:

''Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995.''

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking ''or to which section 593 applies''.

(6) Subparagraph (A) of section 585(a)(2) is amended by striking ''other than an organization to which section 593 applies''.

(7)(A) The material preceding subparagraph (A) of section 593(e)(1) is amended by striking ''by a domestic building and loan association or an institution that is treated as a mutual savings bank under section 591(b)'' and inserting ''by a taxpayer having a balance described in subsection (g)(2)(A)(ii)''.

(B) Subparagraph (B) of section 593(e)(1) is amended to read as follows:

''(B) then out of the balance taken into account under subsection (g)(2)(A)(ii) (properly adjusted for amounts charged against such reserves for taxable years beginning after December 31, 1987),''.

(C) Paragraph (1) of section 593(e) is amended by adding at the end the following new sentence: ''This paragraph shall not apply to any distribution of all of the stock of a bank (as defined in section 581) to another corporation if, immediately after the distribution, such bank and such other corporation are members of the same affiliated group (as defined in section 1504) and the provisions of section 5(e) of the Federal Deposit Insurance Act (as in effect on December 31, 1995) or similar provisions are in effect.''

(8) Section 595 is hereby repealed.

(9) Section 596 is hereby repealed.

(10) Subsection (a) of section 860E is amended—

(A) by striking ''Except as provided in paragraph (2), the'' in paragraph (1) and inserting ''The'',

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows ''subsection'' and inserting a period.

(11) Paragraph (3) of section 992(d) is amended by striking ''or 593''.

(12) Section 1038 is amended by striking subsection (f).

(13) Clause (ii) of section 1042(c)(4)(B) is amended by striking ''or 593''.

(14) Subsection (c) of section 1277 is amended by striking ''or to which section 593 applies''.

(15) Subparagraph (B) of section 1361(b)(2) is amended by striking ''or to which section 593 applies''.

(16) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 595 and 596.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SUBSECTION (b)(7).—The amendments made by subsection (b)(7) shall not apply to any distribution with respect to preferred stock if—

(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

(3) SUBSECTION (b)(8).—The amendment made by subsection (b)(8) shall apply to property acquired in taxable years beginning after December 31, 1995.

(4) SUBSECTION (b)(10).—The amendments made by subsection (b)(10) shall not apply to any residual interest held by a taxpayer if such interest has been held by such taxpayer at all times after October 31, 1995.

Subtitle B—Reform of the Earned Income Credit

SEC. 411. EARNED INCOME CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) (relating to individuals eligible to claim the earned income credit) is amended by adding at the end the following new subparagraph:

''(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

''(i) such individual's taxpayer identification number, and

''(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse.''.

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 is amended by adding at the end the following new subsection:

''(l) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act).''.

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) (relating to the definition of mathematical or clerical errors) is amended by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting after subparagraph (E) the following new subparagraphs:

''(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income credit) to be included on a return, and

''(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle C—Treatment of Individuals Who Lose United States Citizenship

SEC. 421. REVISION OF INCOME, ESTATE, AND GIFT TAXES ON INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP.

(a) IN GENERAL.—Subsection (a) of section 877 is amended to read as follows:

''(a) TREATMENT OF EXPATRIATES.—

''(1) IN GENERAL.—Every nonresident alien individual who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle B, shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection exceeds the tax which, without regard to this section, is imposed pursuant to section 871.

''(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if—

''(A) the average annual net income tax (as defined in section 38(c)(1)) of such individual for the period of 5 taxable years ending before the date of the loss of United States citizenship is greater than $100,000, or

''(B) the net worth of the individual as of such date is $500,000 or more.

In the case of the loss of United States citizenship in any calendar year after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1994' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.''

(b) EXCEPTIONS.—

(1) IN GENERAL.—Section 877 is amended by striking subsection (d), by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

''(c) TAX AVOIDANCE NOT PRESUMED IN CERTAIN CASES.—

''(1) IN GENERAL.—Subsection (a)(2) shall not apply to an individual if—

''(A) such individual is described in a subparagraph of paragraph (2) of this subsection, and

''(B) within the 1-year period beginning on the date of the loss of United States citizenship, such individual submits a ruling request for the Secretary's determination as to whether such loss has for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle B.

''(2) INDIVIDUALS DESCRIBED.—

''(A) DUAL CITIZENSHIP, ETC.—An individual is described in this subparagraph if—

''(i) the individual became at birth a citizen of the United States and a citizen of another country and continues to be a citizen of such other country, or

''(ii) the individual becomes (not later than the close of a reasonable period after loss of United States citizenship) a citizen of the country in which—

''(I) such individual was born,

''(II) if such individual is married, such individual's spouse was born, or

''(III) either of such individual's parents were born.

''(B) LONG-TERM FOREIGN RESIDENTS.—An individual is described in this subparagraph

if, for each year in the 10-year period ending on the date of loss of United States citizenship, the individual was present in the United States for 30 days or less. The rule of section 7701(b)(3)(D)(ii) shall apply for purposes of this subparagraph.

''(C) RENUNCIATION UPON REACHING AGE OF MAJORITY.—An individual is described in this subparagraph if the individual's loss of United States citizenship occurs before such individual attains age 18½.

''(D) INDIVIDUALS SPECIFIED IN REGULATIONS.—An individual is described in this subparagraph if the individual is described in a category of individuals prescribed by regulation by the Secretary.''

(2) TECHNICAL AMENDMENT.—Paragraph (1) of section 877(b) of such Code is amended by striking ''subsection (c)'' and inserting ''subsection (d)''.

(c) TREATMENT OF PROPERTY DISPOSED OF IN NONRECOGNITION TRANSACTIONS; TREATMENT OF DISTRIBUTIONS FROM CERTAIN CONTROLLED FOREIGN CORPORATIONS.—Subsection (d) of section 877, as redesignated by subsection (b), is amended to read as follows:

''(d) SPECIAL RULES FOR SOURCE, ETC.—For purposes of subsection (b)—

''(1) SOURCE RULES.—The following items of gross income shall be treated as income from sources within the United States:

''(A) SALE OF PROPERTY.—Gains on the sale or exchange of property (other than stock or debt obligations) located in the United States.

''(B) STOCK OR DEBT OBLIGATIONS.—Gains on the sale or exchange of stock issued by a domestic corporation or debt obligations of United States persons or of the United States, a State or political subdivision thereof, or the District of Columbia.

''(C) INCOME OR GAIN DERIVED FROM CONTROLLED FOREIGN CORPORATION.—Any income or gain derived from stock in a foreign corporation but only—

''(i) if the individual losing United States citizenship owned (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), at any time during the 2-year period ending on the date of the loss of United States citizenship, more than 50 percent of—

''(I) the total combined voting power of all classes of stock entitled to vote of such corporation, or

''(II) the total value of the stock of such corporation, and

''(ii) to the extent such income or gain does not exceed the earnings and profits attributable to such stock which were earned or accumulated before the loss of citizenship and during periods that the ownership requirements of clause (i) are met.

''(2) GAIN RECOGNITION ON CERTAIN EXCHANGES.—

''(A) IN GENERAL.—In the case of any exchange of property to which this paragraph applies, notwithstanding any other provision of this title, such property shall be treated as sold for its fair market value on the date of such exchange, and any gain shall be recognized for the taxable year which includes such date.

''(B) EXCHANGES TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any exchange during the 10-year period described in subsection (a) if—

''(i) gain would not (but for this paragraph) be recognized on such exchange in whole or in part for purposes of this subtitle,

''(ii) income derived from such property was from sources within the United States (or, if no income was so derived, would have been from such sources), and

''(iii) income derived from the property acquired in the exchange would be from sources outside the United States.

''(C) EXCEPTION.—Subparagraph (A) shall not apply if the individual enters into an agreement with the Secretary which specifies that any income or gain derived from the property acquired in the exchange (or any other property which has a basis determined in whole or part by reference to such property) during such 10-year period shall be treated as from sources within the United States. If the property transferred in the exchange is disposed of by the person acquiring such property, such agreement shall terminate and any gain which was not recognized by reason of such agreement shall be recognized as of the date of such disposition.

''(D) SECRETARY MAY EXTEND PERIOD.—To the extent provided in regulations prescribed by the Secretary, subparagraph (B) shall be applied by substituting the 15-year period beginning 5 years before the loss of United States citizenship for the 10-year period referred to therein.

''(E) SECRETARY MAY REQUIRE RECOGNITION OF GAIN IN CERTAIN CASES.—To the extent provided in regulations prescribed by the Secretary—

''(i) the removal of appreciated tangible personal property from the United States, and

''(ii) any other occurrence which (without recognition of gain) results in a change in the source of the income or gain from property from sources within the United States to sources outside the United States,

shall be treated as an exchange to which this paragraph applies.

''(3) SUBSTANTIAL DIMINISHING OF RISKS OF OWNERSHIP.—For purposes of determining whether this section applies to any gain on the sale or exchange of any property, the running of the 10-year period described in subsection (a) shall be suspended for any period during which the individual's risk of loss with respect to the property is substantially diminished by—

''(A) the holding of a put with respect to such property (or similar property),

''(B) the holding by another person of a right to acquire the property, or

''(C) a short sale or any other transaction.''

(d) CREDIT FOR FOREIGN TAXES IMPOSED ON UNITED STATES SOURCE INCOME.—

(1) Subsection (b) of section 877 is amended by adding at the end the following new sentence: ''The tax imposed solely by reason of this section shall be reduced (but not below zero) by the amount of any income, war profits, and excess profits taxes (within the meaning of section 903) paid to any foreign country or possession of the United States on any income of the taxpayer on which tax is imposed solely by reason of this section.''

(2) Subsection (a) of section 877, as amended by subsection (a), is amended by inserting ''(after any reduction in such tax under the last sentence of such subsection)'' after ''such subsection''.

(e) COMPARABLE ESTATE AND GIFT TAX TREATMENT.—

(1) ESTATE TAX.—

(A) IN GENERAL.—Subsection (a) of section 2107 is amended to read as follows:

''(a) TREATMENT OF EXPATRIATES.—

''(1) RATE OF TAX.—A tax computed in accordance with the table contained in section 2001 is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States if, within the 10-year period ending with the date of death, such decedent lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

''(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—

''(A) IN GENERAL.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

''(B) EXCEPTION.—Subparagraph (A) shall not apply to a decedent meeting the requirements of section 877(c)(1).''

(B) CREDIT FOR FOREIGN DEATH TAXES.—Subsection (c) of section 2107 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) CREDIT FOR FOREIGN DEATH TAXES.—

''(A) IN GENERAL.—The tax imposed by subsection (a) shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any foreign country in respect of any property which is included in the gross estate solely by reason of subsection (b).

''(B) LIMITATION ON CREDIT.—The credit allowed by subparagraph (A) for such taxes paid to a foreign country shall not exceed the lesser of—

''(i) the amount which bears the same ratio to the amount of such taxes actually paid to such foreign country in respect of property included in the gross estate as the value of the property included in the gross estate solely by reason of subsection (b) bears to the value of all property subjected to such taxes by such foreign country, or

''(ii) such property's proportionate share of the excess of—

''(I) the tax imposed by subsection (a), over

''(II) the tax which would be imposed by section 2101 but for this section.

''(C) PROPORTIONATE SHARE.—For purposes of subparagraph (B), a property's proportionate share is the percentage of the value of the property which is included in the gross estate solely by reason of subsection (b) bears to the total value of the gross estate.''

(C) EXPANSION OF INCLUSION IN GROSS ESTATE OF STOCK OF FOREIGN CORPORATIONS.—Paragraph (2) of section 2107(b) is amended by striking ''more than 50 percent of'' and all that follows and inserting ''more than 50 percent of—

''(A) the total combined voting power of all classes of stock entitled to vote of such corporation, or

''(B) the total value of the stock of such corporation,''.

(2) GIFT TAX.—

(A) IN GENERAL.—Paragraph (3) of section 2501(a) is amended to read as follows:

''(3) EXCEPTION.—

''(A) CERTAIN INDIVIDUALS.—Paragraph (2) shall not apply in the case of a donor who, within the 10-year period ending with the date of transfer, lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

''(B) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of subparagraph (A), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

''(C) EXCEPTION FOR CERTAIN INDIVIDUALS.—Subparagraph (B) shall not apply to a decedent meeting the requirements of section 877(c)(1).

''(D) CREDIT FOR FOREIGN GIFT TAXES.—The tax imposed by this section solely by reason of this paragraph shall be credited with the amount of any gift tax actually paid to any foreign country in respect of any gift which is taxable under this section solely by reason of this paragraph.''

(f) COMPARABLE TREATMENT OF LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—

(1) IN GENERAL.—Section 877 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) COMPARABLE TREATMENT OF LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—

''(1) IN GENERAL.—Any long-term resident of the United States who—

''(A) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(B) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country,

shall be treated for purposes of this section and sections 2107, 2501, and 6039F in the same manner as if such resident were a citizen of the United States who lost United States citizenship on the date of such cessation or commencement.

''(2) LONG-TERM RESIDENT.—For purposes of this subsection, the term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the event described in subparagraph (A) or (B) of paragraph (1) occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

''(3) SPECIAL RULES.—

''(A) EXCEPTIONS NOT TO APPLY.—Subsection (c) shall not apply to an individual who is treated as provided in paragraph (1).

''(B) STEP-UP IN BASIS.—Solely for purposes of determining any tax imposed by reason of this subsection, property which was held by the long-term resident on the date the individual first became a resident of the United States shall be treated as having a basis on such date of not less than the fair market value of such property on such date. The preceding sentence shall not apply if the individual elects not to have such sentence apply. Such an election, once made, shall be irrevocable.

''(4) AUTHORITY TO EXEMPT INDIVIDUALS.—This subsection shall not apply to an individual who is described in a category of individuals prescribed by regulation by the Secretary.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, including regulations providing for the application of this subsection in cases where an alien individual becomes a resident of the United States during the 10-year period after being treated as provided in paragraph (1).''

(2) CONFORMING AMENDMENTS.—

(A) Section 2107 is amended by striking subsection (d), by redesignating subsection (e) as subsection (d), and by inserting after subsection (d) (as so redesignated) the following new subsection:

''(e) CROSS REFERENCE.—

''For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e).''

(B) Paragraph (3) of section 2501(a) (as amended by subsection (e)) is amended by adding at the end the following new subparagraph:

''(E) CROSS REFERENCE.—

''For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e).''

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to—

(A) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

(B) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs on or after February 6, 1995.

(2) SPECIAL RULE.—

(A) IN GENERAL.—In the case of an individual who performed an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)) before February 6, 1995, but who did not, on or before such date, furnish to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of such act, the amendments made by this section and section 11349 shall apply to such individual except that—

(i) the 10-year period described in section 877(a) of such Code shall not expire before the end of the 10-year period beginning on the date such statement is so furnished, and

(ii) the 1-year period referred to in section 877(c) of such Code, as amended by this section, shall not expire before the date which is 1 year after the date of the enactment of this Act.

(B) EXCEPTION.—Subparagraph (A) shall not apply if the individual establishes to the satisfaction of the Secretary of the Treasury that such loss of United States citizenship occurred before February 6, 1994.

SEC. 422. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

''SEC. 6039F. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.

''(a) IN GENERAL.—Notwithstanding any other provision of law, any individual who loses United States citizenship (within the meaning of section 877(a)) shall provide a statement which includes the information described in subsection (b). Such statement shall be—

''(1) provided not later than the earliest date of any act referred to in subsection (c), and

''(2) provided to the person or court referred to in subsection (c) with respect to such act.

''(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

''(1) the taxpayer's TIN,

''(2) the mailing address of such individual's principal foreign residence,

''(3) the foreign country in which such individual is residing,

''(4) the foreign country of which such individual is a citizen,

''(5) in the case of an individual having a net worth of at least the dollar amount applicable under section 877(a)(2)(B), information detailing the assets and liabilities of such individual, and

''(6) such other information as the Secretary may prescribe.

''(c) ACTS DESCRIBED.—For purposes of this section, the acts referred to in this subsection are—

''(1) the individual's renunciation of his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(2) the individual's furnishing to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(3) the issuance by the United States Department of State of a certificate of loss of nationality to the individual, or

''(4) the cancellation by a court of the United States of a naturalized citizen's certificate of naturalization.

''(d) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year (of the 10-year period beginning on the date of loss of United States citizenship) during any portion of which such failure continues in an amount equal to the greater of—

''(1) 5 percent of the tax required to be paid under section 877 for the taxable year ending during such year, or

''(2) $1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.

''(e) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

''(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

''(A) a copy of any such statement, and

''(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

''(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

''(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

''(f) REPORTING BY LONG-TERM LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—In lieu of applying the last sentence of subsection (a), any individual who is required to provide a statement under this section by reason of section 877(e)(1) shall provide such statement with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

''(g) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if he determines that applying this section to such individuals is not necessary to carry out the purposes of this section.''

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

''Sec. 6039F. Information on individuals losing United States citizenship.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

(2) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs on or after such date.

In no event shall any statement required by such amendments be due before the 90th day after the date of the enactment of this Act.

SEC. 423. REPORT ON TAX COMPLIANCE BY UNITED STATES CITIZENS AND RESIDENTS LIVING ABROAD.

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report—

(1) describing the compliance with subtitle A of the Internal Revenue Code of 1986 by citizens and lawful permanent residents of the United States (within the meaning of section 7701(b)(6) of such Code) residing outside the United States, and

(2) recommending measures to improve such compliance (including improved coordination between executive branch agencies).

After debate,

Pursuant to House Resolution 392, Mr. DINGELL submitted the following amendment in the nature of a substitute:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Health Insurance Reform Act of 1996''.

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

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Sec. 100. Definitions.

SUBTITLE A—GROUP MARKET RULES

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Sec. 110. Individual health plan portability.
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SUBTITLE C—COBRA CLARIFICATIONS

Sec. 121. Cobra clarification.

SUBTITLE D—PRIVATE HEALTH PLAN PURCHASING COOPERATIVES

Sec. 131. Private health plan purchasing cooperatives.

SUBTITLE E—APPLICATION AND ENFORCEMENT OF STANDARDS

Sec. 141. Applicability.
Sec. 142. Enforcement of standards.

SUBTITLE F—MISCELLANEOUS PROVISIONS

Sec. 191. Health coverage availability study.
Sec. 192. Effective date.
Sec. 193. Severability.

SEC. 100. DEFINITIONS.

As used in this title:

(1) BENEFICIARY.—The term ''beneficiary'' has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(2) EMPLOYEE.—The term ''employee'' has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) EMPLOYER.—The term ''employer'' has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

(4) EMPLOYEE HEALTH BENEFIT PLAN.—

(A) IN GENERAL.—The term ''employee health benefit plan'' means any employee welfare benefit plan, governmental plan, or church plan (as defined under paragraphs (1), (32), and (33) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (32), and (33))) that provides or pays for health benefits (such as provider and hospital benefits) for participants and beneficiaries whether—

(i) directly;

(ii) through a group health plan offered by a health plan issuer as defined in paragraph (8); or

(iii) otherwise.

(B) RULE OF CONSTRUCTION.—An employee health benefit plan shall not be construed to be a group health plan, an individual health plan, or a health plan issuer.

(C) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(5) FAMILY.—

(A) IN GENERAL.—The term ''family'' means an individual, the individual's spouse, and the child of the individual (if any).

(B) CHILD.—For purposes of subparagraph (A), the term ''child'' means any individual who is a child within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986.

(6) GROUP HEALTH PLAN.—

(A) IN GENERAL.—The term ''group health plan'' means any contract, policy, certificate or other arrangement offered by a health plan issuer to a group purchaser that provides or pays for health benefits (such as provider and hospital benefits) in connection with an employee health benefit plan.

(B) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof;

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(7) GROUP PURCHASER.—The term ''group purchaser'' means any person (as defined under paragraph (9) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that purchases or pays for health benefits (such as provider or hospital benefits) on behalf of two or more participants or beneficiaries in connection with an employee health benefit plan. A health plan purchasing cooperative established under section 131 shall not be considered to be a group purchaser.

(8) HEALTH PLAN ISSUER.—The term ''health plan issuer'' means any entity that is licensed (prior to or after the date of enactment of this Act) by a State to offer a group health plan or an individual health plan.

(9) HEALTH STATUS.—The term ''health status'' includes. with respect to an individual, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.

(10) PARTICIPANT.—The term ''participant'' has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

(11) PLAN SPONSOR.—The term ''plan sponsor'' has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(B)).

(12) SECRETARY.—The term ''Secretary'', unless specifically provided otherwise, means the Secretary of Labor.

(13) STATE.—The term ''State'' means each of the several States, the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Subtitle A—Group Market Rules

SECTION 101. GUARANTEED AVAILABILITY OF HEALTH COVERAGE.

In General.—

(1) NONDISCRIMINATION.—Except as provided in subsection (b), section 102 and section 103—

(A) a health plan issuer offering a group health plan may not decline to offer whole group coverage to a group purchaser desiring to purchase such coverage; and

(B) an employee health benefit plan or a health plan issuer offering a group health plan may establish eligibility, continuation of eligibility, enrollment, or premium; contribution requirements under the terms of such plan, except that such requirements shall not be based on health status (as defined in section 100(9)).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall prevent an employee health benefit plan or a health plan issuer from establishing premium; discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(b) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering a group health plan may cease offering coverage to group purchasers under the plan if—

(A) the health plan issuer ceases to offer coverage to any additional group purchasers; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered participants and beneficiaries (and additional participants and

beneficiaries who will be expected to enroll because of their affiliation with a group purchaser or such previously covered participants or beneficiaries) will be impaired if the health plan issuer is required to offer coverage to additional group purchasers.

Such health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering a group health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer offers coverage to group purchasers under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(e) CONSTRUCTION.—

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering group health plans to actively market such plans.

(2) INVOLUNTARY OFFERING OF GROUP HEALTH PLANS.—Nothing is this section shall be construed to require a health plan issuer to involuntarily offer group health plans in a particular market. For the purposes of this paragraph, the term ''market'' means either the large employer market or the small employer market (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees).

SEC. 102. GUARANTEED RENEWABILITY OF HEALTH COVERAGE.

(A) IN GENERAL.—

(1) GROUP PURCHASER.—Subject to subsections (b) and (c), a group health plan shall be renewed or continued in force by a health plan issuer at the option of the group purchaser, except that the requirement of this subparagraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the group purchaser in accordance with the terms of the group health plan or where the health plan issuer has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the group purchaser;

(C) the termination of the group health plan in accordance with subsection (b); or

(D) the failure of the group purchaser to meet contribution or participation requirements in accordance with paragraph (3).

(2) PARICIPANT.—Subject to subsections (b) and (c), coverage under an employee health benefit plan or group health plan shall be renewed or continued in force, if the group purchaser elects to continue to provide coverage under such plan, at the option of the participant (or beneficiary where such right exists under the terms of the plan or under applicable law), except that the requirement of this paragraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the participant or beneficiary in accordance with the terms of the employee health benefit plan or group health plan or where such plan has not received timely premium payments.

(B) fraud or misrepresentation of material fact on the part of the participant or beneficiary relating to an application for coverage or claim for benefits;

(C) the termination of the employee health benefit plan or group health plan;

(D) loss of eligibility for continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.); or

(E) failure of a participant or beneficiary to meet requirements for eligibility for coverage under an employee health benefit plan or group health plan that are not prohibited by this title.

(3) RULES OF CONSTRUCTION.—Nothing in this subsection, nor in section 101(a), shall be construed to—

(A) preclude a health plan issuer from establishing employer contribution rules or group participation rules for group health plans as allowed under applicable State law;

(B) preclude a plan defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(37)) from establishing employer contribution rules or group participation rules; or

(C) permit individuals to decline coverage under an employee health benefit plan if such right is not otherwise available under such plan.

(b) TERMINATION OF GROUP HEALTH PLANS.—

(1) PARTICULAR TYPE OF GROUP HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of group health plan. A group health plan of such type may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each group purchaser covered under a group health plan of this type (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 90 days prior to the date of the discontinuation of such plan;

(B) the health plan issuer offers to each group purchaser covered under a group health plan of this type, the option to purchase any other group health plan currently being offered by the health plan issuer; and

(C) in exercising the option to discontinue a group health plan of this type and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of participants or beneficiaries covered under the group health plan, or new participants or beneficiaries who may become eligible for coverage under the group health plan.

(2) DISCONTINUANCE OF ALL GROUP HEALTH PLANS.—

(A) IN GENERAL.—In any case in which a health plan issuer elects to discontinue offering all group health plans in a State, a group health plan may be discontinued by the health plan issuer only if—

(i) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each group purchaser (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 180 days prior to the date of the expiration of such plan, and

(ii) all group health plans issued or delivered for issuance in the State or discontinued and coverage under such plans is not renewed.

(B) APPLICATION OF PROVISIONS.—The provisions of this paragraph and paragraph (3) may be applied separately by a health plan issuer—

(i) to all group health plans offered to small employers (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees); or

(ii) to all other group health plans offered by the health plan issuer in the State.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any group health plan in the market sector (as described in paragraph (2)(B)) in which issuance of such group health plan was discontinued in the State involved during the 5-year period beginning on the date of the discontinuation of the last group health plan not so renewed.

TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A network plan (as defined in paragraph (2)) may deny continued participation under such plan to participants or beneficiaries who neither live, reside, nor work in an area in which such network plan is offered, but only if such denial is applied uniformly, without regard to health status of particular participants or beneficiaries.

(2) NETWORK PLAN.—As used in paragraph (1), the term ''network plan'' means an employee health benefit plan or a group health plan that arranges for the financing and delivery of health care services to participants or beneficiaries covered under such plan, in whole or in part, through arrangements with providers.

(d) COBRA COVERAGE.—Nothing in subsection (a)(2)(E) or subsection (c) shall be construed to affect any right to COBRA continuation coverage as described in part 6 of subtitle B of title I of the employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.).

SEC. 103. PORTABILITY OF HEALTH COVERAGE AND LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to treatment of a preexisting condition based on the fact that the condition existed prior to the coverage of the participant or beneficiary under the plan only if—

(1) the limitation or exclusion extends for a period of not more than 12 months after the date of enrollment in the plan;

(2) the limitation or exclusion does not apply to an individual who, within 30 days of the date of birth or placement for adoption (as determined under section 609(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(c)(3)(B)), was covered under the plan; and

(3) the limitation or exclusion does not apply to a pregnancy.

(b) CREDITING OF PREVIOUS QUALIFYING COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (4), an employee health benefit plan or a health plan issuer offering a group health plan shall provide that if a participant or beneficiary is in a period of previous qualifying coverage as of the date of enrollment under such plan, any period of exclusion or limitation of coverage with respect to a preexisting condition shall be reduced by 1 month for each month in which the participant or beneficiary was in the period of previous qualifying coverage. With respect to an individual described in subsection (a)(2) who maintains continuous coverage, no limitation or exclusion of benefits relating to treatment of a preexisting condition may be applied to a child within the child's first 12 months of life or within 12 months after the placement of a child for adoption.

(2) DISCHARGE OF DUTY.—An employee health benefit plan shall provide documentation of coverage to participants and beneficiaries who coverage is terminated under the plan. Pursuant to regulations promulgated by the Secretary, the duty of an employee health benefit plan to verify previous qualifying coverage with respect to a participant or beneficiary is effectively discharged when such employee health benefit plan provides documentation to a participant or beneficiary that includes the following information:

(A) the dates that the participant or beneficiary was covered under the plan; and

(B) the benefits and cost-sharing arrangement available to the participant or beneficiary under such plan.

An employee health benefit plan shall retain the documentation provided to a participant or beneficiary under subparagraphs (A) and (B) for at least the 12-month period following the date on which the participant or bene-

ficiary ceases to be covered under the plan. Upon request, an employee health benefit plan shall provide a second copy of such documentation or such participant or beneficiary within the 12-month period following the date of such ineligibility.

(3) DEFINITIONS.—As used in this section:

(A) PREVIOUS QUALIFYING COVERAGE.—The term ''previous qualifying coverage'' means the period beginning on the date—

(i) a participant or beneficiary is enrolled under an employee health benefit plan or a group health plan, and ending on the date the participant or beneficiary is not so enrolled; or

(ii) an individual is enrolled under an individual health plan (as defined in section 113) or under a public or private health plan established under Federal or State law, and ending on the date the individual is not so enrolled;

for a continuous period of more than 30 days (without regard to any waiting period).

(B) LIMITATION OR EXCLUSION OF BENEFITS RELATING TO TREATMENT OF A PREEXISTING CONDITION.—The term ''limitation or exclusion of benefits relating to treatment of a preexisting condition'' means a limitation or exclusion of benefits imposed on an individual based on a preexisting condition of such individual.

(4) EFFECT OF PREVIOUS COVERAGE.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition, subject to the limits in subsection (a)(1), only to the extent that such service or benefit was not previously covered under the group health plan, employee health benefit plan, or individual health plan in which the participant or beneficiary was enrolled immediately prior to enrollment in the plan involved.

(c) LATE ENROLLEES.—Except as provided in section 104, with respect to a participant or beneficiary enrolling in an employee health benefit plan or group health plan during a time that is other than the first opportunity to enroll during an enrollment period of at least 30 days, coverage with respect to benefits or services relating to the treatment of a preexisting condition in accordance with subsection (a) and (b) may be excluded except the period of such exclusion may not exceed 18 months beginning on the date of coverage under the plan.

(d) AFFILIATION PERIODS.—With respect to a participant or beneficiary who would otherwise be eligible to receive benefits under an employee health benefit plan or a group health plan but for the operation of a preexisting condition limitation or exclusion, if such plan does not utilize a limitation or exclusion of benefits relating to the treatment of a preexisting condition, such plan may impose an affiliation period on such participant or beneficiary not to exceed 60 days (or in the case of a late participant or beneficiary described in subsection (c), 90 days) from the date on which the participant or beneficiary would otherwise be eligible to receive benefits under the plan. An employee health benefit plan or a health plan issuer offering a group health plan may also use alternative methods to address adverse section as approved by the applicable certifying authority (as defined in section 142(d)). During such an affiliation period, the plan may not be required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

(e) PREEXISTING CONDITIONS.—For purposes of this section, the term ''preexisting condition'' means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before the effective date of the coverage (without regard to any waiting period).

(f) STATE FLEXIBILITY.—Nothing in this section shall be construed to preempt State laws that—

(1) require health plan issuers to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for periods that are shorter than those provided for under this section; or

(2) allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 30-day period provided for under subsection (b)(3);

unless such laws are preempted by section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 104. SPECIAL ENROLLMENT PERIODS.

In the case of a participant, beneficiary or family member who—

(1) through marriage, separation, divorce, death, birth or placement of a child for adoption, experiences a change in family composition affecting eligibility under a group health plan, individual health plan, or employee health benefit plan;

(2) experiences a change in employment status, as described in section 603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), that causes the loss of eligibility for coverage, other than COBRA continuation coverage under a group health plan, individual health plan, or employee health benefit plan; or

(3) experiences a loss of eligibility under a group health plan, individual health plan, or employee health benefit plan because of a change in the employment status of a family member;

each employee health benefit plan and each group health plan shall provide for a special enrollment period extending for a reasonable time after such event that would permit the participant to change the individual or family basis of coverage or to enroll in the plan if coverage would have been available to such individual, participant, or beneficiary but for failure to enroll during a previous enrollment period. Such a special enrollment period shall ensure that a child born or placed for adoption shall be deemed to be covered under the plan as of the date of such birth or placement for adoption if such child is enrolled within 30 days of the date of such birth or placement for adoption.

SEC. 105. DISCLOSURE OF INFORMATION.

(a) DISCLOSURE OF INFORMATION BY HEALTH PLAN ISSUER.—

(1) IN GENERAL.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(A) the provisions of such group health plan concerning the health plan issuer's right to change premium rates and the factors that may affect changes in premium rates.

(B) the provisions of such group health plan relating to renewability of coverage;

(C) the provisions of such group health plan relating to any preexisting condition provision; and

(D) descriptive information about the benefits and premiums available under all group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) EXCEPTION.—With respect to the requirement of paragraph (1), any information that is proprietary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to preempt State reporting and disclosure requirements to the extent that such requirements are not preempted under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(b) DISCLOSURE OF INFORMATION TO PARTICIPANTS AND BENEFICIARIES.—

(1) IN GENERAL.—Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (B)—

(A) by striking ''102(a)(1),'' and inserting ''102(a)(1) that is not a material reduction in covered services or benefits provided,''; and

(B) by adding at the end thereof the following new sentences: ''If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, a summary description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.''.

(2) PLAN DESCRIPTION AND SUMMARY.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting ''including the office or title of the individual who is responsible for approving or denying claims for coverage of benefits'' after ''type of administration of the plan'';

(B) by inserting ''including the name of the organization responsible for financing claims'' after ''source of financing of the plan''; and

(C) by inserting ''including the office, contact, or title of the individual at the Department of Labor through which participants may seek assistance or information regarding their rights under this Act and title I of the Health Insurance Reform Act of 1996 with respect to health benefits that are not offered through a group health plan.'' after ''benefits under the plan''.

Subtitle B—Individual Market Rules

SEC. 110. INDIVIDUAL HEALTH PLAN PORTABILITY.

(a) LIMITATION ON REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsections (b) and (c), a health plan issuer described in paragraph (3) may not, with respect to an eligible individual (as defined in subsection (b)) desiring to enroll in an individual health plan—

(A) decline to offer coverage to such individual, or deny enrollment to such individual based on the health status of the individual; or

(B) impose a limitation or exclusion of benefits otherwise covered under the plan for the individual based on a preexisting condition unless such limitation or exclusion could have been imposed if the individual remained covered under a group health plan or

employee health benefit plan (including providing credit for previous coverage in the manner provided under subtitle A).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall be construed to prevent a health plan issuer offering an individual health plan from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion or disease prevention.

(3) HEALTH PLAN ISSUER.—A health plan issuer described in this paragraph in a health plan issuer that issues or renews individual health plans.

(4) PREMIUMS.—Nothing in this subsection shall be construed to affect the determination of a health plan issuer as to the amount of the premium payable under an individual health plan under applicable State law.

(b) DEFINITION OF ELIGIBLE INDIVIDUAL.—As used in subsection (a)(1), the term ''eligible individual'' means an individual who—

(1) was a participant or beneficiary enrolled under one or more group health plans, employee health benefit plans, or public plans established under Federal or State law, for not less than 18 months (without a lapse in coverage of more than 30 consecutive days) immediately prior to the date on which the individual desired to enroll in the individual health plan.

(2) is not eligible for coverage under a group health plan or an employee health benefit plan;

(3) has not had coverage terminated under a group health plan or employee health benefit plan for failure to make required premium payments or contributions, or for fraud or misrepresentation of material fact; and

(4) has, if applicable, accepted and exhausted the maximum required period of continuous coverage as described in section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) or under an equivalent State program.

(c) APPLICABLE OF CAPACITY LIMIT.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering coverage to individuals under an individual health plan may cease enrolling individuals under the plan if—

(A) the health plan issuer ceases to enroll any new individuals; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered individuals will be impaired if the health plan issuer is required to enroll additional individuals.

Such a health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering coverage to individuals under an individual health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer provides for enrollment of individuals under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(d) MARKET REQUIREMENT.—

(1) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) CONVERSION POLICIES.—A health plan issuer offering group health plans to group purchasers under this title shall not be deemed to be a health plan issuer offering an individual health plan solely because such health plan issuer offers a conversion policy.

(3) MARKETING OF PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

SEC. 111. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH COVERAGE.

(a) IN GENERAL.—Subject to subsections (b) and (c), coverage for individuals under an individual health plan shall be renewed or continued in force by a health plan issuer at the option of the individual, except that the requirement of this subsection shall not apply in the case of—

(1) the nonpayment of premiums or contributions by the individual in accordance with the terms of the individual health plan or where the health plan issuer has not received timely premium payments;

(2) fraud or misrepresentation of material fact on the part of the individual; or

(3) the termination of the individual health plan in accordance with subsection (b).

(b) TERMINATION OF INDIVIDUAL HEALTH PLANS.—

(1) PARTICULAR TYPE OF INDIVIDUAL HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of individual health plan to individuals, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the expiration of the plan.

(B) the health plan issuer offers to each individual covered under the plan the option to purchase any other individual health plan currently being offered by the health plan issuer to individuals; and

(C) in exercising the option to discontinue the individual health plan and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of particular individuals.

(21) DISCONTINUANCE OF ALL INDIVIDUAL HEALTH PLANS.—In any case in which a health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each individual covered under the plan of such discontinuation at least 180 days prior to the date of the discontinuation of the plan; and

(B) all individual health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A health plan issuer which offers a network plan (as defined in paragraph (2)) may deny continued participation under the plan to individuals who neither live, reside, nor work in an area in which the individual health plan is offered, but only if such denial is applied uniformly, without regard to health status of particular individuals.

(2) NETWORK PLAY.—As used in paragraph (1), the term ''network plan'' means an individual health plan that arranges for the financing and delivery of health care services to individuals covered under such health plan, in whole or in part, through arrangements with providers.

SEC. 112. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.

(a) IN GENERAL.—With respect to any State law with respect to which the Governor of the State notifies the Secretary of Health and Human Services that such State law will achieve the goals of sections 110 and 111, and that is in effect on, or enacted after, the date of enactment of this Act (such as laws providing for guaranteed issue, open enrollment by one or more health plan issuers, high-risk pools, or mandatory conversion policies), such State law shall apply in lieu of the standards described in sections 110 and 111 unless the Secretary of Health and Human Services determines, after considering the criteria described in subsection (b)(1), in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, that such State law does not achieve the goals of providing access to affordable health care coverage for those individuals described in sections 110 and 111.

(b) DETERMINATION.—

(1) IN GENERAL.—In making a determination under subsection (a), the Secretary of Health and Human Services shall only—

(A) evaluate whether the State law or program provides guaranteed access to affordable coverage to individuals described in sections 110 and 111;

(B) evaluate whether the State law or program provides coverage for preexisting conditions (as defined in section 103(e)) that were covered under the individuals' previous group health plan or employee health benefit plan for individuals described in sections 110 and 111.

(C) evaluate whether the State law or program provides individuals described in sections 110 and 111 with a choice of health plans or a health plan providing comprehensive coverage, and

(D) evaluate whether the application of the standards described in sections 110 and 111 will have an adverse impact on the number of individuals in such State having access to affordable coverage.

(2) NOTICE OF INTENT.—If, within 6 months after the date of enactment of this Act, the Governor of a State notifies the Secretary of Health and Human Services that the State intends to enact a law, or modify an existing law, described in subsection (a), the Secretary of Health and Human Services may not make a determination under such subsection until the expiration of the 12-month period beginning on the date on which such notification is made, or until January 1, 1998, whichever is later. With respect to a State that provides notice under this paragraph and that has a legislature that does not meet within the 12-month period beginning on the date of enactment of this Act, the Secretary shall not make a determination under subsection (a) prior to January 1, 1998.

(3) NOTICE TO STATE.—If the Secretary of Health and Human Services determines that a State law or program does not achieve the goals described in subsection (a), the Secretary of Health and Human Services shall provide the State with adequate notice and reasonable opportunity to modify such law or program to achieve such goals prior to making a final determination under subsection (a).

(c) ADOPTION OF NAIC MODEL.—If, not later than 9 months after the date of enactment of this Act—

(1) the National Association of Insurance Commissioners (hereafter referred to as the ''NAIC''), through a process which the Secretary of Health and Human Services determines has included consultation with rep-

resentatives of the insurance industry and consumer groups, adopts a model standard or standards for reform of the individual health insurance market, and

(2) the Secretary of Health and Human Services determines, within 30 days of the adoption of such NAIC standard or standards, that such standards comply with the goals of sections 110 and 111:

a State that elects to adopt such model standards or substantially adopt such model standards shall be deemed to have met the requirements of sections 110 and 111 and shall be subject to a determination under subsection (a).

SEC. 113. DEFINITION.

(a) IN GENERAL.—As used this title, the term ''individual health plan'' means any contract, policy, certificate or other arrangement offered to individuals by a health plan issuer that provides or pays for health benefits (such as provider and hospital benefits) and that is not a group health plan under section 2(6).

(b) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(1) Coverage only for accident, or disability income insurance, or any combination thereof.

(2) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(3) Coverage issued as a supplement to liability insurance.

(4) Liability insurance, including general liability insurance and automobile liability insurance.

(5) Workers' compensation or similar insurance.

(6) Automobile medical payment insurance.

(7) Coverage for a specified disease or illness.

(8) Hospital of fixed indemnity insurance.

(9) Short-term limited duration insurance.

(10) Credit-only, dental-only, or vision-only insurance.

(11) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Subtitle C—COBRA Clarifications

SEC. 121. COBRA CLARIFICATIONS.

(a) PUBLIC HEALTH SERVICE ACT.—

(1) PERIOD OF COVERAGE.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb–2(2)) is amended—

(A) in subparagraph (A)—

(i) by transferring the sentence immediately preceding clause (iv) so as to appear immediately following such clause (iv); and

(ii) in the last sentence (as so transferred)—

(I) by inserting '', or a beneficiary-family member of the individual,'' after ''an individual''; and

(II) by striking ''at the time of a qualifying event described in section 2203(2)'' and inserting ''at any time during the initial 18-month period of continuing coverage under this title'';

(B) in subparagraph (D)(i), by inserting before '', or'' the following: '', except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996'', and

(C) in subparagraph (E), by striking ''at the time of a qualifying event described in section 2203(2)'' and inserting ''at any time during the initial 18-month period of continuing coverage under this title'',

(2) ELECTION.—Section 2205(1)(C) of the Public Health Service Act (42 U.S.C. 300bb–5(1)(C)) is amended—

(A) in clause (i), by striking ''or'' at the end thereof.

(B) in clause (ii), by striking the period and inserting '', or'', and

(C) by adding at the end thereof the following new clause:

''(iii) in the case of an individual described in the last sentence of section 2202(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.''.

(3) NOTICES.—Section 2206(3) of the Public Health Service Act (42 U.S.C. 300bb–6(3)) is amended by striking ''at the time of a qualifying event described in section 2203(2)'' and inserting ''at any time during the initial 18-month period of continuing coverage under this title''.

(4) BIRTH OR ADOPTION OF A CHILD.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb–8(3)(A)) is amended by adding at the end thereof the following new flush sentence:

''Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this title.''.

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) PERIOD OF COVERAGE.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in the last sentence of subparagraph (A)—

(i) by inserting '', or a beneficiary-family member of the individual.'' after ''an individual''; and

(ii) by striking ''at the time of a qualifying event described in section 603(2)'' and inserting ''at any time during the initial 18-month period of continuing coverage under this part'',

(B) in subparagraph (D)(i), by inserting before, '', or'' the following '', except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996''; and

(C) in subparagraph (E), by striking ''at the time of a qualifying event described in section 603(2)'' and inserting ''at any time during the initial 18-month period of continuing coverage under this part''.

(2) ELECTION.—Section 605(1)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165(1)(C)) is amended—

(A) in clause (i), by striking ''or'' at the end thereof;

(B) in clause (ii), by striking the period and inserting '', or''; and

(C) by adding at the end thereof the following new clause:

''(iii) in the case of an individual described in the last sentence of section 602(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.''.

(3) NOTICES.—Section 606(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(3)) is amended by striking ''at the time of a qualifying event described in section 603(2)'' and inserting ''at any time during the initial 18-month period of continuing coverage under this part''.

(4) BIRTH OR ADOPTION OF A CHILD.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

''Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this part.''.

(c) INTERNAL REVENUE CODE OF 1986.—

(1) PERIOD OF COVERAGE.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in the last sentence of clause (i) by striking ''at the time of a qualifying event described in paragraph (3)(B)'' and inserting ''at any time during the initial 18-month period of continuing coverage under this section''.

(B) in clause (iv)(I), by inserting before '', or'' the following: '', except that the exclusion or limitation contained in this subclause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this subsection because of the provision of the Health Insurance Reform Act of 1996''; and

(C) in clause (v), by striking ''at the time of a qualifying event described in paragraph (3)(B)'' and inserting ''at any time during the initial 18-month period of continuing coverage under this section''.

(2) ELECTION.—Section 4980B(f)(5)(A)(ii) of the Internal Revenue Code of 1986 is amended—

(A) in subclause (I), by striking ''or'' at the end thereof;

(B) in subclause (II), by striking the period and inserting '', or'', and

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

''(III) in the case of an qualified beneficiary described in the last sentence of paragraph (2)(B)(i), the date such individual is determined to have been disabled.''.

(3) NOTICES.—Section 4980B(f)(6)(C) of the Internal Revenue Code of 1986 is amended by striking ''at the time of a qualifying event described in paragraph (3)(B)'' and inserting ''at any time during the initial 18-month period of continuing coverage under this section''.

(4) BIRTH OR ADOPTION OF A CHILD.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new flush sentence:

''Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this section.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualifying events occurring on or after the date of enactment of this Act for plan years beginning after December 31, 1997.

(e) NOTIFICATION OF CHANGES.—Not later than 60 days prior to the date on which this section becomes effective, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and section 4980B(f) of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part or section of the amendments made by this section.

Subtitle D—Private Health Plan Purchasing Cooperatives

SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES.

(a) DEFINITION.—As used in this title, the term ''health plan purchasing cooperative'' means a group of individuals or employers that, on a voluntary basis and in accordance with this section, form a cooperative for the purpose of purchasing individual health plans or group health plans offered by health plan issuers. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of insurance may not underwrite a cooperative.

(b) CERTIFICATION.—

(1) IN GENERAL.—If a group described in subsection (a) desires to form a health plan purchasing cooperative in accordance with this section and such group appropriately notifies the State and the Secretary of such desire, the State, upon a determination that such group meets the requirements of this section, shall certify the group as a health plan purchasing cooperative. The State shall make a determination of whether such group meets the requirements of this section in a timely fashion. Each such cooperative shall also be registered with the Secretary.

(2) STATE REFUSAL TO CERTIFY.—If a State fails to implement a program for certifying health plan purchasing cooperatives in accordance with the standards under this title, the Secretary shall certify and oversee the operations of such cooperative in such State.

(3) INTERSTATE COOPERATIVES.—For purposes of this section a health plan purchasing cooperative operating in more than one State shall be certified by the State in which the cooperative is domiciled. States may enter into cooperative agreements for the purpose of certifying and overseeing the operation of such cooperatives. For purposes of this subsection, a cooperative shall be considered to be domiciled in the State in which most of the members of the cooperative reside.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—Each health plan purchasing cooperative shall be governed by a Board of Directors that shall be responsible for ensuring the performance of the duties of the cooperative under this section. The Board shall be composed of a board cross-section of representatives of employers, employees, and individuals participating in the cooperative. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of individual health plans or group health plans may not hold or control any right to vote with respect to a cooperative.

(2) LIMITATION ON COMPENSATION.—A health plan purchasing cooperative may not provide compensation to members of the Board of Directors. The cooperative may provide reimbursements to such members for the reasonable and necessary expenses incurred by the members in the performance of their duties as members of the Board.

(3) CONFLICT OF INTEREST.—No member of the Board of Directors (or family members of such members) nor any management personnel of the cooperative may be employed by, be a consultant of, be a member of the board of directors or, be affiliated with an agent of, or otherwise be a representative of any health plan issuer, health care provider, or agent or broker. Nothing in the preceding sentence shall limit a member of the Board from purchasing coverage offered through the cooperative.

(d) MEMBERSHIP AND MARKETING AREA.—

(1) MEMBERSHIP.—A health plan purchasing cooperative may establish limits on the maximum size of employers who may become members of the cooperative, and may determine whether to permit individuals to become members. Upon the establishment of such membership requirements, the cooperative shall, except as provided in subparagraph (B), accept all employers (or individuals) residing within the area served by the cooperative who meet such requirements as members on a first-come, first-served basis, or on another basis established by the State to ensure equitable access to the cooperative.

(2) MARKETING AREA.—A State may establish rules regarding the geographic area that must be served by a health plan purchasing cooperative. With respect to a State that has not established such rules, a health plan purchasing cooperative operating in the State shall define the boundaries of the area to be served by the cooperative, except that such boundaries may not be established on the basis of health status of the populations that reside in the area.

(e) DUTIES AND RESPONSIBILITIES.—

(1) IN GENERAL.—A health plan purchasing cooperative shall—

(A) enter into agreements with multiple, unaffiliated health plan issuers, except that the requirement of this subparagraph shall not apply in regions (such as remote or frontier areas) in which compliance with such requirement is not possible.

(B) enter into agreements with employers and individuals who become members of the cooperative;

(C) participate in any program of risk-adjustment or reinsurance, or any similar program, that is established by the State.

(D) prepare and disseminate comparative health plan materials (including information about cost, quality, benefits, and other information concerning group health plans and individual health plans offered through the cooperative);

(E) actively market to all eligible employers and individuals residing within the service area; and

(F) act as an ombudsman for group health plan or individual health plan enrollees.

(2) PERMISSIBLE ACTIVITIES.—A health plan purchasing cooperative may perform such other functions as necessary to further the purposes of this title, including—

(A) collecting and distributing premiums and performing other administrative functions;

(B) collecting and analyzing surveys of enrollee satisfaction;

(C) charging membership fee to enrollees (such fees may not be based on health status) and charging participation fees to health plan issuers;

(D) cooperating with (or accepting as members) employers who provide health benefits directly to participants and beneficiaries only for the purpose of negotiating with providers, and

(E) negotiating with health care providers and health plan issuers.

(f) LIMITATIONS ON COOPERATIVE ACTIVITIES.—A health plan purchasing cooperative shall not—

(1) perform any activity relating to the licensing of health plan issuers.

(2) assume financial risk directly or indirectly on behalf of members of a health plan purchasing cooperative relating to any group health plan or individual health plan;

(3) establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements for participants, beneficiaries, or individuals based on health status;

(4) operate on a for-profit or other basis where the legal structure of the cooperative permits profits to be made and not returned to the members of the cooperative, except that a for-profit health plan purchasing cooperative may be formed by a nonprofit organization—

(A) in which membership in such organization is not based on health status; and

(B) that accepts as members all employers or individuals on a first-come, first-served basis, subject to any established limit on the maximum size of and employer that may become a member; or

(5) perform any other activities that conflict or are inconsistent with the performance of its duties under this title.

(g) LIMITED PREEMPTIONS OF CERTAIN STATE LAWS.—

(1) IN GENERAL.—With respect to a health plan purchasing cooperative that meets the requirements of this section, State fictitious group laws shall be preempted.

(2) HEALTH PLAN ISSUERS.—

(A) RATING.—With respect to a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative that meets the requirements of this section. State premium rating requirement laws, except to the extent provided under subparagraph (B), shall be preempted unless such laws permit premium rates negotiated by the cooperative to be less than rates that would otherwise be permitted under State law, if such rating differential is not based on differences in health status or demographic factors.

(B) EXCEPTION.—State laws referred to in subparagraph (A) shall not be preempted if such laws—

(i) prohibit the variance of premium rates among employers, plan sponsors, or individuals that are members of health plan purchasing cooperative in excess of the amount of such variations that would be permitted under such State rating laws among employers, plan sponsors, and individuals that are not members of the cooperative; and

(ii) prohibit a percentage increase in premium rates for a new rating period that is in excess of that which would be permitted under State rating laws.

(C) BENEFITS.—Except as provided in subparagraph (D), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative shall comply with all State mandated benefit laws that require the offering of any services, category or care, or services of any class or type of provider.

(D) EXCEPTION.—In those states that have enacted laws authorizing the issuance of alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative that meets the requirements of this section.

(h) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) require that a State organize, operate, or otherwise create health plan purchasing cooperatives;

(2) otherwise require the establishment of health plan purchasing cooperatives.

(3) require individuals, plan sponsors, or employers to purchase group health plans or individual health plans through a health plan purchasing cooperative;

(4) require that a health plan purchasing cooperative be the only type of purchasing arrangement permitted to operate in a State.

(5) confer authority upon a State that the State would not otherwise have to regulate health plan issuers or employee health benefits plans, or

(6) confer authority up a State (or the Federal Government) that the State (or Federal Government) would not otherwise have to regulate group purchasing arrangements, coalitions, or other similar entities that do not desire to become a health plan purchasing cooperative in accordance with this section.

(i) APPLICATION OF ERISA.—For purposes of enforcement only, the requirements of parts 4 and 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) shall apply to a health pan purchasing cooperative as if such plan were an employee welfare benefit plan.

Subtitle E—Application and Enforcement of Standards

SEC. 141. APPLICABILITY.

(A) CONSTRUCTION.—

(1) ENFORCEMENT.—

(A) IN GENERAL.—A requirement or standard imposed under this title on a group health plan or individual health plan offered by a health plan issuer shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved

or the official or officials designated by the State to enforce the requirements of this title. In the case of a group health plan offered by a health plan issuer in connection with an employee health benefit plan, the requirements of standards imposed under the title shall be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official of officials designated by the State to enforce the requirements of this title.

(B) LIMITATION.—Except as provided in subsection (c), the Secretary shall not enforce the requirements or standards of this title as they relate to health plan issuers, group health plans, or individual health plans. In no case shall a Sate enforce the requirements or standards of this title as they relate to employee health benefit plans.

(2) PREEMPTION OF STATE LAW.—Nothing in this title shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements—

(A) not prescribed in this title; or

(B) related to the issuance, renewal, or portability of health insurance or the establishment or operation of group purchasing arrangements, that are consistent with, and are not in direct conflict with, this title and provide greater protection or benefit to participants, beneficiaries or individuals.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(c) CONTINUATION.—Nothing in this title shall be construed as requiring a group health plan or an employee health benefit plan to provide benefits to a particular participant or beneficiary in excess of those provided under the terms of such plan.

SEC. 202. ENFORCEMENT OF STANDARDS.

(a) HEALTH PLAN ISSUERS.—Each State shall require that each group health plan and individual health plan issued, sold, renewed, offered for sale or operated in such State by a health plan issuer meet the standards established under this title pursuant to an enforcement plan filed by the State with the Secretary. A State shall submit such information as required by the Secretary demonstrating effective implementation of the State enforcement law.

(b) EMPLOYEE HEALTH BENEFIT PLANS.—With respect to employee health benefit plans, the Secretary shall enforce the reform standards established under this title in the same manner as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(c) FAILURE TO IMPLEMENT PLAN.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this title with respect to group health plans and individual health plans as provided for under the State enforcement plan filed under subsection (a), the Secretary, in consultation with the Secretary of Health and Human Services, shall implement an enforcement plan meeting the standards of this title in such State. In the case of a State that fails to substantially enforce the standards and requirements set forth in this title, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(d) APPLICABLE CERTIFYING AUTHORITY.—As used in this title, the term ''applicable certifying authority''means, with respect to—

(1) health plan issuers, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State involved; and

(2) an employee health benefit, plan, the Secretary.

(e) REGULATIONS.—The Secretary may promulgate such regulations as may be necessary or appropriate to carry out this title.

(f) TECHNICAL AMENDMENT.—Section 508 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1138) is amended by inserting ''and under the Health Insurance Reform Act of 1996'' before the period.

Subtitle F—Miscellaneous Provisions

SEC. 191. HEALTH COVERAGE AVAILABILITY STUDY.

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Secretary, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits, shall conclude a two-part study, and prepare and submit reports, in accordance with this section.

(b) EVALUATION OF AVAILABILITY.—Not later than January 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning—

(1) an evaluation, based on the experience of States, expert opinions, and such additional data as may be available, of the various mechanisms used to ensure the availability of reasonably priced health coverage to employers purchasing group coverage and to individuals purchasing coverage on a nongroup basis; and

(2) whether standards that limit the variation in premiums will further the purposes of this Act.

(c) EVALUATION OF EFFECTIVENESS.—Not later than January 1, 1999, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning the effectiveness of the provisions of this Act and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a nongroup basis.

SEC. 192. EFFECTIVE DATE.

Except as otherwise provided for in this title, the provisions of this title shall apply as follows:

(1) With respect to group health plans and individual health plans, such provisions shall apply to plans offered, sold, issued, renewed, in effect, or operated on or after January 1, 1997, and

(2) With respect to employee health benefit plans, on the first day of the first plan year beginning on or after January 1, 1997.

SEC. 193. SEVERABILITY.

If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE II—INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

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SEC. 200. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Increase in Deduction For Health Insurance Costs of Self-Employed Individuals

SEC. 201. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—

''(A) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined under the following table:

''For taxable years beginning in calendar year—	The applicable percentage is—
After 1996 and before 2002	50 percent.
2002 or thereafter	80 percent.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle B—Revenue Offsets

CHAPTER 1—TREATMENT OF INDIVIDUALS WHO EXPATRIATE

SEC. 211. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsection (f), all property of a covered expatriate to which this section applies shall be treated as sold on the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

''(3) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If an expatriate elects the application of this paragraph—

''(i) this section (other than this paragraph) shall not apply to the expatriate, but

''(ii) the expatriate shall be subject to tax under this title, with respect to property to which this section would apply but for such election, in the same manner as if the individual were a United States citizen.

''(B) LIMITATION ON AMOUNT OF ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of paragraph (2)).

''(c) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(D) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property—

''(A) no amount shall be required to be included in gross income under subsection (a)(1) with respect to the gain for such property for the taxable year of the sale, but

''(B) the taxpayer's tax for the taxable year in which such property is disposed of shall be increased by the deferred tax amount with respect to the property.

Except to the extent provided in regulations, subparagraph (B) shall apply to a disposition whether or not gain or loss is recognized in whole or in part on the disposition.

''(2) DEFERRED TAX AMOUNT.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'deferred tax amount' means, with respect to any property, an amount equal to the sum of—

''(i) the difference between the amount of tax paid for the taxable year described in paragraph (1)(A) and the amount which would have been paid for such taxable year if the election under paragraph (1) had not applied to such property, plus

''(ii) an amount of interest on the amount described in clause (i) determined for the period—

''(I) beginning on the 91st day after the expatriation date, and

''(II) ending on the due date for the taxable year described in paragraph (1)(B),

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

For purposes of clause (ii), the due date is the date prescribed by law (determined without regard to extension) for filing the return of the tax imposed by this chapter for the taxable year.

''(B) ALLOCATION OF LOSSES.—For purposes of subparagraph (A), any losses described in subsection (a)(2)(B) shall be allocated ratably among the gains described in subsection (a)(2)(A).

''(3) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2)(A) for the property, or

''(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

''(4) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(5) DISPOSITIONS.—For purposes of this subsection, a taxpayer making an election under this subsection with respect to any property shall be treated as having disposed of such property—

''(A) immediately before death if such property is held at such time, and

''(B) at any time the security provided with respect to the property fails to meet the requirements of paragraph (3) and the taxpayer does not correct such failure within the time specified by the Secretary.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

''(c) COVERED EXPATRIATE.—For purposes of this section—

''(1) IN GENERAL.—The term 'covered expatriate' means an expatriate—

''(A) whose average annual net income tax (as defined in section 38(c)(1)) for the period of 5 taxable years ending before the expatriation date is greater than $100,000, or

''(B) whose net worth as of such date is $500,000 or more.

If the expatriation date is after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1995' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.

''(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

''(A) the individual—

''(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(ii) has been a resident of the United Stats (as defined in section 7701(b)(1)(A)(ii)) for not more than 8 taxable years during the 15-taxable year period ending with the taxable year during which the expatriation date occurs, or

''(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

''(d) PROPERTY TO WHICH SECTION APPLIES.—For purposes of this section—

''(1) IN GENERAL.—Except as otherwise provided by the Secretary, this section shall apply to—

''(A) any interest in property held by a covered expatriate on the expatriation date the gain from which would be included in the gross income of the expatriate if such interest had been sold for its fair market value on such data in a transaction in which gain is recognized in whole or in part, and

''(B) any other interest in a trust to which subsection (f) applies.

''(2) EXCEPTIONS.—This section shall not apply to the following property:

''(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

''(B) INTEREST IN CERTAIN RETIREMENT PLANS.—

''(i) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

''(ii) FOREIGN PENSION PLANS.—

''(I) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

''(II) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

''(e) DEFINITIONS.—For purposes of this section—

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes his citizenship, or

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

''(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United

States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)).

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)).

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—

''(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the expatriation date occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

''(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

''(ii) any taxable year prior to the taxable year referred to in clause (i).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year in which the expatriation date occurs, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest in an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust in the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULE.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

''(I) which is organized under, and governed by, the laws of the United States or a State, and

''(II) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1)—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate, and

''(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed

by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) COORDINATION WITH ESTATE AND GIFT TAXES.—If subsection (a) applies to property held by an individual for any taxable year and—

''(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

''(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3).

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

''(1) to prevent double taxation by ensuring that—

''(A) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (a)(3), and

''(B) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(3)(B)(i), and

''(2) which provide for the proper allocation of the exclusion under subsection (a)(3) to property to which this section applies.

''(k) CROSS REFERENCE.—

''For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).''.

(b) INCLUSION IN INCOME OF GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatristion date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).''.

(d) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995.''.

(2) Section 2107(c) is amended by adding at the end the following new paragraph:

''(3) CROSS REFERENCE.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i).''.

(3) Section 2501(a)(3) is amended by adding at the end the following new flush sentence: ''For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i).''.

(4) Paragraph (10) of section 7701(b) is amended by adding at the end the following new sentence: ''This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1)).''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to amounts received from expatriates (as so defined) whose expatriation date (as so defined) occurs on and after February 6, 1995.

(3) SPECIAL RULES RELATING TO CERTAIN ACTS OCCURRING BEFORE FEBRUARY 6, 1995.—In the case of an individual who took an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)–(4)) before February 6, 1995, but whose expatriation date (as so defined) occurs after February 6, 1995—

(A) the amendment made by subsection (c) shall not apply,

(B) the amendment made by subsection (d)(1) shall not apply for any period prior to the expatriation date, and

(C) the other amendments made by this section shall apply as of the expatriation date.

(4) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 212. INFORMATION ON INDIVIDUALS EXPATRIATING.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

''SEC. 6039F. INFORMATION ON INDIVIDUALS EXPATRIATING.

''(a) REQUIREMENT.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, any expatriate (within the meaning of section 877A(e)(1)) shall provide a statement which includes the information described in subsection (b).

''(2) TIMING.—

''(A) CITIZENS.—In the case of an expatriate described in section 877(e)(1)(A), such statement shall be—

''(i) provided not later than the expatriation date (within the meaning of section 877A(e)(2)), and

''(ii) provided to the person or court referred to in section 877A(e)(3).

''(B) NONCITIZENS.—In the case of an expatriate described in section 877A(e)(1)(B), such statement shall be provided to the Secretary with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

''(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

''(1) the taxpayer's TIN,

''(2) the mailing address of such individual's principal foreign residence,

''(3) the foreign country in which such individual is residing,

''(4) the foreign country of which such individual is a citizen,

''(5) in the case of an individual having a net worth of at lease the dollar amount applicable under section 877A(c)(1)(B), information detailing the assets and liabilities of such individual, and

''(6) such other information as the Secretary may prescribe.

''(c) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year during any portion of which such failure continues in an amount equal to the greater of—

''(1) 5 percent of the additional tax required to be paid under section 877A for such year, or

''(2) $1,000, unless it is shown that such failure is due to reasonable cause and not to willful neglect.

''(d) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

''(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

''(A) a copy of any such statement, and

''(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

''(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

''(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual relinquishing United States citizenship (within the meaning of section 877A(e)(3)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

''(e) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if the Secretary determines that applying this section to such individuals is not necessary to carry out the purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

''Sec. 6039F. Information on individuals expatriating.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals to whom section 877A of the Internal Revenue Code of 1986 applies and whose expatriation date (as defined in section 877A(e)(2)) occurs on or after February 6, 1995, except that no statement shall be required by such amendments before the 90th day after the date of the enactment of this Act.

CHAPTER 2—FOREIGN TRUST TAX COMPLIANCE

SEC. 221. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

''SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

''(a) NOTICE OF CERTAIN EVENTS.—

''(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice

of such event to the Secretary in accordance with paragraph (2).

''(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

''(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

''(B) the identify of the trust and of each trustee and beneficiary or class of beneficiaries) of the trust.

''(3) REPORTABLE EVENT.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'reportable event' means—

''(i) the creation of any foreign trust by a United States person,

''(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

''(iii) the death of a citizen or resident of the United States if—

''(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

''(II) any portion of a foreign trust was included in the gross estate of the decedent.

''(B) EXCEPTIONS.—

''(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

''(ii) DEFERRED COMPENSATION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

''(I) described in section 402(b), 404(a)(4), or 404A, or

''(II) determined by the Secretary to be described in section 501(c)(3).

''(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

''(A) the grantor in the case of the creation of an inter vivos trust.

''(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

''(C) the executor of the decedent's estate in any other case.

''(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

''(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that

''(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

''(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

''(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

''(A) IN GENERAL.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

''(B) UNITED STATES AGENT REQUIRED.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

''(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

''(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

''(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

''(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

''(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

''(A) the name of such trust,

''(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

''(C) such other information as the Secretary may prescribe.

''(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—

''(A) IN GENERAL.—If applicable records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includable in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceeding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

''(B) APPLICATION OF ACCUMULATION DISTRIBUTION RULES.—For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be ½ of the number of years the trust has been in existence.

''(d) SPECIAL RULES.—

''(1) DETERMINATION OF WHETHER UNITED STATES PERSON RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

''(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

''(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

''(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.''.

(b) INCREASED PENALTIES.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

''SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

''(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

''(1) is not filed on or before the time provided in such section, or

''(2) does not include all the information required pursuant to such section or includes incorrect information.

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

''(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

''(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

''(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

''(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

''(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

''(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

''(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

''(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

''(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).''.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d), as amended by sections 11004 and 11045, is amended by striking ''or'' at the end of subparagraph (U), by striking the period at the end of subparagraph (V) and inserting ',or'', and by inserting after subparagraph (V) the following new subparagraph:

''(W) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).''.

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is

amended by striking the item relating to section 6048 and inserting the following new item:

''Sec. 604 Information with respect to certain foreign trusts.''.

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

''Sec. 6677. Failure to file information with respect to certain foreign trusts''

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 222. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

''(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.''.

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

''(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTIONS.—

''(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

''(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

''(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

''(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

''(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

''(i) the trust,

''(ii) any grantor or beneficiary of the trust, and

''(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust.''.

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 is amended by striking ''section 404(a)(4) or 404A'' and inserting ''section 6048(a)*(3)(B)(ii)''.

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:

''(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

''(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

''(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

''(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

''(5) OUTBOUND TRUST MIGRATIONS.—If—

''(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

''(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.''.

(d) MODIFICATION RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

''(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.''.

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

''(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),''.

(f) REGULATIONS.—Section 679 is amended by adding at the end the following new subsection:

''(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 233. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

''(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

''(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

''(2) EXCEPTIONS.—

''(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—Paragraph (1) shall not apply to any trust if—

''(i) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

''(ii) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

''(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

''(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

''(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

''(B) paragraph (1) shall not apply for purposes of applying section 1296.

''(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

''(5) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—If—

''(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

''(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

''(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.''.

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting ''subsection (f) and'' before ''sections 674''.

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: ''Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income.''.

(c) DISTRIBUTION BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 is amended by adding at the end the following new subsection:

''(h) DISTRIBUTION BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly

paid by the foreign trust to such United States person.''.

(2) Section 665 is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effort on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 224. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039F the following new section:

"SEC. 6039G. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

''(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

''(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

''(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

''(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

''(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

''(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

''(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

''(d) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

''(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039F the following new item:

''Sec. 6039G. Notice of large gifts received from foreign persons.''.

''(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 225. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

''(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

''(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

''(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

''(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

''(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

''(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

''(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

''(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

''(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

''(i) the undistributed net income for such year, and

''(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

''(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

''(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

''(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

''(A) by using an interest rate of 6 percent, and

''(B) without compounding until January 1, 1996.''.

(b) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

''(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.''.

(c) TREATMENT OF LOANS FROM TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

''(i) LOANS FROM FOREIGN TRUSTS.—For purposes of subparts B, C, and D—

''(1) GENERAL RULE.—Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

''(A) any grantor or beneficiary of such trust who is a United States person, or

''(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

''(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

''(B) RELATED PERSON.—

''(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

''(ii) ALLOCATION.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

''(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

''(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

''(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title.''

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting '', 643(i).'' before ''or 1274'' each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) LOANS FROM TRUSTS.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities after September 19, 1995.

SEC. 226. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

''(D) any estate or trust if—

''(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

''(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust.''.

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

''(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMETIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

''If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.''.

(2) PENALTY.—Section 1494 is amended by adding at the end the following new subsection:

''(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491 with respect to a trust, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

CHAPTER 3—REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS

SEC. 231. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is amended by adding at the end the following new subsections:

''(f) TERMINATION OF RESERVE METHOD.—Subsections (a), (b), (c), and (d) shall not apply to any taxable year beginning after December 31, 1995.

''(g) 6-YEAR SPREAD OF ADJUSTMENTS.—

''(1) IN GENERAL.—In the case of any taxpayer who is required by reason of subsection (f) to change its method of computing reserves for bad debts—

''(A) such change shall be treated as a change in a method of accounting,

''(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

''(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

''(i) shall be determined by taking into account only applicable excess reserves, and

''(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

''(2) APPLICABLE EXCESS RESERVES.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

''(i) the balance of the reserves described in subsection (c)(1) (other than the supplemental reserve) as of the close of the taxpayer's last taxable year beginning before December 31, 1995, over

''(ii) the lesser of—

''(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

''(II) the balance of the reserves described in subclause (I), reduced in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

''(B) SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 581) which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995—

''(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before such date if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A), and

''(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5) and (6) or subsection (e)(1).

''(3) RECAPTURE OF PRE–1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If, during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in paragraph (2)(A)(ii) and the supplemental reserve: except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

''(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

''(A) IN GENERAL.— In the case of a bank which meets the residential loan requirement of subparagraph (B) for the first taxable year beginning after December 31, 1995, or for the following taxable year—

''(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

''(ii) such taxable year shall be disregarded in determining—

''(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

''(II) the amount of such adjustment.

''(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

''(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term 'residential loan' means any loan described in clause (v) of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

''(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning on or before December 31, 1995. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after such date, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary.

''(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1), subparagraph (B) shall be applied with respect to such group.

''(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995.

''(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii), there shall be taken into account only the excess (if any) of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

''(B) TREATMENT UNDER ELECTIVE CUTOFF METHOD.—For purposes of applying section 585(c)(4)—

''(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

''(ii) no amount shall be includable in gross income by reason of such reduction.

''(6) SUSPENDED RESERVE INCLUDED AS SECTION 381(C) ITEMS.—The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 381(c).

''(7) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

''(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

''(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

''(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spinoffs, and other reorganizations.''

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence:

''Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995.''

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraph (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking ''or to which section 593 applies''.

(6) Subparagraph (A) of section 585(a)(2) is amended by striking ''other than an organization to which section 593 applies''.

(7)(A) The material preceding subparagraph (A) of section 593(e)(1) is amended by striking ''by a domestic building and loan association or an institution that is treated as a mutual savings bank under section 591(b)'' and inserting ''by a taxpayer having a balance described in subsection (g)(2)(A)(ii)''.

(B) Subparagraph (B) of section 593(e)(1) is amended to read as follows:

(B) then out of the balance taken into account under subsection (g)(2)(A)(ii) (properly adjusted for amounts charged against such reserves for taxable years beginning after December 31, 1987).''.

(C) Paragraph (1) of section 593(e) is amended by adding at the end the following new sentence: ''This paragraph shall not apply to any distribution of all of the stock of a bank (as defined in section 581 to another corporation if, immediately after the distribution, such bank and such other corporation are members of the same affiliated group (as defined in section 1504) and the provisions of section 5(e) of the Federal Deposit Insurance Act (as in effect on December 31, 1995) or similar provisions are in effect.''.

(8) Section 595 is hereby repealed.

(9) Section 596 is hereby repealed.

(10) Subsection (a) of section 860E is amended—

(A) by striking ''Except as provided in paragraph (2), the'' in paragraph (1) and inserting ''The''.

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows ''subsection'' and inserting a period.

(11) Paragraph (3) of section 992(d) is amended by striking ''or 593''.

(12) Section 1038 is amended by striking subsection (f).

(13) Clause (ii) of section 1042(c)(4)(B) is amended by striking ''or 593''.

(14) Subsection (c) of section 1277 is amended by striking ''or to which section 593 applies''.

(15) Subparagraph (B) of section 1361(b)(2) is amended by striking ''or to which section 593 applies''.

(16) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 595 and 596.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SUBSECTION (b)(7).—The amendments made by subsection (b)(7) shall not apply to any distribution with respect to preferred stock if—

(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

(3) SUBSECTION (b)(8).—The amendment made by subsection (b)(8) shall apply to property acquired in taxable years beginning after December 31, 1995.

(4) SUBSECTION (b)(10).—The amendments made by subsection (b)(10) shall not apply to any residual interest held by a taxpayer if such interest has been held by such taxpayer at all times after October 31, 1995.

After further debate,

Pursuant to House Resolution 392, the previous question on the amendment in the nature of a substitute and the bill, as amended, were considered as ordered.

The question being put, viva voce,

Will the House agree to said amendment in the nature of a substitute?

The SPEAKER pro tempore, Mr. COMBEST, announced that the nays had it.

Mr. BENTSEN objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared { Yeas ..... 192 / Nays ..... 226 }

¶37.23 [Roll No. 104]

YEAS—192

Abercrombie, Ackerman, Andrews, Baesler, Baldacci, Barcia, Barrett (WI), Becerra, Beilenson, Bentsen, Berman, Bevill, Bishop, Boehlert, Bonior, Borski, Boucher, Brewster, Browder, Brown (CA), Brown (FL), Brown (OH), Cardin, Chapman, Clay, Clayton, Clement, Clyburn, Collins (MI), Condit, Conyers, Costello, Coyne, Cramer, Danner, de la Garza, DeFazio, DeLauro, Dellums, Deutsch, Dicks, Dingell, Dixon, Doggett, Doyle, Duncan, Durbin, Edwards, Engel, Evans, Farr, Fattah, Fazio, Filner, Flake, Foglietta, Ford, Frank (MA), Franks (NJ), Frelinghuysen, Frost, Furse, Gejdenson, Gephardt, Geren, Gibbons, Gonzalez, Green, Gutierrez, Hall (OH), Hamilton, Harman, Hastings (FL), Hefner, Hilliard, Hinchey, Holden, Hoyer, Jackson (IL), Jackson-Lee (TX), Jacobs, Jefferson, Johnson (SD), Johnson, E.B., Johnston, Kanjorski, Kaptur, Kennedy (MA), Kennedy (RI), Kennelly, Kildee, Kleczka, Klink, LaFalce, Lantos, Levin, Lewis (GA), Lincoln, Lipinski, Lofgren, Lowey, Luther, Maloney, Manton, Markey, Martinez, Martini, Mascara, Matsui, McCarthy, McDermott, McHale, McKinney, Meehan, Meek, Menendez, Miller (CA), Minge, Mink, Moakley, Mollohan, Moran, Murtha, Nadler, Oberstar, Obey, Olver, Ortiz, Orton, Owens, Pallone, Pastor, Payne (NJ), Payne (VA), Pelosi, Peterson (FL), Peterson (MN), Pickett, Pomeroy, Poshard, Quinn, Rahall, Rangel, Reed, Richardson, Rivers, Roberts, Roemer, Rose, Roukema, Roybal-Allard, Rush, Sabo, Sanders, Sawyer, Schroeder, Schumer, Scott, Serrano, Sisisky, Skaggs, Skelton, Slaughter, Spratt, Stark, Stenholm, Studds, Stupak, Tanner, Tejeda, Thompson, Thornton, Thurman, Torkildsen, Torres, Torricelli, Towns, Traficant, Velazquez, Vento, Visclosky, Volkmer, Walsh, Ward, Waters, Watt (NC), Waxman, Wilson, Wise, Woolsey, Wynn, Yates

NAYS—226

Allard, Archer, Armey, Bachus, Baker (CA), Baker (LA), Ballenger, Barr, Barrett (NE), Bartlett, Barton, Bass, Bateman, Bereuter, Bilbray, Bilirakis, Bliley, Blute, Boehner, Bonilla, Bono, Brownback, Bryant (TN), Bunn, Bunning, Burr, Burton, Buyer, Callahan, Calvert, Camp, Campbell, Canady, Castle, Chabot, Chambliss, Chenoweth, Christensen, Chrysler, Clinger, Coble, Coburn, Collins (GA), Combest, Cooley, Cox, Crane, Crapo, Cremeans, Cubin, Cunningham, Davis, Deal, DeLay, Diaz-Balart, Dickey, Doolittle, Dornan, Dreier, Dunn, Ehlers, Ehrlich, Emerson, English, Ensign, Everett, Ewing, Fawell, Fields (TX), Flanagan, Foley, Forbes, Fox, Franks (CT), Frisa, Funderburk, Gallegly, Ganske, Gekas, Gilchrest, Gillmor, Gilman, Gingrich, Goodlatte, Goodling, Gordon, Goss, Graham, Greenwood, Gunderson, Gutknecht, Hall (TX), Hancock, Hansen, Hastert, Hastings (WA), Hayes, Hayworth, Hefley, Heineman, Herger, Hilleary, Hobson, Hoekstra, Hoke, Horn, Hostettler, Houghton, Hunter, Hutchinson, Hyde, Inglis, Istook, Johnson (CT), Johnson, Sam, Jones, Kasich, Kelly, Kim, King, Kingston, Klug, Knollenberg, Kolbe, LaHood, Largent, Latham, LaTourette, Laughlin, Lazio, Leach, Lewis (CA), Lewis (KY), Lightfoot, Linder, Livingston, LoBiondo, Longley, Lucas, Manzullo, McCollum, McCrery, McDade, McHugh, McInnis, McIntosh, McKeon, Metcalf, Meyers, Mica, Miller (FL), Molinari, Montgomery, Moorhead, Morella, Myers, Myrick, Nethercutt, Neumann, Ney, Norwood, Nussle, Oxley, Packard, Parker, Paxon, Petri, Pombo, Porter, Portman, Pryce, Quillen, Radanovich, Ramstad, Regula, Riggs, Rogers, Rohrabacher, Roth, Royce, Salmon, Sanford, Saxton, Scarborough, Schaefer, Schiff, Seastrand, Sensenbrenner, Shadegg, Shaw, Shays, Shuster, Skeen, Smith (MI), Smith (NJ), Solomon, Souder, Spence, Stearns, Stockman, Stump, Talent, Tate, Tauzin, Taylor (MS), Taylor (NC), Thomas, Thornberry, Tiahrt, Upton, Vucanovich, Waldholtz, Walker, Wamp, Watts (OK), Weldon (FL), Weller, White, Whitfield, Wicker, Williams, Wolf, Young (AK), Young (FL), Zeliff, Zimmer

NOT VOTING—14

Bryant (TX), Coleman, Collins (IL), Dooley, Eshoo, Fields (LA), Fowler, McNulty, Neal, Ros-Lehtinen, Smith (TX), Smith (WA), Stokes, Weldon (PA)

So the amendment in the nature of a substitute was not agreed to.

The bill, as amended, was ordered to be engrossed and read a third time, was read a third time by title.

Mr. PALLONE moved to recommit the bill to the Committee on Ways and Means with instructions to report the bill back to the House forthwith with the following amendment:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Health Insurance Reform Act of 1996''.

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

TABLE OF CONTENTS OF TITLE

Sec. 100. Definitions.

SUBTITLE A—GROUP MARKET RULES

Sec. 101. Guaranteed availability of health coverage.

Sec. 102. Guaranteed renewability of health coverage.

Sec. 103. Portability of health coverage and limitation on preexisting condition exclusions.
Sec. 104. Special enrollment periods.
Sec. 105. Disclosure of information.

SUBTITLE B—INDIVIDUAL MARKET RULES

Sec. 110. Individual health plan portability.
Sec. 111. Guaranteed renewability of individual health coverage.
Sec. 112. State flexibility in individual market reforms.
Sec. 113. Definition.

SUBTITLE C—COBRA CLARIFICATIONS

Sec. 121. Cobra clarification.

SUBTITLE D—PRIVATE HEALTH PLAN PURCHASING COOPERATIVES

Sec. 131. Private health plan purchasing cooperatives.

SUBTITLE E—APPLICATION AND ENFORCEMENT OF STANDARDS

Sec. 141. Applicability.
Sec. 142. Enforcement of standards.

SUBTITLE F—MISCELLANEOUS PROVISIONS

Sec. 191. Health coverage availability study.
Sec. 192. Effective date.
Sec. 193. Severability.

SEC. 100. DEFINITIONS.

As used in this title:

(1) BENEFICIARY.—The term ''beneficiary'' has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(2) EMPLOYEE.—The term ''employee'' has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) EMPLOYER.—The term ''employer'' has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

(4) EMPLOYEE HEALTH BENEFIT PLAN.—

(A) IN GENERAL.—The term ''employee health benefit plan'' means any employee welfare benefit plan, governmental plan, or church plan (as defined under paragraphs (1), (32), and (33) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (32), and (33))) that provides or pays for health benefits (such as provider and hospital benefits) for participants and beneficiaries whether—

(i) directly;

(ii) through a group health plan offered by a health plan issuer as defined in paragraph (8); or

(iii) otherwise.

(B) RULE OF CONSTRUCTION.—An employee health benefit plan shall not be construed to be a group health plan, an individual health plan, or a health plan issuer.

(C) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(5) FAMILY.—

(A) IN GENERAL.—The term ''family'' means an individual, the individual's spouse, and the child of the individual (if any).

(B) CHILD.—For purposes of subparagraph (A), the term ''child'' means any individual who is a child within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986.

(6) GROUP HEALTH PLAN.—

(A) IN GENERAL.—The term ''group health plan'' means any contract, policy, certificate or other arrangement offered by a health plan issuer to a group purchaser that provides or pays for health benefits (such as provider and hospital benefits) in connection with an employee health benefit plan.

(B) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof;

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(7) GROUP PURCHASER.—The term ''group purchaser'' means any person (as defined under paragraph (9) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that purchases or pays for health benefits (such as provider or hospital benefits) on behalf of two or more participants or beneficiaries in connection with an employee health benefit plan. A health plan purchasing cooperative established under section 131 shall not be considered to be a group purchaser.

(8) HEALTH PLAN ISSUER.—The term ''health plan issuer'' means any entity that is licensed (prior to or after the date of enactment of this Act) by a State to offer a group health plan or an individual health plan.

(9) HEALTH STATUS.—The term ''health status'' includes. with respect to an individual, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.

(10) PARTICIPANT.—The term ''participant'' has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

(11) PLAN SPONSOR.—The term ''plan sponsor'' has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(B)).

(12) SECRETARY.—The term ''Secretary'', unless specifically provided otherwise, means the Secretary of Labor.

(13) STATE.—The term ''State'' means each of the several States, the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Subtitle A—Group Market Rules

SECTION 101. GUARANTEED AVAILABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—

(1) NONDISCRIMINATION.—Except as provided in subsection (b), section 102 and section 103—

(A) a health plan issuer offering a group health plan may not decline to offer whole group coverage to a group purchaser desiring to purchase such coverage; and

(B) an employee health benefit plan or a health plan issuer offering a group health plan may establish eligibility, continuation of eligibility, enrollment, or premium; contribution requirements under the terms of such plan, except that such requirements shall not be based on health status (as defined in section 100(9)).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall prevent an employee health benefit plan or a health plan issuer from establishing premium; discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(b) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering a group health plan may cease offering coverage to group purchasers under the plan if—

(A) the health plan issuer ceases to offer coverage to any additional group purchasers; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered participants and beneficiaries (and additional participants and beneficiaries who will be expected to enroll because of their affiliation with a group purchaser or such previously covered participants or beneficiaries) will be impaired if the health plan issuer is required to offer coverage to additional group purchasers.

Such health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering a group health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer offers coverage to group purchasers under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(c) CONSTRUCTION.—

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering group health plans to actively market such plans.

(2) INVOLUNTARY OFFERING OF GROUP HEALTH PLANS.—Nothing is this section shall be construed to require a health plan issuer to involuntarily offer group health plans in a particular market. For the purposes of this paragraph, the term ''market'' means either the large employer market or the small employer market (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees).

SEC. 102. GUARANTEED RENEWABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—

(1) GROUP PURCHASER.—Subject to subsections (b) and (c), a group health plan shall

be renewed or continued in force by a health plan issuer at the option of the group purchaser, except that the requirement of this subparagraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the group purchaser in accordance with the terms of the group health plan or where the health plan issuer has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the group purchaser;

(C) the termination of the group health plan in accordance with subsection (b); or

(D) the failure of the group purchaser to meet contribution or participation requirements in accordance with paragraph (3).

(2) PARTICIPANT.—Subject to subsections (b) and (c), coverage under an employee health benefit plan or group health plan shall be renewed or continued in force, if the group purchaser elects to continue to provide coverage under such plan, at the option of the participant (or beneficiary where such right exists under the terms of the plan or under applicable law), except that the requirement of this paragraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the participant or beneficiary in accordance with the terms of the employee health benefit plan or group health plan or where such plan has not received timely premium payments.

(B) fraud or misrepresentation of material fact on the part of the participant or beneficiary relating to an application for coverage or claim for benefits;

(C) the termination of the employee health benefit plan or group health plan;

(D) loss of eligibility for continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.); or

(E) failure of a participant or beneficiary to meet requirements for eligibility for coverage under an employee health benefit plan or group health plan that are not prohibited by this title.

(3) RULES OF CONSTRUCTION.—Nothing in this subsection, nor in section 101(a), shall be construed to—

(A) preclude a health plan issuer from establishing employer contribution rules or group participation rules for group health plans as allowed under applicable State law;

(B) preclude a plan defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(37)) from establishing employer contribution rules or group participation rules; or

(C) permit individuals to decline coverage under an employee health benefit plan if such right is not otherwise available under such plan.

(b) TERMINATION OF GROUP HEALTH PLANS.—

(1) PARTICULAR TYPE OF GROUP HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of group health plan. A group health plan of such type may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each group purchaser covered under a group health plan of this type (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 90 days prior to the date of the discontinuation of such plan;

(B) the health plan issuer offers to each group purchaser covered under a group health plan of this type, the option to purchase any other group health plan currently being offered by the health plan issuer; and

(C) in exercising the option to discontinue a group health plan of this type and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of participants or beneficiaries covered under the group health plan, or new participants or beneficiaries who may become eligible for coverage under the group health plan.

(2) DISCONTINUANCE OF ALL GROUP HEALTH PLANS.—

(A) IN GENERAL.—In any case in which a health plan issuer elects to discontinue offering all group health plans in a State, a group health plan may be discontinued by the health plan issuer only if—

(i) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each group purchaser (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 180 days prior to the date of the expiration of such plan, and

(ii) all group health plans issued or delivered for issuance in the State or discontinued and coverage under such plans is not renewed.

(B) APPLICATION OF PROVISIONS.—The provisions of this paragraph and paragraph (3) may be applied separately by a health plan issuer—

(i) to all group health plans offered to small employers (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees); or

(ii) to all other group health plans offered by the health plan issuer in the State.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any group health plan in the market sector (as described in paragraph (2)(B)) in which issuance of such group health plan was discontinued in the State involved during the 5-year period beginning on the date of the discontinuation of the last group health plan not so renewed.

(C) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A network plan (as defined in paragraph (2)) may deny continued participation under such plan to participants or beneficiaries who neither live, reside, nor work in an area in which such network plan is offered, but only if such denial is applied uniformly, without regard to health status of particular participants or beneficiaries.

(2) NETWORK PLAN.—As used in paragraph (1), the term ''network plan'' means an employee health benefit plan or a group health plan that arranges for the financing and delivery of health care services to participants or beneficiaries covered under such plan, in whole or in part, through arrangements with providers.

(d) COBRA COVERAGE.—Nothing in subsection (a)(2)(E) or subsection (c) shall be construed to affect any right to COBRA continuation coverage as described in part 6 of subtitle B of title I of the employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.).

SEC. 103. PORTABILITY OF HEALTH COVERAGE AND LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to treatment of a preexisting condition based on the fact that the condition existed prior to the coverage of the participant or beneficiary under the plan only if—

(1) the limitation or exclusion extends for a period of not more than 12 months after the date of enrollment in the plan;

(2) the limitation or exclusion does not apply to an individual who, within 30 days of the date of birth or placement for adoption (as determined under section 609(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(c)(3)(B)), was covered under the plan; and

(3) the limitation or exclusion does not apply to a pregnancy.

(b) CREDITING OF PREVIOUS QUALIFYING COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (4), an employee health benefit plan or a health plan issuer offering a group health plan shall provide that if a participant or beneficiary is in a period of previous qualifying coverage as of the date of enrollment under such plan, any period of exclusion or limitation of coverage with respect to a preexisting condition shall be reduced by 1 month for each month in which the participant or beneficiary was in the period of previous qualifying coverage. With respect to an individual described in subsection (a)(2) who maintains continuous coverage, no limitation or exclusion of benefits relating to treatment of a preexisting condition may be applied to a child within the child's first 12 months of life or within 12 months after the placement of a child for adoption.

(2) DISCHARGE OF DUTY.—An employee health benefit plan shall provide documentation of coverage to participants and beneficiaries who coverage is terminated under the plan. Pursuant to regulations promulgated by the Secretary, the duty of an employee health benefit plan to verify previous qualifying coverage with respect to a participant or beneficiary is effectively discharged when such employee health benefit plan provides documentation to a participant or beneficiary that includes the following information:

(A) the dates that the participant or beneficiary was covered under the plan; and

(B) the benefits and cost-sharing arrangement available to the participant or beneficiary under such plan.

An employee health benefit plan shall retain the documentation provided to a participant or beneficiary under subparagraphs (A) and (B) for at least the 12-month period following the date on which the participant or beneficiary ceases to be covered under the plan. Upon request, an employee health benefit plan shall provide a second copy of such documentation or such participant or beneficiary within the 12-month period following the date of such ineligibility.

(3) DEFINITIONS.—As used in this section:

(A) PREVIOUS QUALIFYING COVERAGE.—The term ''previous qualifying coverage'' means the period beginning on the date—

(i) a participant or beneficiary is enrolled under an employee health benefit plan or a group health plan, and ending on the date the participant or beneficiary is not so enrolled; or

(ii) an individual is enrolled under an individual health plan (as defined in section 113) or under a public or private health plan established under Federal or State law, and ending on the date the individual is not so enrolled;

for a continuous period of more than 30 days (without regard to any waiting period).

(B) LIMITATION OR EXCLUSION OF BENEFITS RELATING TO TREATMENT OF A PREEXISTING CONDITION.—The term ''limitation or exclusion of benefits relating to treatment of a preexisting condition'' means a limitation or exclusion of benefits imposed on an individual based on a preexisting condition of such individual.

(4) EFFECT OF PREVIOUS COVERAGE.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition, subject to the limits in subsection (a)(1), only to the extent that such service or benefit was not previously covered under the group health plan, employee health benefit plan, or individual health plan in which the participant or beneficiary was enrolled im-

mediately prior to enrollment in the plan involved.

(c) LATE ENROLLEES.—Except as provided in section 104, with respect to a participant or beneficiary enrolling in an employee health benefit plan or group health plan during a time that is other than the first opportunity to enroll during an enrollment period of at least 30 days, coverage with respect to benefits or services relating to the treatment of a preexisting condition in accordance with subsection (a) and (b) may be excluded except the period of such exclusion may not exceed 18 months beginning on the date of coverage under the plan.

(d) AFFILIATION PERIODS.—With respect to a participant or beneficiary who would otherwise be eligible to receive benefits under an employee health benefit plan or a group health plan but for the operation of a preexisting condition limitation or exclusion, if such plan does not utilize a limitation or exclusion of benefits relating to the treatment of a preexisting condition, such plan may impose an affiliation period on such participant or beneficiary not to exceed 60 days (or in the case of a late participant or beneficiary described in subsection (c), 90 days) from the date on which the participant or beneficiary would otherwise be eligible to receive benefits under the plan. An employee health benefit plan or a health plan issuer offering a group health plan may also use alternative methods to address adverse section as approved by the applicable certifying authority (as defined in section 142(d)). During such an affiliation period, the plan may not be required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

(e) PREEXISTING CONDITIONS.—For purposes of this section, the term ''preexisting condition'' means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before the effective date of the coverage (without regard to any waiting period).

(f) STATE FLEXIBILITY.—Nothing in this section shall be construed to preempt State laws that—

(1) require health plan issuers to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for periods that are shorter than those provided for under this section; or

(2) allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 30-day period provided for under subsection (b)(3);

unless such laws are preempted by section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 104. SPECIAL ENROLLMENT PERIODS.

In the case of a participant, beneficiary or family member who—

(1) through marriage, separation, divorce, death, birth or placement of a child for adoption, experiences a change in family composition affecting eligibility under a group health plan, individual health plan, or employee health benefit plan;

(2) experiences a change in employment status, as described in section 603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), that causes the loss of eligibility for coverage, other than COBRA continuation coverage under a group health plan, individual health plan, or employee health benefit plan; or

(3) experiences a loss of eligibility under a group health plan, individual health plan, or employee health benefit plan because of a change in the employment status of a family member;

each employee health benefit plan and each group health plan shall provide for a special enrollment period extending for a reasonable time after such event that would permit the participant to change the individual or family basis of coverage or to enroll in the plan if coverage would have been available to such individual, participant, or beneficiary but for failure to enroll during a previous enrollment period. Such a special enrollment period shall ensure that a child born or placed for adoption shall be deemed to be covered under the plan as of the date of such birth or placement for adoption if such child is enrolled within 30 days of the date of such birth or placement for adoption.

SEC. 105. DISCLOSURE OF INFORMATION.

(a) DISCLOSURE OF INFORMATION BY HEALTH PLAN ISSUER.—

(1) IN GENERAL.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(A) the provisions of such group health plan concerning the health plan issuer's right to change premium rates and the factors that may affect changes in premium rates.

(B) the provisions of such group health plan relating to renewability of coverage;

(C) the provisions of such group health plan relating to any preexisting condition provision; and

(D) descriptive information about the benefits and premiums available under all group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) EXCEPTION.—With respect to the requirement of paragraph (1), any information that is proprietary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to preempt State reporting and disclosure requirements to the extent that such requirements are not preempted under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(b) DISCLOSURE OF INFORMATION TO PARTICIPANTS AND BENEFICIARIES.—

(1) IN GENERAL.—Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (B)—

(A) by striking ''102(a)(1),'' and inserting ''102(a)(1) that is not a material reduction in covered services or benefits provided,''; and

(B) by adding at the end thereof the following new sentences: ''If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, a summary description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.''.

(2) PLAN DESCRIPTION AND SUMMARY.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting ''including the office or title of the individual who is responsible for approving or denying claims for coverage of benefits'' after ''type of administration of the plan'';

(B) by inserting ''including the name of the organization responsible for financing claims'' after ''source of financing of the plan''; and

(C) by inserting ''including the office, contact, or title of the individual at the Department of Labor through which participants may seek assistance or information regarding their rights under this Act and title I of the Health Insurance Reform Act of 1996 with respect to health benefits that are not offered through a group health plan.'' after ''benefits under the plan''.

Subtitle B—Individual Market Rules

SEC. 110. INDIVIDUAL HEALTH PLAN PORTABILITY.

(a) LIMITATION ON REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsections (b) and (c), a health plan issuer described in paragraph (3) may not, with respect to an eligible individual (as defined in subsection (b)) desiring to enroll in an individual health plan—

(A) decline to offer coverage to such individual, or deny enrollment to such individual based on the health status of the individual; or

(B) impose a limitation or exclusion of benefits otherwise covered under the plan for the individual based on a preexisting condition unless such limitation or exclusion could have been imposed if the individual remained covered under a group health plan or employee health benefit plan (including providing credit for previous coverage in the manner provided under subtitle A).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall be construed to prevent a health plan issuer offering an individual health plan from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion or disease prevention.

(3) HEALTH PLAN ISSUER.—A health plan issuer described in this paragraph in a health plan issuer that issues or renews individual health plans.

(4) PREMIUMS.—Nothing in this subsection shall be construed to affect the determination of a health plan issuer as to the amount of the premium payable under an individual health plan under applicable State law.

(b) DEFINITION OF ELIGIBLE INDIVIDUAL.—As used in subsection (a)(1), the term ''eligible individual'' means an individual who—

(1) was a participant or beneficiary enrolled under one or more group health plans, employee health benefit plans, or public plans established under Federal or State law, for not less than 18 months (without a lapse in coverage of more than 30 consecutive days) immediately prior to the date on which the individual desired to enroll in the individual health plan.

(2) is not eligible for coverage under a group health plan or an employee health benefit plan;

(3) has not had coverage terminated under a group health plan or employee health benefit plan for failure to make required premium payments or contributions, or for fraud or misrepresentation of material fact; and

(4) has, if applicable, accepted and exhausted the maximum required period of continuous coverage as described in section

602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) or under an equivalent State program.

(c) APPLICABLE OF CAPACITY LIMIT.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering coverage to individuals under an individual health plan may cease enrolling individuals under the plan if—

(A) the health plan issuer ceases to enroll any new individuals; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered individuals will be impaired if the health plan issuer is required to enroll additional individuals.

Such a health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering coverage to individuals under an individual health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer provides for enrollment of individuals under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(d) MARKET REQUIREMENT.—

(1) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) CONVERSION POLICIES.—A health plan issuer offering group health plans to group purchasers under this title shall not be deemed to be a health plan issuer offering an individual health plan solely because such health plan issuer offers a conversion policy.

(3) MARKETING OF PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

SEC. 111. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH COVERAGE.

(a) IN GENERAL.—Subject to subsections (b) and (c), coverage for individuals under an individual health plan shall be renewed or continued in force by a health plan issuer at the option of the individual, except that the requirement of this subsection shall not apply in the case of—

(1) the nonpayment of premiums or contributions by the individual in accordance with the terms of the individual health plan or where the health plan issuer has not received timely premium payments;

(2) fraud or misrepresentation of material fact on the part of the individual; or

(3) the termination of the individual health plan in accordance with subsection (b).

(b) TERMINATION OF INDIVIDUAL HEALTH PLANS.—

(1) PARTICULAR TYPE OF INDIVIDUAL HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of individual health plan to individuals, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the expiration of the plan.

(B) the health plan issuer offers to each individual covered under the plan the option to purchase any other individual health plan currently being offered by the health plan issuer to individuals; and

(C) in exercising the option to discontinue the individual health plan and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of particular individuals.

(21) DISCONTINUANCE OF ALL INDIVIDUAL HEALTH PLANS.—In any case in which a health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each individual covered under the plan of such discontinuation at least 180 days prior to the date of the discontinuation of the plan; and

(B) all individual health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A health plan issuer which offers a network plan (as defined in paragraph (2)) may deny continued participation under the plan to individuals who neither live, reside, nor work in an area in which the individual health plan is offered, but only if such denial is applied uniformly, without regard to health status of particular individuals.

(2) NETWORK PLAY.—As used in paragraph (1), the term ''network plan'' means an individual health plan that arranges for the financing and delivery of health care services to individuals covered under such health plan, in whole or in part, through arrangements with providers.

SEC. 112. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.

(a) IN GENERAL.—With respect to any State law with respect to which the Governor of the State notifies the Secretary of Health and Human Services that such State law will achieve the goals of sections 110 and 111, and that is in effect on, or enacted after, the date of enactment of this Act (such as laws providing for guaranteed issue, open enrollment by one or more health plan issuers, high-risk pools, or mandatory conversion policies), such State law shall apply in lieu of the standards described in sections 110 and 111 unless the Secretary of Health and Human Services determines, after considering the criteria described in subsection (b)(1), in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, that such State law does not achieve the goals of providing access to affordable health care coverage for those individuals described in sections 110 and 111.

(b) DETERMINATION.—

(1) IN GENERAL.—In making a determination under subsection (a), the Secretary of Health and Human Services shall only—

(A) evaluate whether the State law or program provides guaranteed access to affordable coverage to individuals described in sections 110 and 111;

(B) evaluate whether the State law or program provides coverage for preexisting conditions (as defined in section 103(e)) that were covered under the individuals' previous group health plan or employee health benefit plan for individuals described in sections 110 and 111.

(C) evaluate whether the State law or program provides individuals described in sections 110 and 111 with a choice of health plans or a health plan providing comprehensive coverage, and

(D) evaluate whether the application of the standards described in sections 110 and 111 will have an adverse impact on the number of individuals in such State having access to affordable coverage.

(2) NOTICE OF INTENT.—If, within 6 months after the date of enactment of this Act, the Governor of a State notifies the Secretary of Health and Human Services that the State intends to enact a law, or modify an existing law, described in subsection (a), the Secretary of Health and Human Services may not make a determination under such subsection until the expiration of the 12-month period beginning on the date on which such notification is made, or until January 1, 1998, whichever is later. With respect to a State that provides notice under this paragraph and that has a legislature that does not meet within the 12-month period beginning on the date of enactment of this Act, the Secretary shall not make a determination under subsection (a) prior to January 1, 1998.

(3) NOTICE TO STATE.—If the Secretary of Health and Human Services determines that a State law or program does not achieve the goals described in subsection (a), the Secretary of Health and Human Services shall provide the State with adequate notice and reasonable opportunity to modify such law or program to achieve such goals prior to making a final determination under subsection (a).

(c) ADOPTION OF NAIC MODEL.—If, not later than 9 months after the date of enactment of this Act—

(1) the National Association of Insurance Commissioners (hereafter referred to as the ''NAIC''), through a process which the Secretary of Health and Human Services determines has included consultation with representatives of the insurance industry and consumer groups, adopts a model standard or standards for reform of the individual health insurance market, and

(2) the Secretary of Health and Human Services determines, within 30 days of the adoption of such NAIC standard or standards, that such standards comply with the goals of sections 110 and 111:

a State that elects to adopt such model standards or substantially adopt such model standards shall be deemed to have met the requirements of sections 110 and 111 and shall be subject to a determination under subsection (a).

SEC. 113. DEFINITION.

(a) IN GENERAL.—As used this title, the term ''individual health plan'' means any contract, policy, certificate or other arrangement offered to individuals by a health plan issuer that provides or pays for health benefits (such as provider and hospital benefits) and that is not a group health plan under section 2(6).

(b) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(1) Coverage only for accident, or disability income insurance, or any combination thereof.

(2) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(3) Coverage issued as a supplement to liability insurance.

(4) Liability insurance, including general liability insurance and automobile liability insurance.

(5) Workers' compensation or similar insurance.

(6) Automobile medical payment insurance.

(7) Coverage for a specified disease or illness.

(8) Hospital of fixed indemnity insurance.

(9) Short-term limited duration insurance.

(10) Credit-only, dental-only, or vision-only insurance.

(11) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Subtitle C—COBRA Clarifications

SEC. 121. COBRA CLARIFICATIONS.

(a) PUBLIC HEALTH SERVICE ACT.—

(1) PERIOD OF COVERAGE.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb–2(2)) is amended—

(A) in subparagraph (A)—

(i) by transferring the sentence immediately preceding clause (iv) so as to appear immediately following such clause (iv); and

(ii) in the last sentence (as so transferred)—

(I) by inserting ‘‘, or a beneficiary-family member of the individual,’’ after ‘‘an individual’’; and

(II) by striking ‘‘at the time of a qualifying event described in section 2203(2)’’ and inserting ‘‘at any time during the initial 18-month period of continuing coverage under this title’’;

(B) in subparagraph (D)(i), by inserting before ‘‘, or’’ the following: ‘‘, except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996’’, and

(C) in subparagraph (E), by striking ‘‘at the time of a qualifying event described in section 2203(2)’’ and inserting ‘‘at any time during the initial 18-month period of continuing coverage under this title’’,

(2) ELECTION.—Section 2205(1)(C) of the Public Health Service Act (42 U.S.C. 300bb–5(1)(C)) is amended—

(A) in clause (i), by striking ‘‘or’’ at the end thereof.

(B) in clause (ii), by striking the period and inserting ‘‘, or’’, and

(C) by adding at the end thereof the following new clause:

‘‘(iii) in the case of an individual described in the last sentence of section 2202(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.’’.

(3) NOTICES.—Section 2206(3) of the Public Health Service Act (42 U.S.C. 300bb–6(3)) is amended by striking ‘‘at the time of a qualifying event described in section 2203(2)’’ and inserting ‘‘at any time during the initial 18-month period of continuing coverage under this title’’.

(4) BIRTH OR ADOPTION OF A CHILD.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb–8(3)(A)) is amended by adding at the end thereof the following new flush sentence:

‘‘Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this title.’’.

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) PERIOD OF COVERAGE.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in the last sentence of subparagraph (A)—

(i) by inserting ‘‘, or a beneficiary-family member of the individual.’’ after ‘‘an individual’’; and

(ii) by striking ‘‘at the time of a qualifying event described in section 603(2)’’ and inserting ‘‘at any time during the initial 18-month period of continuing coverage under this part’’,

(B) in subparagraph (D)(i), by inserting before, ‘‘, or’’ the following ‘‘, except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996’’; and

(C) in subparagraph (E), by striking ‘‘at the time of a qualifying event described in section 603(2)’’ and inserting ‘‘at any time during the initial 18-month period of continuing coverage under this part’’.

(2) ELECTION.—Section 605(1)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165(1)(C)) is amended—

(A) in clause (i), by striking ‘‘or’’ at the end thereof;

(B) in clause (ii), by striking the period and inserting ‘‘, or’’; and

(C) by adding at the end thereof the following new clause:

‘‘(iii) in the case of an individual described in the last sentence of section 602(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.’’.

(3) NOTICES.—Section 606(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(3)) is amended by striking ‘‘at the time of a qualifying event described in section 603(2)’’ and inserting ‘‘at any time during the initial 18-month period of continuing coverage under this part’’.

(4) BIRTH OR ADOPTION OF A CHILD.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

‘‘Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this part.’’.

(c) INTERNAL REVENUE CODE OF 1986.—

(1) PERIOD OF COVERAGE.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in the last sentence of clause (i) by striking ‘‘at the time of a qualifying event described in paragraph (3)(B)’’ and inserting ‘‘at any time during the initial 18-month period of continuing coverage under this section’’.

(B) in clause (iv)(I), by inserting before ‘‘, or’’ the following: ‘‘, except that the exclusion or limitation contained in this subclause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this subsection because of the provision of the Health Insurance Reform Act of 1996’’; and

(C) in clause (v), by striking ‘‘at the time of a qualifying event described in paragraph (3)(B)’’ and inserting ‘‘at any time during the initial 18-month period of continuing coverage under this section’’.

(2) ELECTION.—Section 4980B(f)(5)(A)(ii) of the Internal Revenue Code of 1986 is amended—

(A) in subclause (I), by striking ‘‘or’’ at the end thereof;

(B) in subclause (II), by striking the period and inserting ‘‘, or’’, and

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

‘‘(III) in the case of an qualified beneficiary described in the last sentence of paragraph (2)(B)(i), the date such individual is determined to have been disabled.’’.

(3) NOTICES.—Section 4980B(f)(6)(C) of the Internal Revenue Code of 1986 is amended by striking ‘‘at the time of a qualifying event described in paragraph (3)(B)’’ and inserting ‘‘at any time during the initial 18-month period of continuing coverage under this section’’.

(4) BIRTH OR ADOPTION OF A CHILD.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new flush sentence:

‘‘Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this section.’’.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualifying events occurring on or after the date of enactment of this Act for plan years beginning after December 31, 1997.

(e) NOTIFICATION OF CHANGES.—Not later than 60 days prior to the date on which this section becomes effective, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and section 4980B(f) of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part or section of the amendments made by this section.

Subtitle D—Private Health Plan Purchasing Cooperatives

SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES.

(a) DEFINITION.—As used in this title, the term ‘‘health plan purchasing cooperative’’ means a group of individuals or employers that, on a voluntary basis and in accordance with this section, form a cooperative for the purpose of purchasing individual health plans or group health plans offered by health plan issuers. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of insurance may not underwrite a cooperative.

(b) CERTIFICATION.—

(1) IN GENERAL.—If a group described in subsection (a) desires to form a health plan purchasing cooperative in accordance with this section and such group appropriately notifies the State and the Secretary of such desire, the State, upon a determination that such group meets the requirements of this section, shall certify the group as a health plan purchasing cooperative. The State shall make a determination of whether such group meets the requirements of this section in a timely fashion. Each such cooperative shall also be registered with the Secretary.

(2) STATE REFUSAL TO CERTIFY.—If a State fails to implement a program for certifying health plan purchasing cooperatives in accordance with the standards under this title, the Secretary shall certify and oversee the operations of such cooperative in such State.

(3) INTERSTATE COOPERATIVES.—For purposes of this section a health plan purchasing cooperative operating in more than one State shall be certified by the State in which the cooperative is domiciled. States may enter into cooperative agreements for the purpose of certifying and overseeing the operation of such cooperatives. For purposes of this subsection, a cooperative shall be considered to be domiciled in the State in which most of the members of the cooperative reside.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—Each health plan purchasing cooperative shall be governed by a Board of Directors that shall be responsible for ensuring the performance of the duties of the cooperative under this section. The Board shall be composed of a board cross-section of representatives of employers, employees, and individuals participating in the cooperative. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of individual health plans or group health plans may not hold or control any right to vote with respect to a cooperative.

(2) LIMITATION ON COMPENSATION.—A health plan purchasing cooperative may not provide

compensation to members of the Board of Directors. The cooperative may provide reimbursements to such members for the reasonable and necessary expenses incurred by the members in the performance of their duties as members of the Board.

(3) CONFLICT OF INTEREST.—No member of the Board of Directors (or family members of such members) nor any management personnel of the cooperative may be employed by, be a consultant of, be a member of the board of directors or, be affiliated with an agent of, or otherwise be a representative of any health plan issuer, health care provider, or agent or broker. Nothing in the preceding sentence shall limit a member of the Board from purchasing coverage offered through the cooperative.

(d) MEMBERSHIP AND MARKETING AREA.—

(1) MEMBERSHIP.—A health plan purchasing cooperative may establish limits on the maximum size of employers who may become members of the cooperative, and may determine whether to permit individuals to become members. Upon the establishment of such membership requirements, the cooperative shall, except as provided in subparagraph (B), accept all employers (or individuals) residing within the area served by the cooperative who meet such requirements as members on a first-come, first-served basis, or on another basis established by the State to ensure equitable access to the cooperative.

(2) MARKETING AREA.—A State may establish rules regarding the geographic area that must be served by a health plan purchasing cooperative. With respect to a State that has not established such rules, a health plan purchasing cooperative operating in the State shall define the boundaries of the area to be served by the cooperative, except that such boundaries may not be established on the basis of health status of the populations that reside in the area.

(e) DUTIES AND RESPONSIBILITIES.—

(1) IN GENERAL.—A health plan purchasing cooperative shall—

(A) enter into agreements with multiple, unaffiliated health plan issuers, except that the requirement of this subparagraph shall not apply in regions (such as remote or frontier areas) in which compliance with such requirement is not possible.

(B) enter into agreements with employers and individuals who become members of the cooperative;

(C) participate in any program of risk-adjustment or reinsurance, or any similar program, that is established by the State.

(D) prepare and disseminate comparative health plan materials (including information about cost, quality, benefits, and other information concerning group health plans and individual health plans offered through the cooperative);

(E) actively market to all eligible employers and individuals residing within the service area; and

(F) act as an ombudsman for group health plan or individual health plan enrollees.

(2) PERMISSIBLE ACTIVITIES.—A health plan purchasing cooperative may perform such other functions as necessary to further the purposes of this title, including—

(A) collecting and distributing premiums and performing other administrative functions;

(B) collecting and analyzing surveys of enrollee satisfaction;

(C) charging membership fee to enrollees (such fees may not be based on health status) and charging participation fees to health plan issuers;

(D) cooperating with (or accepting as members) employers who provide health benefits directly to participants and beneficiaries only for the purpose of negotiating with providers, and

(E) negotiating with health care providers and health plan issuers.

(f) LIMITATIONS ON COOPERATIVE ACTIVITIES.—A health plan purchasing cooperative shall not—

(1) perform any activity relating to the licensing of health plan issuers.

(2) assume financial risk directly or indirectly on behalf of members of a health plan purchasing cooperative relating to any group health plan or individual health plan;

(3) establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements for participants, beneficiaries, or individuals based on health status;

(4) operate on a for-profit or other basis where the legal structure of the cooperative permits profits to be made and not returned to the members of the cooperative, except that a for-profit health plan purchasing cooperative may be formed by a nonprofit organization—

(A) in which membership in such organization is not based on health status; and

(B) that accepts as members all employers or individuals on a first-come, first-served basis, subject to any established limit on the maximum size of and employer that may become a member; or

(5) perform any other activities that conflict or are inconsistent with the performance of its duties under this title.

(g) LIMITED PREEMPTIONS OF CERTAIN STATE LAWS.—

(1) IN GENERAL.—With respect to a health plan purchasing cooperative that meets the requirements of this section, State fictitious group laws shall be preempted.

(2) HEALTH PLAN ISSUERS.—

(A) RATING.—With respect to a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative that meets the requirements of this section. State premium rating requirement laws, except to the extent provided under subparagraph (B), shall be preempted unless such laws permit premium rates negotiated by the cooperative to be less than rates that would otherwise be permitted under State law, if such rating differential is not based on differences in health status or demographic factors.

(B) EXCEPTION.—State laws referred to in subparagraph (A) shall not be preempted if such laws—

(i) prohibit the variance of premium rates among employers, plan sponsors, or individuals that are members of health plan purchasing cooperative in excess of the amount of such variations that would be permitted under such State rating laws among employers, plan sponsors, and individuals that are not members of the cooperative; and

(ii) prohibit a percentage increase in premium rates for a new rating period that is in excess of that which would be permitted under State rating laws.

(C) BENEFITS.—Except as provided in subparagraph (D), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative shall comply with all State mandated benefit laws that require the offering of any services, category or care, or services of any class or type of provider.

(D) EXCEPTION.—In those states that have enacted laws authorizing the issuance of alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative that meets the requirements of this section.

(h) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) require that a State organize, operate, or otherwise create health plan purchasing cooperatives;

(2) otherwise require the establishment of health plan purchasing cooperatives.

(3) require individuals, plan sponsors, or employers to purchase group health plans or individual health plans through a health plan purchasing cooperative;

(4) require that a health plan purchasing cooperative be the only type of purchasing arrangement permitted to operate in a State.

(5) confer authority upon a State that the State would not otherwise have to regulate health plan issuers or employee health benefits plans, or

(6) confer authority up a State (or the Federal Government) that the State (or Federal Government) would not otherwise have to regulate group purchasing arrangements, coalitions, or other similar entities that do not desire to become a health plan purchasing cooperative in accordance with this section.

(i) APPLICATION OF ERISA.—For purposes of enforcement only, the requirements of parts 4 and 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) shall apply to a health pan purchasing cooperative as if such plan were an employee welfare benefit plan.

SUBTITLE E—APPLICATION AND ENFORCEMENT OF STANDARDS

SEC. 141. APPLICABILITY.

(a) CONSTRUCTION.—

(1) ENFORCEMENT.—

(A) IN GENERAL.—A requirement or standard imposed under this title on a group health plan or individual health plan offered by a health plan issuer shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this title. In the case of a group health plan offered by a health plan issuer in connection with an employee health benefit plan, the requirements of standards imposed under the title shall be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official of officials designated by the State to enforce the requirements of this title.

(B) LIMITATION.—Except as provided in subsection (c), the Secretary shall not enforce the requirements or standards of this title as they relate to health plan issuers, group health plans, or individual health plans. In no case shall a Sate enforce the requirements or standards of this title as they relate to employee health benefit plans.

(2) PREEMPTION OF STATE LAW.—Nothing in this title shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements—

(A) not prescribed in this title; or

(B) related to the issuance, renewal, or portability of health insurance or the establishment or operation of group purchasing arrangements, that are consistent with, and are not in direct conflict with, this title and provide greater protection or benefit to participants, beneficiaries or individuals.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(c) CONTINUATION.—Nothing in this title shall be construed as requiring a group health plan or an employee health benefit plan to provide benefits to a particular participant or beneficiary in excess of those provided under the terms of such plan.

SEC. 202. ENFORCEMENT OF STANDARDS.

(a) HEALTH PLAN ISSUERS.—Each State shall require that each group health plan and individual health plan issued, sold, renewed, offered for sale or operated in such State by

a health plan issuer meet the standards established under this title pursuant to an enforcement plan filed by the State with the Secretary. A State shall submit such information as required by the Secretary demonstrating effective implementation of the State enforcement law.

(b) EMPLOYEE HEALTH BENEFIT PLANS.—With respect to employee health benefit plans, the Secretary shall enforce the reform standards established under this title in the same manner as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(c) FAILURE TO IMPLEMENT PLAN.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this title with respect to group health plans and individual health plans as provided for under the State enforcement plan filed under subsection (a), the Secretary, in consultation with the Secretary of Health and Human Services, shall implement an enforcement plan meeting the standards of this title in such State. In the case of a State that fails to substantially enforce the standards and requirements set forth in this title, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(d) APPLICABLE CERTIFYING AUTHORITY.—As used in this title, the term ''applicable certifying authority''means, with respect to—

(1) health plan issuers, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State involved; and

(2) an employee health benefit, plan, the Secretary.

(e) REGULATIONS.—The Secretary may promulgate such regulations as may be necessary or appropriate to carry out this title.

(f) TECHNICAL AMENDMENT.—Section 508 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1138) is amended by inserting ''and under the Health Insurance Reform Act of 1996'' before the period.

Subtitle F—Miscellaneous Provisions

SEC. 191. HEALTH COVERAGE AVAILABILITY STUDY.

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Secretary, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits, shall conclude a two-part study, and prepare and submit reports, in accordance with this section.

(b) EVALUATION OF AVAILABILITY.—Not later than January 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning—

(1) an evaluation, based on the experience of States, expert opinions, and such additional data as may be available, of the various mechanisms used to ensure the availability of reasonably priced health coverage to employers purchasing group coverage and to individuals purchasing coverage on a nongroup basis; and

(2) whether standards that limit the variation in premiums will further the purposes of this Act.

(c) EVALUATION OF EFFECTIVENESS.—Not later than January 1, 1999, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning the effectiveness of the provisions of this Act and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a nongroup basis.

SEC. 192. EFFECTIVE DATE.

Except as otherwise provided for in this title, the provisions of this title shall apply as follows:

(1) With respect to group health plans and individual health plans, such provisions shall apply to plans offered, sold, issued, renewed, in effect, or operated on or after January 1, 1997, and

(2) With respect to employee health benefit plans, on the first day of the first plan year beginning on or after January 1, 1997.

SEC. 193. SEVERABILITY.

If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

After debate,

By unanimous consent, the previous question was ordered on the motion to recommit with instructions.

The question being put, viva voce,

Will the House recommit said bill with instructions?

The SPEAKER pro tempore, Mr. COMBEST, announced that the nays had it.

Mr. PALLONE demanded a recorded vote on motion to recommit with instructions, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the negative ..... { Yeas ..... 182 / Nays 236

¶37.24 [Roll No. 105]

AYES—182

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Quinn
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wynn
Yates

NOES—236

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Solomon
Souder
Spence

Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Bryant (TX)
Collins (IL)
Eshoo
Fields (LA)
Fowler
Martinez
McNulty
Neal
Ros-Lehtinen
Smith (TX)
Smith (WA)
Stokes
Weldon (PA)

So the motion to recommit with instructions was not agreed to.

The question being put,

The SPEAKER pro tempore, Mr. COMBEST, announced that pursuant to House Resolution 392, the yeas and nays were ordered.

It was decided in the affirmative ..... { Yeas ..... 267 / Nays 151

¶37.25 [Roll No. 106]

YEAS—267

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Rose
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Studds
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—151

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Miller (CA)
Mink
Moakley
Mollohan
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stupak
Tejeda
Thompson
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—14

Bryant (TX)
Collins (IL)
Dornan
Eshoo
Fields (LA)
Fowler
McNulty
Neal
Ros-Lehtinen
Skelton
Smith (TX)
Smith (WA)
Stokes
Weldon (PA)

So the bill was passed.

A motion to reconsider the vote whereby said bill was passed was, by unanimous consent, laid on the table.

Ordered, That the Clerk request the concurrence of the Senate in said bill.

¶37.26 CONFERENCE RESIGNATION—MINORITY

The SPEAKER pro tempore, Mr. COMBEST, laid before the House the following communication, which was read as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 28, 1996.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, H232, The Capitol, Washington, DC.

DEAR MR. SPEAKER: Effective immediately, I hereby resign from the conference of H.R. 3019, the Omnibus Appropriations Act for Fiscal Year 1996, Conference Report.

Sincerely,

LOUIS STOKES,
Member of Congress.

By unanimous consent, the resignation was accepted.

¶37.27 CHANGE OF CONFEREE—H.R. 3019

The SPEAKER pro tempore, Mr. COMBEST, by unanimous consent, appointed Mr. HOYER as a conferee on the part of the House to the conference with the Senate on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3019) making appropriations for fiscal year 1996 to make further downpayment toward a balanced budget, and for other purposes; vice, Mr. STOKES, resigned.

Ordered, That the Clerk notify the Senate thereof.

¶37.28 PROVIDING FOR THE CONSIDERATION OF THE CONFERENCE REPORT ON H.R. 2854

Mr. SOLOMON, by direction of the Committee on Rules, called up the following resolution (H. Res. 393):

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2854) to modify the operation of certain agricultural programs. All points of order against the conference report and against its consideration are waived.

SEC. 2. Senate Concurrent Resolution 49 is hereby agreed to.

When said resolution was considered.

After debate,

On motion of Mr. SOLOMON, the previous question was ordered on the resolution to its adoption or rejection and under the operation thereof, the resolution was agreed to.

A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

Pursuant to House Resolution 393, the following concurrent resolution of the Senate (S. Con. Res. 49) providing for certain corrections to be made in the enrollment of H.R. 2854 was considered as adopted:

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs, shall make the following corrections:

In section 215—

(1) in paragraph (1), insert ''and'' at the end;

(2) in paragraph (2), strike ''; and'' at the end and insert a period; and

(3) strike paragraph (3).

¶37.29 AGRICULTURE REFORM

Mr. ROBERTS, pursuant to House Resolution 393, called up the following conference report (Rept. No. 104–494):

The committee of conference on the disagreeing votes of the two Houses on the

amendment of the Senate to the bill (H.R. 2854), to modify the operation of certain agricultural programs, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Agriculture Improvement and Reform Act of 1996''.

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

Sec. 1. Short title; table of contents.

TITLE I—AGRICULTURAL MARKET TRANSITION ACT

Subtitle A—Short Title, Purpose, and Definitions

Sec. 101. Short title and purpose.
Sec. 102. Definitions.

Subtitle B—Production Flexibility Contracts

Sec. 111. Authorization for use of production flexibility contracts.
Sec. 112. Elements of contracts.
Sec. 113. Amounts available for contract payments.
Sec. 114. Determination of contract payments under contracts.
Sec. 115. Payment limitations.
Sec. 116. Violations of contract.
Sec. 117. Transfer or change of interest in lands subject to contract.
Sec. 118. Planting flexibility.

Subtitle C—Nonrecourse Marketing Assistance Loans and Loan Deficiency Payments

Sec. 131. Availability of nonrecourse marketing assistance loans.
Sec. 132. Loan rates for marketing assistance loans.
Sec. 133. Term of loans.
Sec. 134. Repayment of loans.
Sec. 135. Loan deficiency payments.
Sec. 136. Special marketing loan provisions for upland cotton.
Sec. 137. Availability of recourse loans for high moisture feed grains and seed cotton.

Subtitle D—Other Commodities

CHAPTER 1—DAIRY

Sec. 141. Milk price support program.
Sec. 142. Recourse loan program for commercial processors of dairy products.
Sec. 143. Consolidation and reform of Federal milk marketing orders.
Sec. 144. Effect on fluid milk standards in State of California.
Sec. 145. Milk manufacturing marketing adjustment.
Sec. 146. Promotion.
Sec. 147. Northeast Interstate Dairy Compact.
Sec. 148. Dairy export incentive program.
Sec. 149. Authority to assist in establishment and maintenance of one or more export trading companies.
Sec. 150. Standby authority to indicate entity best suited to provide international market development and export services.
Sec. 151. Study and report regarding potential impact of Uruguay Round on prices, income, and Government purchases.
Sec. 152. Promotion of United States dairy products in international markets through dairy promotion program.

CHAPTER 2—PEANUTS AND SUGAR

Sec. 155. Peanut program.
Sec. 156. Sugar program.

Subtitle E—Administration

Sec. 161. Administration.
Sec. 162. Adjustments of loans.
Sec. 163. Commodity Credit Corporation interest rate.
Sec. 164. Personal liability of producers for deficiencies.
Sec. 165. Commodity Credit Corporation sales price restrictions.

Subtitle F—Permanent Price Support Authority

Sec. 171. Suspension and repeal of permanent price support authority.
Sec. 172. Effect of amendments.

Subtitle G—Commission on 21st Century Production Agriculture

Sec. 181. Establishment.
Sec. 182. Composition.
Sec. 183. Comprehensive review of past and future of production agriculture.
Sec. 184. Reports.
Sec. 185. Powers.
Sec. 186. Commission procedures.
Sec. 187. Personnel matters.
Sec. 188. Termination of Commission.

Subtitle H—Miscellaneous Commodity Provisions

Sec. 191. Options pilot program.
Sec. 192. Risk management education.
Sec. 193. Crop insurance.
Sec. 194. Establishment of Office of Risk Management.
Sec. 195. Revenue insurance.
Sec. 196. Administration and operation of noninsured crop assistance program.

TITLE II—AGRICULTURAL TRADE

Subtitle A—Amendments to Agricultural Trade Development and Assistance Act of 1954 and Related Statutes

Sec. 201. Food aid to developing countries.
Sec. 202. Trade and development assistance.
Sec. 203. Agreements regarding eligible countries and private entities.
Sec. 204. Terms and conditions of sales.
Sec. 205. Use of local currency payment.
Sec. 206. Value-added foods.
Sec. 207. Eligible organizations.
Sec. 208. Generation and use of foreign currencies.
Sec. 209. General levels of assistance under Public Law 480.
Sec. 210. Food Aid Consultative Group.
Sec. 211. Support of nongovernmental organizations.
Sec. 212. Commodity determinations.
Sec. 213. General provisions.
Sec. 214. Agreements.
Sec. 215. Use of Commodity Credit Corporation.
Sec. 216. Administrative provisions.
Sec. 217. Expiration date.
Sec. 218. Regulations.
Sec. 219. Independent evaluation of programs.
Sec. 220. Authorization of appropriations.
Sec. 221. Coordination of foreign assistance programs.
Sec. 222. Micronutrient fortification pilot program.
Sec. 223. Use of certain local currency.
Sec. 224. Farmer-to-farmer program.
Sec. 225. Food security commodity reserve.
Sec. 226. Protein byproducts derived from alcohol fuel production.
Sec. 227. Food for progress program.
Sec. 228. Use of foreign currency proceeds from export sales financing.
Sec. 229. Stimulation of foreign production.

Subtitle B—Amendments to Agricultural Trade Act of 1978

Sec. 241. Agricultural export promotion strategy.
Sec. 242. Implementation of commitments under Uruguay Round Agreements.
Sec. 243. Export credits.
Sec. 244. Market access program.
Sec. 245. Export enhancement program.
Sec. 246. Arrival certification.
Sec. 247. Compliance.
Sec. 248. Regulations.
Sec. 249. Trade compensation and assistance programs.
Sec. 250. Foreign Agricultural Service.
Sec. 251. Reports.
Sec. 252. Foreign market development cooperator program.

Subtitle C—Miscellaneous Agricultural Trade Provisions

Sec. 261. Edward R. Madigan United States Agricultural Export Excellence Award.
Sec. 262. Reporting requirements relating to tobacco.
Sec. 263. Triggered export enhancement.
Sec. 264. Disposition of commodities to prevent waste.
Sec. 265. Debt-for-health-and-protection swap.
Sec. 266. Policy on expansion of international markets.
Sec. 267. Policy on maintenance and development of export markets.
Sec. 268. Policy on trade liberalization.
Sec. 269. Agricultural trade negotiations.
Sec. 270. Policy on unfair trade practices.
Sec. 271. Agricultural aid and trade missions.
Sec. 272. Annual reports by agricultural attaches.
Sec. 273. World livestock market price information.
Sec. 274. Orderly liquidation of stocks.
Sec. 275. Sales of extra long staple cotton.
Sec. 276. Regulations.
Sec. 277. Emerging markets.
Sec. 278. Reimbursement for overhead expenses.
Sec. 279. Labeling of domestic and imported lamb and mutton.
Sec. 280. Import assistance for CBI beneficiary countries and the Philippines.
Sec. 281. Studies, reports, and other provisions.
Sec. 282. Sense of Congress concerning multilateral disciplines on credit guarantees.
Sec. 283. International Cotton Advisory Committee.

TITLE III—CONSERVATION

Subtitle A—Definitions

Sec. 301. Definitions applicable to highly erodible cropland conservation.

Subtitle B—Highly Erodible Land Conservation

Sec. 311. Program ineligibility.
Sec. 312. Conservation reserve lands.
Sec. 313. Good faith exemption.
Sec. 314. Expedited procedures for granting variances from conservation plans.
Sec. 315. Development and implementation of conservation plans and conservation systems.
Sec. 316. Investigation of possible compliance deficiencies.
Sec. 317. Wind erosion estimation pilot project.

Subtitle C—Wetland Conservation

Sec. 321. Program ineligibility.
Sec. 322. Delineation of wetlands; exemptions to program ineligibility.
Sec. 323. Consultation and cooperation requirements.
Sec. 324. Application of program ineligibility to affiliated persons.
Sec. 325. Clarification of definition of agricultural lands in memorandum of agreement.
Sec. 326. Effective date.

Subtitle D—Environmental Conservation Acreage Reserve Program
Sec. 331. Environmental conservation acreage reserve program.
Sec. 332. Conservation reserve program.
Sec. 333. Wetlands reserve program.
Sec. 334. Environmental quality incentives program.
Sec. 335. Conservation farm option.
Sec. 336. Repeal of superseded authorities.
Subtitle E—Conservation Funding and Administration
Sec. 341. Conservation funding and administration.
Sec. 342. State technical committees.
Sec. 343. Public notice and comment for revisions to certain State technical guides.
Subtitle F—National Natural Resources Conservation Foundation
Sec. 351. Short title.
Sec. 352. Definitions.
Sec. 353. National Natural Resources Conservation Foundation.
Sec. 354. Composition and operation.
Sec. 355. Officers and employees.
Sec. 356. Corporate powers and obligations of the Foundation.
Sec. 357. Administrative services and support.
Sec. 358. Audits and petition of Attorney General for equitable relief.
Sec. 359. Release from liability.
Sec. 360. Authorization of appropriations.
Subtitle G—Forestry
Sec. 371. Office of International Forestry.
Sec. 372. Cooperative work for protection, management, and improvement of National Forest System.
Sec. 373. Forestry incentives program.
Sec. 374. Optional State grants for forest legacy program.
Subtitle H—Miscellaneous Conservation Provisions
Sec. 381. Conservation activities of Commodity Credit Corporation.
Sec. 382. Floodplain easements.
Sec. 383. Resource conservation and development program.
Sec. 384. Repeal of report requirement.
Sec. 385. Flood risk reduction.
Sec. 386. Conservation of private grazing land.
Sec. 387. Wildlife habitat incentives program.
Sec. 388. Farmland protection program.
Sec. 389. Interim moratorium on bypass flows.
Sec. 390. Everglades ecosystem restoration.
Sec. 391. Agricultural air quality research oversight.
TITLE IV—NUTRITION ASSISTANCE
Sec. 401. Food stamp program.
Sec. 402. Commodity distribution program; commodity supplemental food program.
Sec. 403. Emergency food assistance program.
Sec. 404. Soup kitchen and food bank program.
Sec. 405. National commodity processing.
TITLE V—AGRICULTURAL PROMOTION
Subtitle A—Commodity Promotion and Evaluation
Sec. 501. Commodity promotion and evaluation.
Subtitle B—Issuance of Orders for Promotion, Research, and Information Activities Regarding Agricultural Commodities
Sec. 511. Short title.
Sec. 512. Findings and purpose.
Sec. 513. Definitions.
Sec. 514. Issuance of orders.
Sec. 515. Required terms in orders.
Sec. 516. Permissive terms in orders.
Sec. 517. Assessments.
Sec. 518. Referenda.
Sec. 519. Petition and review of orders.
Sec. 520. Enforcement.
Sec. 521. Investigations and power to subpoena.
Sec. 522. Suspension or termination.
Sec. 523. Amendments to orders.
Sec. 524. Effect on other laws.
Sec. 525. Regulations.
Sec. 526. Authorization of appropriations.
Subtitle C—Canola and Rapeseed
Sec. 531. Short title.
Sec. 532. Findings and declaration of policy.
Sec. 533. Definitions.
Sec. 534. Issuance and amendment of orders.
Sec. 535. Required terms in orders.
Sec. 536. Assessments.
Sec. 537. Referenda.
Sec. 538. Petition and review.
Sec. 539. Enforcement.
Sec. 540. Investigations and power to subpoena.
Sec. 541. Suspension or termination.
Sec. 542. Regulations.
Sec. 543. Authorization of appropriations.
Subtitle D—Kiwifruit
Sec. 551. Short title.
Sec. 552. Findings and purposes.
Sec. 553. Definitions.
Sec. 554. Issuance of orders.
Sec. 555. National Kiwifruit Board.
Sec. 556. Required terms in order.
Sec. 557. Permissive terms in order.
Sec. 558. Petition and review.
Sec. 559. Enforcement.
Sec. 560. Investigations and power to subpoena.
Sec. 561. Referenda.
Sec. 562. Suspension or termination.
Sec. 563. Regulations.
Sec. 564. Authorization of appropriations.
Subtitle E—Popcorn
Sec. 571. Short title.
Sec. 572. Findings and declaration of policy.
Sec. 573. Definitions.
Sec. 574. Issuance of orders.
Sec. 575. Required terms in orders.
Sec. 576. Referenda.
Sec. 577. Petition and review.
Sec. 578. Enforcement.
Sec. 579. Investigations and power to subpoena.
Sec. 580. Relation to other programs.
Sec. 581. Regulations.
Sec. 582. Authorization of appropriations.
Subtitle F—Miscellaneous
Sec. 591. Maintenance of records for honey promotion program.
TITLE VI—CREDIT
Subtitle A—Farm Ownership Loans
Sec. 601. Limitation on direct farm ownership loans.
Sec. 602. Purposes of loans.
Sec. 603. Soil and water conservation and protection.
Sec. 604. Interest rate requirements.
Sec. 605. Insurance of loans.
Sec. 606. Loans guaranteed.
Subtitle B—Operating Loans
Sec. 611. Limitation on direct operating loans.
Sec. 612. Purposes of operating loans.
Sec. 613. Participation in loans.
Sec. 614. Line-of-credit loans.
Sec. 615. Insurance of operating loans.
Sec. 616. Special assistance for beginning farmers and ranchers.
Sec. 617. Limitation on period for which borrowers are eligible for guaranteed assistance.
Subtitle C—Emergency Loans
Sec. 621. Hazard insurance requirement.
Sec. 622. Narrowing of authority to waive application of the credit elsewhere test.
Sec. 623. Linking of emergency loans for crop or livestock changes to natural disasters.
Sec. 624. Maximum emergency loan indebtedness.
Sec. 625. Establishment of date for emergency loan asset valuation.
Sec. 626. Insurance of emergency loans.
Subtitle D—Administrative Provisions
Sec. 631. Temporary authority to enter into contracts.
Sec. 632. Use of collection agencies.
Sec. 633. Notice of loan service programs.
Sec. 634. Clarification of written statement required of borrowers.
Sec. 635. Annual review of the credit history, business operation, and continued eligibility of a borrower.
Sec. 636. Extension of veterans preference.
Sec. 637. Verification of the credit elsewhere test.
Sec. 638. Sale of property.
Sec. 639. Easements on inventoried property.
Sec. 640. Definitions.
Sec. 641. Authorization for loans.
Sec. 642. Contracts on loan security properties.
Sec. 643. List of certified lenders and inventory property demonstration project.
Sec. 644. Homestead property.
Sec. 645. Restructuring.
Sec. 646. Transfer of inventory land for conservation purposes.
Sec. 647. Implementation of target participation rates.
Sec. 648. Delinquent borrowers.
Sec. 649. Short form certification of farm program borrower compliance.
Sec. 650. Credit study.
Subtitle E—General Provisions
Sec. 661. Conforming amendments.
Sec. 662. Electronic filing of effective financing statements under the clear title provisions of the Food Security Act of 1985.
Sec. 663. Effective date.
TITLE VII—RURAL DEVELOPMENT
Subtitle A—Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990
CHAPTER 1—GENERAL PROVISIONS
Sec. 701. Rural investment partnerships.
Sec. 702. Water and waste facility financing.
Sec. 703. Rural wastewater circuit rider program.
Sec. 704. Telemedicine and distance learning services in rural areas.
Sec. 705. Limitation on authorization of appropriations for rural technology grants.
Sec. 706. Demonstration projects.
Sec. 707. Monitoring the economic progress of rural America.
Sec. 708. Analysis by Office of Technology Assessment.
Sec. 709. Rural health infrastructure improvement.
Sec. 710. Census of agriculture.
Sec. 711. Study of the transportation of fertilizer and agricultural chemicals to farmers.
CHAPTER 2—ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION
Sec. 721. Definitions.
Sec. 722. Alternative Agricultural Research and Commercialization Corporation.
Sec. 723. Board of directors, employees, and facilities.
Sec. 724. Research and development grants, contracts, and agreements.
Sec. 725. Commercialization assistance.
Sec. 726. General rules regarding the provision of assistance.

Sec. 727. Regional centers.
Sec. 728. Alternative Agricultural Research and Commercialization Revolving Fund.
Sec. 729. Procurement preferences for products receiving Corporation assistance.
Sec. 730. Business plan and feasibility study and report.

Subtitle B—Amendments to the Consolidated Farm and Rural Development Act

CHAPTER 1—GENERAL PROVISIONS

Sec. 741. Water and waste facility loans and grants.
Sec. 742. Emergency community water assistance grant program for small communities.
Sec. 743. Emergency community water assistance grant program for smallest communities.
Sec. 744. Agricultural Credit Insurance Fund.
Sec. 745. Rural Development Insurance Fund.
Sec. 746. Insured watershed and resource conservation and development loans.
Sec. 747. Rural industrialization assistance.
Sec. 748. Administration.
Sec. 749. Authorization of appropriations.
Sec. 750. Testimony before congressional committees.
Sec. 751. Prohibition on use of loans for certain purposes.
Sec. 752. Rural development certified lenders program.
Sec. 753. System for delivery of certain rural development programs.
Sec. 754. State rural economic development review panel.
Sec. 755. Limited transfer authority of loan amounts.
Sec. 756. Allocation and transfer of loan guarantee authority.
Sec. 757. Water systems for rural and Native villages in Alaska.
Sec. 758. Application requirements relating to water and waste disposal loan and grant programs.
Sec. 759. National Sheep Industry Improvement Center.
Sec. 759A. Cooperative agreements.
Sec. 759B. Eligibility for grants to broadcasting systems.

CHAPTER 2—RURAL COMMUNITY ADVANCEMENT PROGRAM

Sec. 761. Rural community advancement program.
Sec. 762. Simplified, uniform application for assistance from all Federal rural development programs.
Sec. 763. Community facilities grant program.

Subtitle C—Amendments to the Rural Electrification Act of 1936

Sec. 771. Purposes; investigations and reports.
Sec. 772. Authorization of appropriations.
Sec. 773. Loans for electrical plants and transmission lines.
Sec. 774. Loans for electrical and plumbing equipment.
Sec. 775. Testimony on budget requests.
Sec. 776. Transfer of functions of administration created by Executive order.
Sec. 777. Annual report.
Sec. 778. Prohibition on restricting water and waste facility services to electric customers.
Sec. 779. Telephone loan terms and conditions.
Sec. 780. Privatization program.
Sec. 781. Rural Business Incubator Fund.

Subtitle D—Miscellaneous Rural Development Provisions

Sec. 791. Interest rate formula.
Sec. 792. Grants for financially stressed farmers, dislocated farmers, and rural families.
Sec. 793. Fund for Rural America.
Sec. 794. Under Secretary of Agriculture for Rural Economic and Community Development renamed the Under Secretary of Agriculture for Rural Development.

TITLE VIII—RESEARCH, EXTENSION, AND EDUCATION

Subtitle A—Modification and Extension of Activities Under 1977 Act

Sec. 801. Purposes of agricultural research, extension, and education.
Sec. 802. National Agricultural Research, Extension, Education, and Economics Advisory Board.
Sec. 803. Federal Advisory Committee Act exemption for Federal-State cooperative programs.
Sec. 804. Coordination and planning of agricultural research, extension, and education.
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TITLE I—AGRICULTURAL MARKET TRANSITION ACT

Subtitle A—Short Title, Purpose, and Definitions

SEC. 101. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This title may be cited as the ''Agricultural Market Transition Act''.

(b) PURPOSE.—It is the purpose of this title—

(1) to authorize the use of binding production flexibility contracts between the United States and agricultural producers to support farming certainty and flexibility while ensuring continued compliance with farm conservation and wetland protection requirements;

(2) to make nonrecourse marketing assistance loans and loan deficiency payments available for certain crops;

(3) to improve the operation of farm programs for milk, peanuts, and sugar; and

(4) to establish a commission to undertake a comprehensive review of past and future production agriculture in the United States.

SEC. 102. DEFINITIONS.

In this title:

(1) AGRICULTURAL ACT OF 1949.—Except in section 171, the term ''Agricultural Act of 1949'' means the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), as in effect prior to the suspensions under section 171(b)(1).

(2) CONSIDERED PLANTED.—The term ''considered planted'' means acreage that is considered planted under title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) and such other acreage as the Secretary considers fair and equitable.

(3) CONTRACT.—The terms ''contract'' and ''production flexibility contract'' mean a production flexibility contract entered into under section 111.

(4) CONTRACT ACREAGE.—The term ''contract acreage'' means 1 or more crop acreage bases established for contract commodities under title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) that would have been in effect for the 1996 crop (but for suspension under section 171(b)(1)).

(5) CONTRACT COMMODITY.—The term ''contract commodity'' means wheat, corn, grain sorghum, barley, oats, upland cotton, and rice.

(6) CONTRACT PAYMENT.—The term ''contract payment'' means a payment made under this subtitle pursuant to a contract.

(7) DEPARTMENT.—The term ''Department'' means the Department of Agriculture.

(8) EXTRA LONG STAPLE COTTON.—The term ''extra long staple cotton'' means cotton that—

(A) is produced from pure strain varieties of the Barbadense species or any hybrid thereof, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which United States upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of the varieties or types; and

(B) is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

(9) FARM PROGRAM PAYMENT YIELD.—The term ''farm program payment yield'' means the farm program payment yield established for the 1995 crop of a contract commodity under section 505 of the Agricultural Act of 1949 (7 U.S.C. 1465). The Secretary shall adjust the farm program payment yield for the 1995 crop of a contract commodity to account for any additional yield payments made with respect to that crop under subsection (b)(2) of the section.

(10) LOAN COMMODITY.—The term ''loan commodity'' means each contract commodity, extra long staple cotton, and oilseed.

(11) OILSEED.—The term ''oilseed'' means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

(12) PRODUCER.—The term ''producer'' means an owner, operator, landlord, tenant, or sharecropper who shares in the risk of producing a crop and who is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract.

(13) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(14) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(15) UNITED STATES.—The term ''United States'', when used in a geographical sense, means all of the States.

Subtitle B—Production Flexibility Contracts

SEC. 111. AUTHORIZATION FOR USE OF PRODUCTION FLEXIBILITY CONTRACTS.

(a) OFFER AND TERMS.—The Secretary shall offer to enter into a production flexibility contract with an eligible owner or producer described in subsection (b) on a farm containing eligible cropland. Under the terms of a contract, the owner or producer shall agree, in exchange for annual contract payments, to—

(1) comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(2) comply with applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.);

(3) comply with the planting flexibility requirements of section 118; and

(4) use the land subject to the contract for an agricultural or related activity, but not for a nonagricultural commercial or industrial use, as determined by the Secretary.

(b) ELIGIBLE OWNERS AND PRODUCERS DESCRIBED.—The following producers and owners shall be eligible to enter into a contract:

(1) An owner of eligible cropland who assumes all or a part of the risk of producing a crop.

(2) A producer (other than an owner) on eligible cropland with a share-rent lease of the eligible cropland, regardless of the length of the lease, if the owner enters into the same contract.

(3) A producer (other than an owner) on eligible cropland who cash rents the eligible cropland under a lease expiring on or after September 30, 2002, in which case the owner is not required to enter into the contract.

(4) A producer (other than an owner) on eligible cropland who cash rents the eligible cropland under a lease expiring before September 30, 2002. The owner of the eligible cropland may also enter into the same contract. If the producer elects to enroll less than 100 percent of the eligible cropland in the contract, the consent of the owner is required.

(5) An owner of eligible cropland who cash rents the eligible cropland and the lease term expires before September 30, 2002, if the tenant declines to enter into a contract. In the case of an owner covered by this paragraph, contract payments shall not begin under a contract until the lease held by the tenant ends.

(6) An owner or producer described in any preceding paragraph regardless of whether the owner or producer purchased catastrophic risk protection for a 1996 crop under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)).

(c) TENANTS AND SHARECROPPERS.—In carrying out this subtitle, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(d) ELIGIBLE CROPLAND DESCRIBED.—Land shall be considered to be cropland eligible for coverage under a contract only if the land has contract acreage attributable to the land and—

(1) for at least 1 of the 1991 through 1995 crops, at least a portion of the land was enrolled in the acreage reduction program authorized for a crop of a contract commodity under section 101B, 103B, 105B, or 107B of the Agricultural Act of 1949 or was considered planted;

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

(3) is released from coverage under a conservation reserve contract by the Secretary during the period beginning on January 1, 1995, and ending on the date specified in section 112(a)(2).

(e) QUANTITY OF ELIGIBLE CROPLAND COVERED BY CONTRACT.—Subject to subsection (b)(4), an owner or producer may enroll as contract acreage all or a portion of the eligible cropland on the farm.

(f) VOLUNTARY REDUCTION IN CONTRACT ACREAGE.—Subject to subsection (b)(4), an owner or producer who enters into a contract may subsequently reduce the quantity of contract acreage covered by the contract.

SEC. 112. ELEMENTS OF CONTRACTS.

(a) TIME FOR CONTRACTING.—

(1) COMMENCEMENT.—To the extent practicable, the Secretary shall commence entering into contracts not later than 45 days after the date of enactment of this title.

(2) DEADLINE.—Except as provided in paragraph (3), the Secretary may not enter into a contract after August 1, 1996.

(3) CONSERVATION RESERVE LANDS.—

(A) IN GENERAL.—At the beginning of each fiscal year, the Secretary shall allow an eligible owner or producer on a farm covered by a conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) that terminates after the date specified in paragraph (2) to enter into or expand a production flexibility contract to cover the contract acreage of the farm that was subject to the former conservation reserve contract.

(B) AMOUNT.—Contract payments made for contract acreage under this paragraph shall be made at the rate and amount applicable to the annual contract payment level for the applicable crop. For the fiscal year in which the conservation reserve contract is terminated, the owner or producer subject to the production flexibility contract may elect to receive either contract payments or a prorated payment under the conservation reserve contract, but not both.

(b) DURATION OF CONTRACT.—

(1) BEGINNING DATE.—The term of a contract shall begin with—

(A) the 1996 crop of a contract commodity; or

(B) in the case of acreage that was subject to a conservation reserve contract described in subsection (a)(3), the date the production flexibility contract was entered into or expanded to cover the acreage.

(2) ENDING DATE.—The term of a contract shall extend through the 2002 crop, unless earlier terminated by the owner or producer.

(c) ESTIMATION OF CONTRACT PAYMENTS.—At the time the Secretary enters into a contract, the Secretary shall provide an estimate of the minimum contract payments anticipated to be made during at least the first fiscal year for which contract payments will be made.

(d) TIME FOR PAYMENT.—

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

(2) ADVANCE PAYMENTS.—

(A) FISCAL YEAR 1996.—At the option of the owner or producer, 50 percent of the contract payment for fiscal year 1996 shall be made not later than 30 days after the date on which the contract is entered into and approved by the Secretary and the owner or producer.

(B) SUBSEQUENT FISCAL YEARS.—At the option of the owner or producer for fiscal year 1997 and each subsequent fiscal year, 50 percent of the annual contract payment shall be made on December 15 or January 15 of the fiscal year. The owner or producer may change the date selected under this subparagraph for a subsequent fiscal year by providing advance notice to the Secretary.

SEC. 113. AMOUNTS AVAILABLE FOR CONTRACT PAYMENTS.

(a) FISCAL YEAR AMOUNTS.—The Secretary shall, to the maximum extent practicable, expend the following amounts to satisfy the obligations of the Secretary under all contracts:

(1) For fiscal year 1996, $5,570,000,000.
(2) For fiscal year 1997, $5,385,000,000.
(3) For fiscal year 1998, $5,800,000,000.
(4) For fiscal year 1999, $5,603,000,000.
(5) For fiscal year 2000, $5,130,000,000.
(6) For fiscal year 2001, $4,130,000,000.
(7) For fiscal year 2002, $4,008,000,000.

(b) ALLOCATION.—The amount made available for a fiscal year under subsection (a) shall be allocated as follows:

(1) For wheat, 26.26 percent.
(2) For corn, 46.22 percent.
(3) For grain sorghum, 5.11 percent.
(4) For barley, 2.16 percent.
(5) For oats, 0.15 percent.
(6) For upland cotton, 11.63 percent.
(7) For rice, 8.47 percent.

(c) ADJUSTMENT.—The Secretary shall adjust the amounts allocated for each contract commodity under subsection (b) for a particular fiscal year by—

(1) adding an amount equal to the sum of all repayments of deficiency payments required under section 114(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445j(a)(2)) for the commodity;

(2) adding an amount equal to the sum of all refunds of contract payments received during the preceding fiscal year under section 116 for the commodity; and

(3) subtracting an amount equal to the amount, if any, necessary during that fiscal year to satisfy payment requirements for the commodity under sections 103B, 105B, or 107B of the Agricultural Act of 1949 for the 1994 and 1995 crop years.

(d) ADDITIONAL RICE ALLOCATION.—In addition to the adjustments required under subsection (c), the amount allocated under subsection (b) for rice contract payments shall be increased by $8,500,000 for each of fiscal years 1997 through 2002.

(e) EXCLUSION OF CERTAIN AMOUNTS FROM CONTRACT PAYMENTS.—Any amount added pursuant to paragraphs (1) and (2) of subsection (c) to the amount available under subsection (a) for a fiscal year and paid to owners and producers under a contract shall not be treated as a contract payment for purposes of section 115(a) of this title or section 1001(1) of the Food Security Act of 1985 (7 U.S.C. 1308(1)). However, the amount of a payment covered by this subsection may not exceed $50,000 per person.

(f) EFFECT OF PAYMENT LIMITATION.—The amount available under subsection (a) for a fiscal year shall be reduced by an amount equal to the total amount of contract payments for the fiscal year that owners and producers forgo as a result of operation of the payment limitation under section 1001(1) of the Food Security Act of 1985 (7 U.S.C. 1308(1)).

SEC. 114. DETERMINATION OF CONTRACT PAYMENTS UNDER CONTRACTS.

(a) INDIVIDUAL PAYMENT QUANTITY OF CONTRACT COMMODITIES.—For each contract, the payment quantity of a contract commodity for each fiscal year shall be equal to the product of—

(1) 85 percent of the contract acreage; and

(2) the farm program payment yield.

(b) ANNUAL PAYMENT QUANTITY OF CONTRACT COMMODITIES.—The payment quantity of each contract commodity covered by all contracts for each fiscal year shall be equal to the sum of the amounts calculated under subsection (a) for each individual contract.

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

(1) the amount made available under section 113 for the contract commodity for the fiscal year; divided by

(2) the amount determined under subsection (b) for the fiscal year.

(d) ANNUAL PAYMENT AMOUNT.—The amount to be paid under a contract in effect for each fiscal year with respect to all contract commodities covered by the contract shall be equal to the sum of the products of—

(1) the payment quantity determined under subsection (a) for each of the contract commodities covered by the contract; and

(2) the corresponding payment rate for the contract commodity in effect under subsection (c).

(e) REDUCTION IN PAYMENT AMOUNT.—The contract payment determined under subsection (d) for an owner or producer for a fiscal year shall be immediately reduced by the amount of any repayment of deficiency payments that is required under section 114(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445j(a)(2)) and is not repaid as of the date the contract payment is determined. The Secretary shall be required to collect the required repayment, or any claim based on the required repayment, as soon as the contract payment is determined.

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

(g) SHARING OF CONTRACT PAYMENTS.—The Secretary shall provide for the sharing of contract payments among the owners and producers subject to the contract on a fair and equitable basis.

SEC. 115. PAYMENT LIMITATIONS.

(a) APPLICABILITY OF PAYMENT LIMITATIONS.—Sections 1001 through 1001C of the Food Security Act of 1985 (7 U.S.C. 1308 through 1308–3), as amended by this section, shall be applicable to contract payments made under this subtitle.

(b) PAYMENT LIMITATIONS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraphs (1) through (4) and inserting the following:

''(1) LIMITATION ON PAYMENTS UNDER PRODUCTION FLEXIBILITY CONTRACTS.—The total amount of contract payments made under the Agricultural Market Transition Act to a person under 1 or more production flexibility contracts during any fiscal year may not exceed $40,000.

''(2) LIMITATION ON MARKETING LOAN GAINS AND LOAN DEFICIENCY PAYMENTS.—The total amount of the payments specified in paragraph (3) that a person shall be entitled to receive under the Agricultural Market Transition Act for 1 or more contract commodities and oilseeds during any crop year may not exceed $75,000.

''(3) DESCRIPTION OF PAYMENTS SUBJECT TO LIMITATION.—The payments referred to in paragraph (2) are the following:

''(A) Any gain realized by a producer from repaying a marketing assistance loan under section 131 of the Agricultural Market Transition Act for a crop of any loan commodity at a lower level than the original loan rate established for the loan commodity under section 132 of the Act.

''(B) Any loan deficiency payment received for a loan commodity under section 135 of the Act.

''(4) DEFINITIONS.—In this title, the terms 'contract commodity', 'contract payment', 'loan commodity', 'oilseed', and 'production flexibility contract' have the meaning given those terms in section 102 of the Agricultural Market Transition Act.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1) is amended—

(A) in subsection (a)(1), by striking ''under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.)''; and

(B) in subsection (b)(1), by striking ''under the Agricultural Act of 1949''.

(2) Section 1001C(a) of the Act (7 U.S.C. 1308–3(a)) is amended—

(A) by striking ''For each of the 1991 through 1997 crops, any'' and inserting ''Any'';

(B) by striking ''production adjustment payments, price support program loans, payments, or benefits made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.),'' and inserting ''loans or payments made available under the Agricultural Market Transition Act,''; and

(C) by striking ''during the 1989 through 1997 crop years''.

SEC. 116. VIOLATIONS OF CONTRACT.

(a) TERMINATION OF CONTRACT FOR VIOLATION.—Except as provided in subsection (b), if an owner or producer subject to a contract violates a requirement of the contract specified in section 111(a), the Secretary shall terminate the contract with respect to the owner or producer on each farm in which the owner or producer has an interest. On the termination, the owner or producer shall forfeit all rights to receive future contract payments on each farm in which the owner or producer has an interest and shall refund to the Secretary all contract payments received by the owner or producer during the period of the violation, together with interest on the contract payments as determined by the Secretary.

(b) REFUND OR ADJUSTMENT.—If the Secretary determines that a violation does not warrant termination of the contract under subsection (a), the Secretary may require the owner or producer subject to the contract—

(1) to refund to the Secretary that part of the contract payments received by the owner or producer during the period of the violation, together with interest on the contract payments as determined by the Secretary; or

(2) to accept a reduction in the amount of future contract payments that is proportionate to the severity of the violation, as determined by the Secretary.

(c) FORECLOSURE.—

(1) EFFECT OF FORECLOSURE.—An owner or producer subject to a contract may not be required to make repayments to the Secretary of amounts received under the contract if the contract acreage has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate to provide fair and equitable treatment.

(2) RESUMPTION OF OPERATION.—This subsection shall not void the responsibilities of the owner or producer under the contract if the owner or producer continues or resumes operation, or control, of the contract acreage. On the resumption of operation or control over the contract acreage by the owner or producer, the provisions of the contract in effect on the date of the foreclosure shall apply.

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

SEC. 117. TRANSFER OR CHANGE OF INTEREST IN LANDS SUBJECT TO CONTRACT.

(a) TERMINATION.—Except as provided in subsection (c), a transfer of (or change in) the interest of an owner or producer subject to a contract in the contract acreage covered by the contract shall result in the termination of the contract with respect to the acreage, unless the transferee or owner of the acreage agrees to assume all obligations under the contract. The termination shall be effective on the date of the transfer or change.

(b) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the contract if the modifications are consistent with the objectives of this subtitle, as determined by the Secretary.

(c) EXCEPTION.—If an owner or producer who is entitled to a contract payment dies, becomes incompetent, or is otherwise unable to receive the contract payment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

SEC. 118. PLANTING FLEXIBILITY.

(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on contract acreage on a farm.

(b) LIMITATIONS AND EXCEPTIONS REGARDING FRUITS AND VEGETABLES.—

(1) LIMITATIONS.—The planting of fruits and vegetables (other than lentils, mung beans, and dry peas) shall be prohibited on contract acreage.

(2) EXCEPTIONS.—Paragraph (1) shall not limit the planting of a fruit or vegetable—

(A) in any region in which there is a history of double-cropping of contract commodities with fruits or vegetables, as determined by the Secretary, in which case the double-cropping shall be permitted;

(B) on a farm that the Secretary determines has a history of planting fruits or vegetables on contract acreage, except that a contract payment shall be reduced by an acre for each acre planted to the fruit or vegetable; or

(C) by a producer who the Secretary determines has an established planting history of a specific fruit or vegetable, except that—

(i) the quantity planted may not exceed the producer's average annual planting history of the fruit or vegetable in the 1991 through 1995 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(ii) a contract payment shall be reduced by an acre for each acre planted to the fruit or vegetable.

Subtitle C—Nonrecourse Marketing Assistance Loans and Loan Deficiency Payments

SEC. 131. AVAILABILITY OF NONRECOURSE MARKETING ASSISTANCE LOANS.

(a) NONRECOURSE LOANS AVAILABLE.—For each of the 1996 through 2002 crops of each loan commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm. The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under section 132 for the loan commodity.

(b) ELIGIBLE PRODUCTION.—The following production shall be eligible for a marketing assistance loan under subsection (a):

(1) In the case of a marketing assistance loan for a contract commodity, any production by a producer on a farm containing eligible cropland covered by a production flexibility contract.

(2) In the case of a marketing assistance loan for extra long staple cotton and oilseeds, any production.

(c) COMPLIANCE WITH CONSERVATION AND WETLANDS REQUIREMENTS.—As a condition of the receipt of a marketing assistance loan under subsection (a), the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.) during the term of the loan.

(d) ADDITIONAL OUTLAYS PROHIBITED.—The Secretary shall carry out this subtitle in such a manner that there are no additional outlays under this subtitle as a result of the reconstitution of a farm that occurs as a result of the combination of another farm that does not contain eligible cropland covered by a production flexibility contract.

SEC. 132. LOAN RATES FOR MARKETING ASSISTANCE LOANS.

(a) WHEAT.—

(1) LOAN RATE.—Subject to paragraph (2), the loan rate for a marketing assistance loan under section 131 for wheat shall be—

(A) not less than 85 percent of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than $2.58 per bushel.

(2) STOCKS TO USE RATIO ADJUSTMENT.—If the Secretary estimates for any marketing year that the ratio of ending stocks of wheat to total use for the marketing year will be—

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

(B) less than 30 percent but not less than 15 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 5 percent in any year; or

(C) less than 15 percent, the Secretary may not reduce the loan rate for wheat for the corresponding crop.

(b) FEED GRAINS.—

(1) LOAN RATE FOR CORN.—Subject to paragraph (2), the loan rate for a marketing assistance loan under section 131 for corn shall be—

(A) not less than 85 percent of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than $1.89 per bushel.

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

(A) equal to or greater than 25 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 10 percent in any year;

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

(C) less than 12.5 percent, the Secretary may not reduce the loan rate for corn for the corresponding crop.

(3) OTHER FEED GRAINS.—The loan rate for a marketing assistance loan under section 131 for grain sorghum, barley, and oats, respectively, shall be established at such level as the Secretary determines is fair and reasonable in relation to the rate that loans are made available for corn, taking into consideration the feeding value of the commodity in relation to corn.

(c) UPLAND COTTON.—

(1) LOAN RATE.—Subject to paragraph (2), the loan rate for a marketing assistance loan under section 131 for upland cotton shall be established by the Secretary at such loan rate, per pound, as will reflect for the base quality of upland cotton, as determined by the Secretary, at average locations in the United States a rate that is not less than the smaller of—

(A) 85 percent of the average price (weighted by market and month) of the base quality of cotton as quoted in the designated United States spot markets during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

(B) 90 percent of the average, for the 15-week period beginning July 1 of the year pre-

ceding the year in which the crop is planted, of the 5 lowest-priced growths of the growths quoted for Middling 1 3/32-inch cotton C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year preceding the year in which the crop is planted between the average Northern European price quotation of such quality of cotton and the market quotations in the designated United States spot markets for the base quality of upland cotton), as determined by the Secretary.

(2) LIMITATIONS.—The loan rate for a marketing assistance loan for upland cotton shall not be less than $0.50 per pound or more than $0.5192 per pound.

(d) EXTRA LONG STAPLE COTTON.—The loan rate for a marketing assistance loan under section 131 for extra long staple cotton shall be—

(1) not less than 85 percent of the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(2) not more than $0.7965 per pound.

(e) RICE.—The loan rate for a marketing assistance loan under section 131 for rice shall be $6.50 per hundredweight.

(f) OILSEEDS.—

(1) SOYBEANS.—The loan rate for a marketing assistance loan under section 131 for soybeans shall be—

(A) not less than 85 percent of the simple average price received by producers of soybeans, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of soybeans, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not less than $4.92 or more than $5.26 per bushel.

(2) SUNFLOWER SEED, CANOLA, RAPESEED, SAFFLOWER, MUSTARD SEED, AND FLAXSEED.—The loan rate for a marketing assistance loan under section 131 for sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, individually, shall be—

(A) not less than 85 percent of the simple average price received by producers of sunflower seed, individually, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of sunflower seed, individually, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not less than $0.087 or more than $0.093 per pound.

(3) OTHER OILSEEDS.—The loan rates for a marketing assistance loan under section 131 for other oilseeds shall be established at such level as the Secretary determines is fair and reasonable in relation to the loan rate available for soybeans, except in no event shall the rate for the oilseeds (other than cottonseed) be less than the rate established for soybeans on a per-pound basis for the same crop.

SEC. 133. TERM OF LOANS.

(a) TERM OF LOAN.—In the case of each loan commodity (other than upland cotton or extra long staple cotton), a marketing assistance loan under section 131 shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

(b) SPECIAL RULE FOR COTTON.—A marketing assistance loan for upland cotton or extra long staple cotton shall have a term of 10 months beginning on the first day of the month in which the loan is made.

(c) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for any loan commodity.

SEC. 134. REPAYMENT OF LOANS.

(a) REPAYMENT RATES FOR WHEAT, FEED GRAINS, AND OILSEEDS.—The Secretary shall permit a producer to repay a marketing assistance loan under section 131 for wheat, corn, grain sorghum, barley, oats, and oilseeds at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 132, plus interest (as determined by the Secretary); or

(2) a rate that the Secretary determines will—

(A) minimize potential loan forfeitures;

(B) minimize the accumulation of stocks of the commodity by the Federal Government;

(C) minimize the cost incurred by the Federal Government in storing the commodity; and

(D) allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally.

(b) REPAYMENT RATES FOR UPLAND COTTON AND RICE.—The Secretary shall permit producers to repay a marketing assistance loan under section 131 for upland cotton and rice at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 132, plus interest (as determined by the Secretary); or

(2) the prevailing world market price for the commodity (adjusted to United States quality and location), as determined by the Secretary.

(c) REPAYMENT RATES FOR EXTRA LONG STAPLE COTTON.—Repayment of a marketing assistance loan for extra long staple cotton shall be at the loan rate established for the commodity under section 132, plus interest (as determined by the Secretary).

(d) PREVAILING WORLD MARKET PRICE.—For purposes of this section and section 136, the Secretary shall prescribe by regulation—

(1) a formula to determine the prevailing world market price for each loan commodity, adjusted to United States quality and location; and

(2) a mechanism by which the Secretary shall announce periodically the prevailing world market price for each loan commodity.

(e) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE FOR UPLAND COTTON.—

(1) IN GENERAL.—During the period ending July 31, 2003, the prevailing world market price for upland cotton (adjusted to United States quality and location) established under subsection (d) shall be further adjusted if—

(A) the adjusted prevailing world market price is less than 115 percent of the loan rate for upland cotton established under section 132, as determined by the Secretary; and

(B) the Friday through Thursday average price quotation for the lowest-priced United States growth as quoted for Middling (M) 1 3/32-inch cotton delivered C.I.F. Northern Europe is greater than the Friday through Thursday average price of the 5 lowest-priced growths of upland cotton, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe (referred to in this section as the ''Northern Europe price'').

(2) FURTHER ADJUSTMENT.—Except as provided in paragraph (3), the adjusted prevailing world market price for upland cotton shall be further adjusted on the basis of some or all of the following data, as available:

(A) The United States share of world exports.

(B) The current level of cotton export sales and cotton export shipments.

(C) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for upland cotton (adjusted to United States quality and location).

(3) LIMITATION ON FURTHER ADJUSTMENT.—The adjustment under paragraph (2) may not exceed the difference between—

(A) the Friday through Thursday average price for the lowest-priced United States growth as quoted for Middling 1 3/32-inch cotton delivered C.I.F. Northern Europe; and

(B) the Northern Europe price.

SEC. 135. LOAN DEFICIENCY PAYMENTS.

(a) AVAILABILITY OF LOAN DEFICIENCY PAYMENTS.—Except as provided in subsection (d), the Secretary may make loan deficiency payments available to producers who, although eligible to obtain a marketing assistance loan under section 131 with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for payments under this section.

(b) COMPUTATION.—A loan deficiency payment under this section shall be computed by multiplying—

(1) the loan payment rate determined under subsection (c) for the loan commodity; by

(2) the quantity of the loan commodity that the producers on a farm are eligible to place under loan but for which the producers forgo obtaining the loan in return for payments under this section.

(c) LOAN PAYMENT RATE.—For purposes of this section, the loan payment rate shall be the amount by which—

(1) the loan rate established under section 132 for the loan commodity; exceeds

(2) the rate at which a loan for the commodity may be repaid under section 134.

(d) EXCEPTION FOR EXTRA LONG STAPLE COTTON.—This section shall not apply with respect to extra long staple cotton.

SEC. 136. SPECIAL MARKETING LOAN PROVISIONS FOR UPLAND COTTON.

(a) COTTON USER MARKETING CERTIFICATES.—

(1) ISSUANCE.—Subject to paragraph (4), during the period ending July 31, 2003, the Secretary shall issue marketing certificates or cash payments to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

(A) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

(B) the prevailing world market price for upland cotton (adjusted to United States quality and location) does not exceed 130 percent of the loan rate for upland cotton established under section 132.

(2) VALUE OF CERTIFICATES OR PAYMENTS.—The value of the marketing certificates or cash payments shall be based on the amount of the difference (reduced by 1.25 cents per pound) in the prices during the 4th week of the consecutive 4-week period multiplied by the quantity of upland cotton included in the documented sales.

(3) ADMINISTRATION OF MARKETING CERTIFICATES.—

(A) REDEMPTION, MARKETING, OR EXCHANGE.—The Secretary shall establish procedures for redeeming marketing certificates for cash or marketing or exchange of the certificates for agricultural commodities owned by the Commodity Credit Corporation in such manner, and at such price levels, as the Secretary determines will best effectuate the purposes of cotton user marketing certificates. Any price restrictions that would otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this subsection.

(B) DESIGNATION OF COMMODITIES AND PRODUCTS.—To the extent practicable, the Secretary shall permit owners of certificates to designate the commodities and products, including storage sites, the owners would prefer to receive in exchange for certificates. If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of the certificate (as determined by the Secretary), reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after the reasonable number of days and ending with the date of the presentation of the certificate to the Commodity Credit Corporation.

(C) TRANSFERS.—Marketing certificates issued to domestic users and exporters of upland cotton may be transferred to other persons in accordance with regulations issued by the Secretary.

(4) EXCEPTION.—The Secretary shall not issue marketing certificates or cash payments under paragraph (1) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price quotation for the lowest priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this subsection, exceeds the Northern Europe price by more than 1.25 cents per pound.

(5) LIMITATION ON EXPENDITURES.—Total expenditures under this subsection shall not exceed $701,000,000 during fiscal years 1996 through 2002.

(b) SPECIAL IMPORT QUOTA.—

(1) ESTABLISHMENT.—The President shall carry out an import quota program that provides that, during the period ending July 31, 2003, whenever the Secretary determines and announces that for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificates issued under subsection (a), exceeds the Northern Europe price by more than 1.25 cents per pound, there shall immediately be in effect a special import quota.

(2) QUANTITY.—The quota shall be equal to 1 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(3) APPLICATION.—The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under paragraph (1) and entered into the United States not later than 180 days after the date.

(4) OVERLAP.—A special quota period may be established that overlaps any existing quota period if required by paragraph (1), except that a special quota period may not be established under this subsection if a quota period has been established under subsection (c).

(5) PREFERENTIAL TARIFF TREATMENT.—The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

(A) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(B) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

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

(D) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(6) DEFINITION.—In this subsection, the term ''special import quota'' means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(c) LIMITED GLOBAL IMPORT QUOTA FOR UPLAND COTTON.—

(1) IN GENERAL.—The President shall carry out an import quota program that provides that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of such quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

(A) QUANTITY.—The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(B) QUANTITY IF PRIOR QUOTA.—If a quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated under subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

(C) PREFERENTIAL TARIFF TREATMENT.—The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

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

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

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

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(D) DEFINITIONS.—In this subsection:

(i) SUPPLY.—The term ''supply'' means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

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

(II) production of the current crop; and

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

(ii) DEMAND.—The term ''demand'' means—

(I) the average seasonally adjusted annual rate of domestic mill consumption during the most recent 3 months for which data are available; and

(II) the larger of—

(aa) average exports of upland cotton during the preceding 6 marketing years; or

(bb) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

(iii) LIMITED GLOBAL IMPORT QUOTA.—The term ''limited global import quota'' means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(E) QUOTA ENTRY PERIOD.—When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(2) NO OVERLAP.—Notwithstanding paragraph (1), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (b).

SEC. 137. AVAILABILITY OF RECOURSE LOANS FOR HIGH MOISTURE FEED GRAINS AND SEED COTTON.

(a) HIGH MOISTURE FEED GRAINS.—

(1) RECOURSE LOANS AVAILABLE.—For each of the 1996 through 2002 crops of corn and grain sorghum, the Secretary shall make available recourse loans, as determined by the Secretary, to producers on a farm containing eligible cropland covered by a production flexibility contract who—

(A) normally harvest all or a portion of their crop of corn or grain sorghum in a high moisture state;

(B) present—

(i) certified scale tickets from an inspected, certified commercial scale, including a licensed warehouse, feedlot, feed mill, distillery, or other similar entity approved by the Secretary, pursuant to regulations issued by the Secretary; or

(ii) field or other physical measurements of the standing or stored crop in regions of the United States, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan under this subsection was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to a facility maintained by the users of corn and grain sorghum in a high moisture state; and

(D) comply with deadlines established by the Secretary for harvesting the corn or grain sorghum and submit applications for loans under this subsection within deadlines established by the Secretary.

(2) ELIGIBILITY OF ACQUIRED FEED GRAINS.—A loan under this subsection shall be made on a quantity of corn or grain sorghum of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

(A) the acreage of the corn or grain sorghum in a high moisture state harvested on the producer's farm; by

(B) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which the corn or grain sorghum was obtained.

(3) HIGH MOISTURE STATE DEFINED.—In this subsection, the term ''high moisture state'' means corn or grain sorghum having a moisture content in excess of Commodity Credit Corporation standards for marketing assistance loans made by the Secretary under section 131.

(b) RECOURSE LOANS AVAILABLE FOR SEED COTTON.—

(1) UPLAND COTTON.—For each of the 1996 through 2002 crops of upland cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, to producers on a farm containing eligible cropland covered by a production flexibility contract.

(2) EXTRA LONG STAPLE COTTON.—For each of the 1996 through 2002 crops of extra long staple cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, on any production.

(c) REPAYMENT RATES.—Repayment of a recourse loan made under this section shall be at the loan rate established for the commodity by the Secretary, plus interest (as determined by the Secretary).

Subtitle D—Other Commodities

CHAPTER 1—DAIRY

SEC. 141. MILK PRICE SUPPORT PROGRAM.

(a) SUPPORT ACTIVITIES.—The Secretary of Agriculture shall support the price of milk produced in the 48 contiguous States through the purchase of cheese, butter, and nonfat dry milk produced from the milk.

(b) RATE.—The price of milk shall be supported at the following rates per hundredweight for milk containing 3.67 percent butterfat:

(1) During calendar year 1996, $10.35.

(2) During calendar year 1997, $10.20.

(3) During calendar year 1998, $10.05.

(4) During calendar year 1999, $9.90.

(c) PURCHASE PRICES.—The support purchase prices under this section for each of the products of milk (butter, cheese, and nonfat dry milk) announced by the Secretary shall be the same for all of that product sold by persons offering to sell the product to the Secretary. The purchase prices shall be sufficient to enable plants of average efficiency to pay producers, on average, a price that is not less than the rate of price support for milk in effect under subsection (b).

(d) SPECIAL RULE FOR BUTTER AND NONFAT DRY MILK PURCHASE PRICES.—

(1) ALLOCATION OF PURCHASE PRICES.—The Secretary may allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that will result in the lowest level of expenditures by the Commodity Credit Corporation or achieve such other objectives as the Secretary considers appropriate. Not later than 10 days after making or changing an allocation, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the allocation. Section 553 of title 5, United States Code, shall not apply with respect to the implementation of this section.

(2) TIMING OF PURCHASE PRICE ADJUSTMENTS.—The Secretary may make any such adjustments in the purchase prices for nonfat dry milk and butter the Secretary considers to be necessary not more than twice in each calendar year.

(e) REFUNDS OF 1995 AND 1996 ASSESSMENTS.—

(1) REFUND REQUIRED.—The Secretary shall provide for a refund of the entire reduction required under section 204(h)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446e(h)(2)), as in effect on the day before the amendment made by subsection (g), in the price of milk received by a producer during calendar year 1995 or 1996, if the producer provides evidence that the producer did not increase marketings in calendar year 1995 or 1996 when compared to calendar year 1994 or 1995, respectively.

(2) EXCEPTION.—This subsection shall not apply with respect to a producer for a particular calendar year if the producer has already received a refund under section 204(h) of the Agricultural Act of 1949 for the same fiscal year before the effective date of this section.

(3) TREATMENT OF REFUND.—A refund under this subsection shall not be considered as any type of price support or payment for purposes of sections 1211 and 1221 of the Food Security Act of 1985 (16 U.S.C. 3811 and 3821).

(f) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(g) CONFORMING REPEAL.—Effective on the first day of the first month beginning after the date of enactment of this title, section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is repealed.

(h) PERIOD OF EFFECTIVENESS.—This section (other than subsection (g)) shall be effective only during the period beginning on the first day of the first month beginning after the date of enactment of this title and ending on December 31, 1999. The program authorized by this section shall terminate on December 31, 1999, and shall be considered to have expired notwithstanding section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907).

SEC. 142. RECOURSE LOAN PROGRAM FOR COMMERCIAL PROCESSORS OF DAIRY PRODUCTS.

(a) RECOURSE LOANS AVAILABLE.—Under such reasonable terms and conditions as the Secretary may prescribe, the Secretary shall make recourse loans available to commercial processors of eligible dairy products to assist the processors to manage inventories of eligible dairy products and assure a greater degree of price stability for the dairy industry during the year. The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

(b) AMOUNT OF LOAN.—The Secretary shall establish the amount of a loan for eligible dairy products, which shall reflect a milk equivalent value of $9.90 per hundredweight of milk containing 3.67 percent butterfat. The rate of interest charged participants under this section shall not be less than the rate of interest charged the Commodity Credit Corporation by the United States Treasury.

(c) PERIOD OF LOAN.—The original term of a recourse loan made under this section may not extend beyond the end of the fiscal year in which the loan is made. At the end of the fiscal year, the Secretary may extend the loan for an additional period not to exceed the end of the next fiscal year.

(d) DEFINITION OF ELIGIBLE DAIRY PRODUCTS.—In this section, the term ''eligible dairy products'' means cheddar cheese, butter, and nonfat dry milk.

(e) EFFECTIVE DATE.—This section shall be effective beginning January 1, 2000.

SEC. 143. CONSOLIDATION AND REFORM OF FEDERAL MILK MARKETING ORDERS.

(a) AMENDMENT OF ORDERS.—

(1) REQUIRED CONSOLIDATION.—The Secretary shall amend Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to limit the number of Federal milk marketing orders to not less than 10 and not more than 14 orders.

(2) INCLUSION OF CALIFORNIA AS SEPARATE ORDER.—Upon the petition and approval of California dairy producers in the manner provided in section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, the Secretary shall designate the State of California as a separate Federal milk marketing order. The order covering California shall have the right to reblend and distribute order receipts to recognize quota value.

(3) RELATED ISSUES ADDRESSED IN CONSOLIDATION.—Among the issues the Secretary is authorized to implement as part of the consolidation of Federal milk marketing orders are the following:

(A) The use of utilization rates and multiple basing points for the pricing of fluid milk.

(B) The use of uniform multiple component pricing when developing 1 or more basic formula prices for manufacturing milk.

(4) EFFECT OF EXISTING LAW.—In implementing the consolidation of Federal milk marketing orders and related reforms under this subsection, the Secretary may not consider, or base any decision on, the table contained in section 8c(5)(A) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)(A)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, as added by section 131 of the Food Security Act of 1985.

(b) EXPEDITED PROCESS.—

(1) USE OF INFORMAL RULEMAKING.—To implement the consolidation of Federal milk marketing orders and related reforms under subsection (a), the Secretary shall use the notice and comment procedures provided in section 553 of title 5, United States Code.

(2) TIME LIMITATIONS.—

(A) PROPOSED AMENDMENTS.—The Secretary shall announce the proposed amendments to be made under subsection (a) not later than 2 years after the date of enactment of this title.

(B) FINAL AMENDMENTS.—The Secretary shall implement the amendments not later than 3 years after the date of enactment of this title.

(3) EFFECT OF COURT ORDER.—The actions authorized by this subsection are intended to ensure the timely publication and implementation of new and amended Federal milk marketing orders. In the event that the Secretary is enjoined or otherwise restrained by a court order from publishing or implementing the consolidation and related reforms under subsection (a), the length of time for which that injunction or other restraining order is effective shall be added to the time limitations specified in paragraph (2) thereby extending those time limitations by a period of time equal to the period of time for which the injunction or other restraining order is effective.

(c) FAILURE TO TIMELY CONSOLIDATE ORDERS.—If the Secretary fails to implement the consolidation required under subsection (a)(1) within the time period required under subsection (b)(2)(B) (plus any additional period provided under subsection (b)(3)), the Secretary may not assess or collect assessments from milk producers or handlers under such section 8c for marketing order administration and services provided under such section after the end of that period until the consolidation is completed. The Secretary may not reduce the level of services provided under the section on account of the prohibition against assessments, but shall rather cover the cost of marketing order administration and services through funds available for the Agricultural Marketing Service of the Department.

(d) REPORT REGARDING FURTHER REFORMS.—

(1) REPORT REQUIRED.—Not later than April 1, 1997, the Secretary shall submit to Congress a report—

(A) reviewing the Federal milk marketing order system established pursuant to section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in light of the reforms required by subsection (a);

(B) describing the efforts underway and the progress made in implementing the reforms required by subsection (a); and

(C) containing such recommendations as the Secretary considers appropriate for further improvements and reforms to the Federal milk marketing order system.

(2) EFFECT OF OTHER LAWS.—Any limitation imposed by Act of Congress on the conduct or completion of reports to Congress shall not apply to the report required under this section, unless the limitation specifically refers to this section.

SEC. 144. EFFECT ON FLUID MILK STANDARDS IN STATE OF CALIFORNIA.

Nothing in this Act or any other provision of law shall be construed to preempt, prohibit, or otherwise limit the authority of the State of California, directly or indirectly, to establish or continue to effect any law, regulation, or requirement regarding—

(1) the percentage of milk solids or solids not fat in fluid milk products sold at retail or marketed in the State of California; or

(2) the labeling of such fluid milk products with regard to milk solids or solids not fat.

SEC. 145. MILK MANUFACTURING MARKETING ADJUSTMENT.

(a) MAXIMUM ALLOWANCES ESTABLISHED.—No State shall provide for a manufacturing allowance for the processing of milk in excess of—

(1) $1.65 per hundredweight of milk for milk manufactured into butter and nonfat dry milk; and

(2) $1.80 per hundredweight of milk for milk manufactured into cheese.

(b) MANUFACTURING ALLOWANCE DEFINED.—In this section, the term ''manufacturing allowance'' means—

(1) the amount by which the product price value of butter and nonfat dry milk manufactured from a hundred pounds of milk containing 3.5 pounds of butterfat and 8.7 pounds of milk solids not fat resulting from a State's yield and product price formulas exceeds the class price for the milk used to produce those products; or

(2) the amount by which the product price value of cheese manufactured from a hundred pounds of milk containing 3.5 pounds of butterfat and 8.7 pounds of milk solids not fat resulting from a State's yield and product price formulas exceeds the class price for the milk used to produce cheese.

(c) EFFECT OF VIOLATION.—If the Secretary determines following a hearing that a State has in effect a manufacturing allowance that exceeds the manufacturing allowance authorized in subsection (a), the Secretary shall suspend purchases of cheddar cheese, butter, and nonfat dry milk produced in that State until such time as the State complies with such subsection.

(d) EFFECTIVE DATE; IMPLEMENTATION.—This section (other than subsection (e)) shall be effective during the period beginning on the first day of the first month beginning after the date of enactment of this title and ending on December 31, 1999. During that period, the Secretary may exercise the authority provided to the Secretary under this section without regard to the issuance of regulations intended to carry out this section.

(e) CONFORMING REPEAL.—Effective on the first day of the first month beginning after the date of enactment of this title, section 102 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e–1) is repealed.

SEC. 146. PROMOTION.

(a) CONGRESSIONAL PURPOSE.—Section 1999B(a) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6401(a)) is amended—

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

(2) by inserting after paragraph (5) the following:

''(6) the congressional purpose underlying this subtitle is to maintain and expand markets for fluid milk products, not to maintain or expand any processor's share of those markets and that the subtitle does not prohibit or restrict individual advertising or promotion of fluid milk products since the programs created and funded by this subtitle are not extended to replace individual advertising and promotion efforts;''.

(b) CONGRESSIONAL POLICY.—Section 1999B(b) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6401(b)) is amended to read as follows:

''(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of powers provided in this subtitle, of an orderly procedure for developing, financing, through adequate assessments on fluid milk products produced in the United States and carrying out an effective, continuous, and coordinated program of promotion, research, and consumer information designed to strengthen the position of the dairy industry in the marketplace and maintain and expand domestic and foreign markets and uses for fluid milk products, the purpose of which is not to compete with or replace individual advertising or promotion efforts designed to promote individual brand name or trade name fluid milk products, but rather to maintain and expand the markets for all fluid milk products, with the goal and purpose of this subtitle being a national governmental goal that authorizes and funds programs that result in government speech promoting government objectives.''.

(c) RESEARCH.—Section 1999C(6) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6402(6)) is amended to read as follows:

''(6) RESEARCH.—The term 'research' means market research to support advertising and promotion efforts, including educational activities, research directed to product characteristics, product development, including new products or improved technology in production, manufacturing or processing of milk and the products of milk.''.

(d) VOTING.—

(1) INITIAL REFERENDA.—Section 1999N(b)(2) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6413(b)(2)) is amended by striking ''all processors'' and inserting ''fluid milk processors voting in the referendum''.

(2) SUSPENSION OR TERMINATION.—Section 1999O(c) of such Act (7 U.S.C. 6414(c)) is amended—

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

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

(e) DURATION.—Section 1999O(a) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6414(a)) is amended by striking ''1996'' and inserting ''2002''.

SEC. 147. NORTHEAST INTERSTATE DAIRY COMPACT.

Congress hereby consents to the Northeast Interstate Dairy Compact entered into among the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont as specified in section 1(b) Senate Joint Resolution 28 of the 104th Congress, as placed on the calendar of the Senate, subject to the following conditions:

(1) FINDING OF COMPELLING PUBLIC INTEREST.—Based upon a finding by the Secretary of a compelling public interest in the Compact region, the Secretary may grant the States that have ratified the Northeast Interstate Dairy Compact, as of the date of enactment of this title, the authority to implement the Northeast Interstate Dairy Compact.

(2) LIMITATION ON MANUFACTURING PRICE.—The Northeast Interstate Dairy Compact Commission shall not regulate Class II, Class III, or Class III-A milk used for manufacturing purposes or any other milk, other than Class I (fluid) milk, as defined by a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c) reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(3) DURATION.—Consent for the Northeast Interstate Dairy Compact shall terminate concurrent with the Secretary's implementation of the dairy pricing and Federal milk marketing order consolidation and reforms under section 143.

(4) ADDITIONAL STATES.—Delaware, New Jersey, New York, Pennsylvania, Maryland, and Virginia are the only additional States that may join the Northeast Interstate Dairy Compact, individually or otherwise, if upon entry the State is contiguous to a participating State and if Congress consents to the entry of the State into the Compact after the date of enactment of this title.

(5) COMPENSATION OF COMMODITY CREDIT CORPORATION.—Before the end of each fiscal year that a Compact price regulation is in effect, the Northeast Interstate Dairy Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from the projected rate of increase in milk production for the fiscal year within the Compact region in excess of the projected national average rate of the increase in milk production, as determined by the Secretary.

(6) MILK MARKETING ORDER ADMINISTRATOR.—At the request of the Northeast Interstate Dairy Compact Commission, the Administrator of the applicable Federal milk marketing order issued under section 8(c)5 of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, shall provide technical assistance to the Compact Commission and be compensated for that assistance.

(7) FURTHER CONDITIONS.—The Northeast Interstate Dairy Compact Commission shall not prohibit or in any way limit the marketing in the Compact region of any milk or milk product produced in any other production area in the United States. The Compact Commission shall respect and abide by the ongoing procedures between Federal milk marketing orders with respect to the sharing of proceeds from sales within the Compact region of bulk milk, packaged milk, or producer milk originating from outside of the Compact region. The Compact Commission shall not use compensatory payments under section 10(6) of the Compact as a barrier to the entry of milk into the Compact region or for any other purpose. Establishment of a Compact over-order price, in itself, shall not be considered a compensatory payment or a limitation or prohibition on the marketing of milk.

SEC. 148. DAIRY EXPORT INCENTIVE PROGRAM.

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

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

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

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

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

(3) by adding at the end the following:

''(3) the maximum volume of dairy product exports allowable consistent with the obligations of the United States as a member of the World Trade Organization is exported under the program each year (minus the volume sold under section 1163 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1731 note) during that year), except to the extent that the export of such a volume under the program would, in the judgment of the Secretary, exceed the limitations on the value set forth in subsection (f); and

''(4) payments may be made under the program for exports to any destination in the world for the purpose of market development, except a destination in a country with respect to which shipments from the United States are otherwise restricted by law.''.

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

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

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

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

''(f) REQUIRED FUNDING.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Commodity Credit Cor-

poration shall in each year use money and commodities for the program under this section in the maximum amount consistent with the obligations of the United States as a member of the World Trade Organization, minus the amount expended under section 1163 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1731 note) during that year.

''(2) VOLUME LIMITATIONS.—The Commodity Credit Corporation may not exceed the limitations specified in subsection (c)(3) on the volume of allowable dairy product exports.''.

SEC. 149. AUTHORITY TO ASSIST IN ESTABLISHMENT AND MAINTENANCE OF ONE OR MORE EXPORT TRADING COMPANIES.

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

SEC. 150. STANDBY AUTHORITY TO INDICATE ENTITY BEST SUITED TO PROVIDE INTERNATIONAL MARKET DEVELOPMENT AND EXPORT SERVICES.

(a) INDICATION OF ENTITY BEST SUITED TO ASSIST INTERNATIONAL MARKET DEVELOPMENT FOR AND EXPORT OF UNITED STATES DAIRY PRODUCTS.—The Secretary of Agriculture shall indicate which entity or entities autonomous of the Government of the United States, which seeks such a designation, is best suited to facilitate the international market development for and exportation of United States dairy products, if the Secretary determines that—

(1) the United States dairy industry has not established an export trading company under the Export Trading Company Act of 1982 (15 U.S.C. 4001 et seq.) for the purpose of facilitating the international market development for an exportation of dairy products produced in the United States on or before June 30, 1997; or

(2) the quantity of exports of United States dairy products during the 12-month period preceding July 1, 1998 does not exceed the quantity of exports of United States dairy products during the 12-month period preceding July 1, 1997 by 1.5 billion pounds (milk equivalent, total solids basis).

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

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

SEC. 151. STUDY AND REPORT REGARDING POTENTIAL IMPACT OF URUGUAY ROUND ON PRICES, INCOME, AND GOVERNMENT PURCHASES.

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

(b) REPORT.—Not later than June 30, 1997, the Secretary shall report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives the results of the study conducted under this section.

(c) RULE OF CONSTRUCTION.—Any limitation imposed by Act of Congress on the conduct or completion of studies or reports to Congress shall not apply to the study and report required under this section, unless the limitation specifically refers to this section.

SEC. 152. PROMOTION OF UNITED STATES DAIRY PRODUCTS IN INTERNATIONAL MARKETS THROUGH DAIRY PROMOTION PROGRAM.

Section 113(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(e)) is amended by adding at the end the following new sentence: ''For each of fiscal years 1997 through 2001, the Board's budget may provide for the expenditure of revenues available to the Board to develop international markets for, and to promote within such markets, the consumption of dairy products produced in the United States from milk produced in the United States.''.

CHAPTER 2—PEANUTS AND SUGAR

SEC. 155. PEANUT PROGRAM.

(a) QUOTA PEANUTS.—

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

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

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

(4) LOCATION AND OTHER FACTORS.—The Secretary may make adjustments in the loan rate for quota peanuts for location of peanuts and such other factors as are authorized by section 162.

(5) OFFERS FROM HANDLERS.—If a producer markets a quota peanut crop, meeting quality requirements for domestic edible use, through the marketing association loan for two consecutive marketing years and the Secretary determines that a handler provided the producer with a written offer, upon delivery, for the purchase of the quota peanut crops at a price equal to or in excess of the quota support price, the producer shall be ineligible for quota price support for the next marketing year. The Secretary shall establish the method by which a producer may appeal a determination under this paragraph regarding ineligibility for quota price support.

(b) ADDITIONAL PEANUTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall make nonrecourse loans available to producers of additional peanuts at such rates as the Secretary finds appropriate, taking into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets.

(2) LIMITATION.—The Secretary shall establish the support rate on additional peanuts at a level estimated by the Secretary to ensure that there are no losses to the Commodity Credit Corporation on the sale or disposal of the peanuts.

(3) ANNOUNCEMENT.—The Secretary shall announce the loan rate for additional peanuts of each crop not later than February 15 preceding the marketing year for the crop for which the loan rate is being determined.

(c) AREA MARKETING ASSOCIATIONS.—

(1) WAREHOUSE STORAGE LOANS.—

(A) IN GENERAL.—In carrying out subsections (a) and (b), the Secretary shall make warehouse storage loans available in each of the producing areas (described in section 1446.95 of title 7 of the Code of Federal Regulations (January 1, 1989)) to a designated area marketing association of peanut producers that is selected and approved by the Secretary and that is operated primarily for the purpose of conducting the loan activities. The Secretary may not make warehouse storage loans available to any cooperative that is engaged in operations or activities concerning peanuts other than those operations and activities specified in this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(B) ADMINISTRATIVE AND SUPERVISORY ACTIVITIES.—An area marketing association shall be used in administrative and supervisory activities relating to loans and marketing activities under this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(C) ASSOCIATION COSTS.—Loans made to the association under this paragraph shall include such costs as the area marketing association reasonably may incur in carrying out the responsibilities, operations, and activities of the association under this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(2) POOLS FOR QUOTA AND ADDITIONAL PEANUTS.—

(A) IN GENERAL.—The Secretary shall require that each area marketing association establish pools and maintain complete and accurate records by area and segregation for quota peanuts handled under loan and for additional peanuts placed under loan, except that separate pools shall be established for Valencia peanuts produced in New Mexico.

(B) ELIGIBILITY TO PARTICIPATE IN NEW MEXICO POOLS.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of the 1996 and subsequent crops, Valencia peanuts not physically produced in the State of New Mexico shall not be eligible to participate in the pools of the State.

(ii) EXCEPTION.—A producer of Valencia peanuts may enter Valencia peanuts that are produced in Texas into the pools of New Mexico in a quantity not greater than the average annual quantity of the peanuts that the producer entered into the New Mexico pools for the 1990 through 1995 crops.

(C) TYPES OF PEANUTS.—Bright hull and dark hull Valencia peanuts shall be considered as separate types for the purpose of establishing the pools.

(D) NET GAINS.—Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed only to producers who placed peanuts in the pool and shall be distributed in proportion to the value of the peanuts placed in the pool by each producer. Net gains for peanuts in each pool shall consist of the following:

(i) QUOTA PEANUTS.—For quota peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool.

(ii) ADDITIONAL PEANUTS.—For additional peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool for additional peanuts.

(d) LOSSES.—Losses in quota area pools shall be covered using the following sources in the following order of priority:

(1) TRANSFERS FROM ADDITIONAL LOAN POOLS.—The proceeds due any producer from any pool shall be reduced by the amount of any loss that is incurred with respect to peanuts transferred from an additional loan pool to a quota loan pool by the producer under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)(8)).

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

(3) OFFSET WITHIN AREA.—Further losses in an area quota pool shall be offset by any gains or profits from additional peanuts (other than separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) owned or controlled by the Commodity Credit Corporation in that area and sold for domestic edible use, in accordance with regulations issued by the Secretary. This paragraph shall not apply to profits or gains from a farm with 1 acre or less of peanut production.

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

(5) CROSS COMPLIANCE.—Further losses in area quota pools, other than losses incurred as a result of transfers from additional loan pools to quota loan pools under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)(8)), shall be offset by any gains or profits from quota pools in other production areas (other than separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) in such manner as the Secretary shall by regulation prescribe.

(6) OFFSET GENERALLY.—If losses in an area quota pool have not been entirely offset under the preceding paragraphs, further losses shall be offset by any gains or profits from additional peanuts (other than separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) owned or controlled by the Commodity Credit Corporation and sold for domestic edible use, in accordance with regulations issued by the Secretary. This paragraph shall not apply to profits or gains from a farm with 1 acre or less of peanut production.

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

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

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

(f) QUALITY IMPROVEMENT.—

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

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

(B) ensure that all Commodity Credit Corporation inventories of peanuts sold for domestic edible use must be shown to have been officially inspected by licensed Department inspectors both as farmer stock and shelled or cleaned in-shell peanuts;

(C) continue to endeavor to operate the peanut program so as to improve the quality of domestic peanuts and ensure the coordination of activities under the Peanut Administrative Committee established under Marketing Agreement No. 146, regulating the quality of domestically produced peanuts (under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937); and

(D) ensure that any changes made in the peanut program as a result of this subsection requiring additional production or handling at the farm level shall be reflected as an upward adjustment in the Department loan schedule.

(2) EXPORTS AND OTHER PEANUTS.—The Secretary shall require that all peanuts in the domestic and export markets fully comply with all quality standards under Marketing Agreement No. 146.

(g) MARKETING ASSESSMENT.—

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

(2) FIRST PURCHASERS.—

(A) IN GENERAL.—Except as provided under paragraphs (3) and (4), the first purchaser of peanuts shall—

(i) collect from the producer a marketing assessment equal to the quantity of peanuts acquired multiplied by—

(I) in the case of each of the 1994 and 1995 crops, .55 percent of the applicable national average loan rate;

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

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

(ii) pay, in addition to the amount collected under clause (i), a marketing assessment in an amount equal to the quantity of peanuts acquired multiplied by .55 percent of the applicable national average loan rate; and

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

(B) DEFINITION OF FIRST PURCHASER.—In this subsection, the term ''first purchaser'' means a person acquiring peanuts from a producer except that in the case of peanuts forfeited by a producer to the Commodity Credit Corporation, the term means the person acquiring the peanuts from the Commodity Credit Corporation.

(3) OTHER PRIVATE MARKETINGS.—In the case of a private marketing by a producer directly to a consumer through a retail or wholesale outlet or in the case of a marketing by the producer outside of the continental United States, the producer shall be responsible for the full amount of the assessment and shall remit the assessment by such time as is specified by the Secretary.

(4) LOAN PEANUTS.—In the case of peanuts that are pledged as collateral for a loan made under this section, the producer portion of the assessment shall be deducted from the proceeds of the loan. The remainder of the assessment shall be paid by the first purchaser of the peanuts. For purposes of computing net gains on peanuts under this section, the reduction in loan proceeds shall be treated as having been paid to the producer.

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

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

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

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

(h) CROPS.—Subsections (a) through (g) shall be effective only for the 1996 through 2002 crops of peanuts.

(i) POUNDAGE QUOTAS.—

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

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

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

(ii) in subsections (a)(1), (b)(1)(B), (b)(2)(A), (b)(2)(C), and (b)(3)(A), by striking ''of the 1991 through 1997 marketing years'' each place it appears and inserting ''marketing year'';

(iii) 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'';

(iv) in subsection (b)(1)(A)—

(I) by striking ''each of the 1991 through 1997 marketing years'' and inserting ''each marketing year''; and

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

(v) in subsection (b)(1), by adding at the end the following:

''(D) CERTAIN FARMS INELIGIBLE FOR QUOTA.—Effective beginning with the 1998 crop, the Secretary shall not establish a farm poundage quota under subparagraph (A) for a farm owned or controlled by—

''(i) a municipality, airport authority, school, college, refuge, or other public entity (other than a university used for research purposes); or

''(ii) a person who is not a producer and resides in another State.'';

(vi) in subsection (b)(2), by adding at the end the following:

''(E) TRANSFER OF QUOTA FROM INELIGIBLE FARMS.—Any farm poundage quota held at the end of the 1996 marketing year by a farm described in paragraph (1)(D) shall be allocated to other farms in the same State on such basis as the Secretary may by regulation prescribe.''; and

(vii) in subsection (f), by striking ''1997'' and inserting ''2002'';

(B) in section 358b (7 U.S.C. 1358b)—

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

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

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

(D) in section 358e (7 U.S.C. 1359a)—

(i) in the section heading, by striking ''**FOR 1991 THROUGH 1997 CROPS OF PEANUTS**''; and

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

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

(3) TEMPORARY QUOTA ALLOCATION.—Section 358–1 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1) is amended—

(A) in subsection (a)(1), by striking ''domestic edible, seed,'' and inserting ''domestic edible use (except seed)''; and

(B) in subsection (b)(2)—

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

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

''(B) TEMPORARY QUOTA ALLOCATION.—

''(i) ALLOCATION RELATED TO SEED PEANUTS.—Temporary allocation of quota pounds for the marketing year only in which the crop is planted shall be made to producers for each of the 1996 through 2002 marketing years as provided in this subparagraph.

''(ii) QUANTITY.—The temporary quota allocation shall be equal to the pounds of seed peanuts planted on the farm, as may be adjusted and determined under regulations prescribed by the Secretary.

''(iii) ADDITIONAL QUOTA.—The temporary allocation of quota pounds under this paragraph shall be in addition to the farm poundage quota otherwise established under this subsection and shall be credited, for the applicable marketing year only, in total, to the producer of the peanuts on the farm in a manner prescribed by the Secretary.

''(iv) EFFECT OF OTHER REQUIREMENTS.—Nothing in this section alters or changes the requirements regarding the use of quota and additional peanuts established by section 358e(b).''.

(4) UNDERMARKETINGS.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

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

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

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

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

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

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

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

(5) DISASTER TRANSFERS.—Section 358–1(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)), as amended by paragraph (4)(A)(iii), is amended by adding at the end the following:

''(8) DISASTER TRANSFERS.—

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

''(B) LIMITATION.—The poundage of peanuts transferred under subparagraph (A) shall not exceed the difference between—

''(i) the total quantity of peanuts meeting quality requirements for domestic edible use, as determined by the Secretary, marketed from the farm; and

''(ii) the total farm poundage quota, excluding quota pounds transferred to the farm in the fall.

''(C) SUPPORT RATE.—Peanuts transferred under this paragraph shall be supported at 70 percent of the quota support rate for the marketing years in which the transfers occur. The transfers for a farm shall not exceed 25 percent of the total farm quota pounds, excluding pounds transferred in the fall.''.

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

(A) by striking paragraph (1) and inserting the following:

''(1) SALE AND LEASE AUTHORITY.—

''(A) SALE OR LEASE WITHIN SAME STATE.—Subject to subparagraph (B) and such terms and conditions as the Secretary may prescribe, the owner, or operator with the permission of the owner, of a farm in a State for which a farm poundage quota has been established may sell or lease all or any part of the poundage quota to any other owner or operator of a farm within the same State for transfer to the farm. However, any such lease of poundage quota may be entered into in the fall or after the normal planting season—

''(i) if not less than 90 percent of the basic quota (the farm quota and temporary quota transfers), plus any poundage quota transferred to the farm under this subsection, has been planted or considered planted on the farm from which the quota is to be leased; and

''(ii) under such terms and conditions as the Secretary may by regulation prescribe.

''In the case of a fall transfer or a transfer after the normal planting season by a cash lessee, the landowner shall not be required to sign the transfer authorization. A fall transfer or a transfer after the normal planting season may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded.

''(B) PERCENTAGE LIMITATIONS ON SPRING TRANSFERS.—Spring transfers under subparagraph (A) by sale or lease of a quota for farms in a county to any owner or operator of a farm outside the county within the same State shall not exceed the applicable percentage specified in this subparagraph of the quotas of all farms in the originating county (as of January 1, 1996) for the crop year in which the transfer is made, plus the total amount of quotas eligible for transfer from the originating county in the preceding crop year that were not transferred in that year or that were transferred through an expired lease. However, not more than an aggregate of 40 percent of the total poundage quota within a county (as of January 1, 1996) may be transferred outside of the county. Cumulative unexpired transfers outside of a county may not exceed for a crop year the following:

''(i) For the 1996 crop, 15 percent.

''(ii) For the 1997 crop, 25 percent.

''(iii) For the 1998 crop, 30 percent.

''(iv) For the 1999 crop, 35 percent.

''(v) For the 2000 and subsequent crops, not more than an aggregate of 40 percent of the total poundage quota within the county as of January 1, 1996.

''(C) CLARIFICATION REGARDING FALL TRANSFERS.—The limitation in subparagraph (B) does not apply to 1-year fall transfers, which in all cases may be made to any farm in the same State.

''(D) EFFECT OF TRANSFER.—Any farm poundage quota transferred under this paragraph shall not result in any reduction in the farm poundage quota for the transferring farm if the transferred quota is produced or considered produced on the receiving farm.''; and

(B) by adding at the end the following:

''(4) TRANSFERS IN COUNTIES WITH SMALL QUOTAS.—Notwithstanding paragraphs (1) and (2), in the case of any county in a State for which the poundage quota allocated to the county was less than 100,000 pounds for the preceding year's crop, all or any part of a farm poundage quota may be transferred by sale or lease or otherwise from a farm in the county to a farm in another county in the same State.''.

SEC. 156. SUGAR PROGRAM.

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

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

(c) REDUCTION IN LOAN RATES.—

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

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

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

(4) DEFINITIONS.—In this subsection:

(A) AGREEMENT ON AGRICULTURE.—The term ''Agreement on Agriculture'' means the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

(B) MAJOR SUGAR COUNTRIES.—The term ''major sugar growing, producing, and exporting countries'' means—

(i) the countries of the European Union; and

(ii) the 10 foreign countries not covered by subparagraph (A) that the Secretary determines produce the greatest quantity of sugar.

(d) TERM OF LOANS.—

(1) IN GENERAL.—A loan under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—

(A) the end of the 9-month period beginning on the first day of the first month after the month in which the loan is made; or

(B) the end of the fiscal year in which the loan is made.

(2) SUPPLEMENTAL LOANS.—In the case of a loan made under this section in the last 3 months of a fiscal year, the processor may repledge the sugar as collateral for a second loan in the subsequent fiscal year, except that the second loan shall—

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

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

(e) LOAN TYPE; PROCESSOR ASSURANCES.—

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

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

(3) PROCESSOR ASSURANCES.—If the Secretary is required under paragraph (2) to make nonrecourse loans available during a fiscal year or to change recourse loans into nonrecourse loans, the Secretary shall ob-

tain from each processor that receives a loan under this section such assurances as the Secretary considers adequate to ensure that the processor will provide payments to producers that are proportional to the value of the loan received by the processor for sugar beets and sugarcane delivered by producers served by the processor. The Secretary may establish appropriate minimum payments for purposes of this paragraph.

(f) MARKETING ASSESSMENT.—

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

(A) in the case of marketings during fiscal year 1996, 1.1 percent of the loan rate established under subsection (a) per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing); and

(B) in the case of marketings during each of fiscal years 1997 through 2003, 1.375 percent of the loan rate established under subsection (a) per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

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

(A) in the case of marketings during fiscal year 1996, 1.1794 percent of the loan rate established under subsection (a) per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed; and

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

(3) COLLECTION.—

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

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

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

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

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

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

(g) FORFEITURE PENALTY.—

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

(2) CANE SUGAR.—The penalty for cane sugar shall be 1 cent per pound.

(3) BEET SUGAR.—The penalty for beet sugar shall bear the same relation to the penalty for cane sugar as the marketing assessment for sugar beets bears to the marketing assessment for sugarcane.

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

(h) INFORMATION REPORTING.—

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

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

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

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

Subtitle E—Administration

SEC. 161. ADMINISTRATION.

(a) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall carry out this title through the Commodity Credit Corporation.

(b) LIMITATION ON EXPENDITURE OF COMMODITY CREDIT CORPORATION FUNDS.—

(1) GENERAL POWERS AND RESPONSIBILITIES.—Section 4 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b) is amended—

(A) in the first sentence of subsection (g), by inserting before the period the following: ‘‘, except that obligations under all such contracts or agreements (other than reimbursable agreements under section 11) for equipment or services relating to automated data processing, information technologies, or related items (including telecommunications equipment and computer hardware and software) may not exceed $170,000,000 in fiscal year 1996 and not more than $275,000,000 in the 6-fiscal year period beginning on October 1, 1996, unless additional amounts for such contracts and agreements are provided in advance in appropriation Acts’’; and

(B) in subsection (h), by striking ‘‘shall have power to acquire personal property necessary to the conduct of its business but’’.

(2) REIMBURSABLE AGREEMENTS.—Section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i) is amended by adding at the end the following: ‘‘After September 30, 1996, the total amount of all allotments and fund transfers from the Corporation under this section (including allotments and transfers for automated data processing or information resource management activities) for a fiscal year may not exceed the total amount of the allotments and transfers made under this section in fiscal year 1995.’’.

(3) REPORTING REQUIREMENTS.—Section 13 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714k) is amended by adding at the end the following: ‘‘In addition to the annual report, the Corporation shall submit to Congress on a quarterly basis an itemized report of all expenditures over $10,000 made under section 5 or 11 during the period covered by the report, including expenditures in the form of allotments or fund transfers to other agencies and departments of the Federal Government.’’.

(c) DETERMINATIONS BY SECRETARY.—A determination made by the Secretary under this title shall be final and conclusive.

(d) REGULATIONS.—Not later than 90 days after the date of enactment of this title, the Secretary and the Commodity Credit Corporation, as appropriate, shall issue such regulations as are necessary to implement this title. The issuance of the regulations shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804) relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly know as the ‘‘Paperwork Reduction Act’’).

SEC. 162. ADJUSTMENTS OF LOANS.

(a) ADJUSTMENT AUTHORITY.—The Secretary may make appropriate adjustments in the loan rates for any commodity for differences in grade, type, quality, location, and other factors.

(b) MANNER OF ADJUSTMENT.—The adjustments under the authority of this section shall, to the maximum extent practicable, be made in such manner that the average loan level for the commodity will, on the basis of the anticipated incidence of the factors, be equal to the level of support determined as provided in this title.

(c) ADJUSTMENT ON COUNTY BASIS.—The Secretary may establish loan rates for a crop for producers in individual counties in a manner that results in the lowest such rate being 95 percent of the national average loan rate, except that such action shall not result in an increase in outlays. Adjustments under this subsection shall not result in an increase in the national average loan rate for any year.

SEC. 163. COMMODITY CREDIT CORPORATION INTEREST RATE.

Notwithstanding any other provision of law, the monthly Commodity Credit Corporation interest rate applicable to loans provided for agricultural commodities by the Corporation shall be 100 basis points greater than the rate determined under the applicable interest rate formula in effect on October 1, 1995.

SEC. 164. PERSONAL LIABILITY OF PRODUCERS FOR DEFICIENCIES.

(a) IN GENERAL.—Except as provided in subsection (b), no producer shall be personally liable for any deficiency arising from the sale of the collateral securing any nonrecourse loan made under this title unless the loan was obtained through a fraudulent representation by the producer.

(b) LIMITATIONS.—Subsection (a) shall not prevent the Commodity Credit Corporation or the Secretary from requiring a producer to assume liability for—

(1) a deficiency in the grade, quality, or quantity of a commodity stored on a farm or delivered by the producer;

(2) a failure to properly care for and preserve a commodity; or

(3) a failure or refusal to deliver a commodity in accordance with a program established under this title.

(c) ACQUISITION OF COLLATERAL.—In the case of a nonrecourse loan made under this title or the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), if the Commodity Credit Corporation acquires title to the unredeemed collateral, the Corporation shall be under no obligation to pay for

any market value that the collateral may have in excess of the loan indebtedness.

(d) SUGARCANE AND SUGAR BEETS.—A security interest obtained by the Commodity Credit Corporation as a result of the execution of a security agreement by the processor of sugarcane or sugar beets shall be superior to all statutory and common law liens on raw cane sugar and refined beet sugar in favor of the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived.

SEC. 165. COMMODITY CREDIT CORPORATION SALES PRICE RESTRICTIONS.

(a) GENERAL SALES AUTHORITY.—The Commodity Credit Corporation may sell any commodity owned or controlled by the Corporation at any price that the Secretary determines will maximize returns to the Corporation.

(b) NONAPPLICATION OF SALES PRICE RESTRICTIONS.—Subsection (a) shall not apply to—

(1) a sale for a new or byproduct use;

(2) a sale of peanuts or oilseeds for the extraction of oil;

(3) a sale for seed or feed if the sale will not substantially impair any loan program;

(4) a sale of a commodity that has substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage;

(5) a sale for the purpose of establishing a claim arising out of a contract or against a person who has committed fraud, misrepresentation, or other wrongful act with respect to the commodity;

(6) a sale for export, as determined by the Corporation; and

(7) a sale for other than a primary use.

(c) PRESIDENTIAL DISASTER AREAS.—

(1) IN GENERAL.—Notwithstanding subsection (a), on such terms and conditions as the Secretary may consider in the public interest, the Corporation may make available any commodity or product owned or controlled by the Corporation for use in relieving distress—

(A) in any area in the United States (including the Virgin Islands) declared by the President to be an acute distress area because of unemployment or other economic cause, if the President finds that the use will not displace or interfere with normal marketing of agricultural commodities; and

(B) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) COSTS.—Except on a reimbursable basis, the Corporation shall not bear any costs in connection with making a commodity available under paragraph (1) beyond the cost of the commodity to the Corporation incurred in—

(A) the storage of the commodity; and

(B) the handling and transportation costs in making delivery of the commodity to designated agencies at 1 or more central locations in each State or other area.

(d) EFFICIENT OPERATIONS.—Subsection (a) shall not apply to the sale of a commodity the disposition of which is desirable in the interest of the effective and efficient conduct of the operations of the Corporation because of the small quantity of the commodity involved, or because of the age, location, or questionable continued storability of the commodity.

Subtitle F—Permanent Price Support Authority

SEC. 171. SUSPENSION AND REPEAL OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) AGRICULTURAL ADJUSTMENT ACT OF 1938.—

(1) SUSPENSIONS.—The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 1996 through 2002 crops of loan commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this title and ending on December 31, 2002:

(A) Parts II through V of subtitle B of title III (7 U.S.C. 1326–1351).

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

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

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

(E) Part VII of subtitle B of title III (7 U.S.C. 1359aa–1359jj).

(F) In the case of peanuts, part I of subtitle C of title III (7 U.S.C. 1361–1368).

(G) In the case of upland cotton, section 377 (7 U.S.C. 1377).

(H) Subtitle D of title III (7 U.S.C. 1379a–1379j).

(I) Title IV (7 U.S.C. 1401–1407).

(2) REPORTS AND RECORDS.—Effective only for the 1996 through 2002 crops of peanuts, the first sentence of section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended by inserting before ''all brokers and dealers in peanuts'' the following: ''all producers engaged in the production of peanuts,''.

(b) AGRICULTURAL ACT OF 1949.—

(1) SUSPENSIONS.—The following provisions of the Agricultural Act of 1949 shall not be applicable to the 1996 through 2002 crops of loan commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this title and ending on December 31, 2002:

(A) Section 101 (7 U.S.C. 1441).

(B) Section 103(a) (7 U.S.C. 1444(a)).

(C) Section 105 (7 U.S.C. 1444b).

(D) Section 107 (7 U.S.C. 1445a).

(E) Section 110 (7 U.S.C. 1445e).

(F) Section 112 (7 U.S.C. 1445g).

(G) Section 115 (7 U.S.C. 1445k).

(H) Section 201 (7 U.S.C. 1446).

(I) Title III (7 U.S.C. 1447–1449).

(J) Title IV (7 U.S.C. 1421–1433d), other than sections 404, 412, and 416 (7 U.S.C. 1424, 1429, and 1431).

(K) Title V (7 U.S.C. 1461–1469).

(L) Title VI (7 U.S.C. 1471–1471j).

(2) REPEALS.—The following provisions of the Agricultural Act of

(A) Section 101B (7 U.S.C. 1441–2).

(B) Section 103B (7 U.S.C. 1444–2).

(C) Section 105B (7 U.S.C. 1444f).

(D) Section 107B (7 U.S.C. 1445–3a).

(E) Section 108B (7 U.S.C. 1445c–3).

(F) Section 113 (7 U.S.C. 1445h).

(G) Subsections (b) and (c) of section 114 (7 U.S.C. 1445j).

(H) Sections 205, 206, and 207 (7 U.S.C. 1446f, 1446g, and 1446h).

(I) Sections 406 and 427 (7 U.S.C. 1426 and 1433f).

(3) POTENTIAL PRICE SUPPORT FOR RICE.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441), as suspended by paragraph (1), is amended by adding after subsection (d) the following:

''(e) RICE.—The Secretary shall make available to producers of each crop of rice on a farm price support at a level that is not less than 50 percent, or more than 90 percent of the parity price for rice as the Secretary determines will not result in increasing stocks of rice to the Commodity Credit Corporation.''.

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

SEC. 172. EFFECT OF AMENDMENTS.

(a) EFFECT ON PRIOR CROPS.—Except as otherwise specifically provided in this title and notwithstanding any other provision of law, this title and the amendments made by this title shall not affect the authority of the Secretary to carry out a price support or production adjustment program for any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law in effect immediately before the date of enactment of this title.

(b) LIABILITY.—A provision of this title or an amendment made by this title shall not affect the liability of any person under any provision of law as in effect before the date of enactment of this title.

Subtitle G—Commission on 21st Century Production Agriculture

SEC. 181. ESTABLISHMENT.

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

SEC. 182. COMPOSITION.

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

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

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

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

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

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

(d) TIME FOR APPOINTMENT; FIRST MEETING.—The members of the Commission shall be appointed not later than October 1, 1997. The Commission shall convene its first meeting to carry out its duties under this subtitle 30 days after 6 members of the Commission have been appointed.

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

SEC. 183. COMPREHENSIVE REVIEW OF PAST AND FUTURE OF PRODUCTION AGRICULTURE.

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

(1) An assessment of the initial success of production flexibility contracts in supporting the economic viability of farming in the United States.

(2) An assessment of economic risks to farms delineated by size of farm operation (such as small, medium, or large farms) and region of production.

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

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

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

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

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

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

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

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

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

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

(4) An assessment of economic risks to farms delineated by size of farm operation (such as small, medium, or large farms) and region of production.

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

SEC. 184. REPORTS.

(a) REPORT ON INITIAL REVIEW.—Not later than June 1, 1998, the Commission shall submit to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the initial review conducted under section 183(a).

(b) REPORT ON SUBSEQUENT REVIEW.—Not later than January 1, 2001, the Commission shall submit to the President and the congressional committees specified in subsection (a) a report containing the results of the subsequent review conducted under section 183(b).

SEC. 185. POWERS.

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

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

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

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

SEC. 186. COMMISSION PROCEDURES.

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

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

SEC. 187. PERSONNEL MATTERS.

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

(b) STAFF.—

(1) APPOINTMENT.—The Commission shall appoint a staff director, who shall be paid at a rate not to exceed the maximum rate of basic pay under section 5376 of title 5, United States Code, and such professional and clerical personnel as may be reasonable and necessary to enable the Commission to carry out its duties under this subtitle without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or any other provision of law, relating to the number, classification, and General Schedule rates.

(2) LIMITATION ON COMPENSATION.—No employee appointed under this subsection (other than the staff director) may be compensated at a rate to exceed the maximum rate applicable to level GS–15 of the General Schedule.

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

SEC. 188. TERMINATION OF COMMISSION.

The Commission shall terminate on submission of the final report required by section 184.

Subtitle H—Miscellaneous Commodity Provisions

SEC. 191. OPTIONS PILOT PROGRAM.

(a) PILOT PROGRAMS AUTHORIZED.—Until December 31, 2002, the Secretary of Agriculture may conduct a pilot program for 1 or more agricultural commodities supported under this title to ascertain whether futures and options contracts can provide producers with reasonable protection from the financial risks of fluctuations in price, yield, and income inherent in the production and marketing of the commodities. The pilot program shall be an alternative to other related programs of the Department of Agriculture.

(b) DISTRIBUTION OF PILOT PROGRAM.—For each agricultural commodity included in the pilot program, the Secretary may operate the pilot program in not more than 100 counties, except that not more than 6 of the counties may be located in any 1 State. The pilot program for a commodity shall not be operated in any county for more than 3 of the 1996 through 2002 calendar years.

(c) ELIGIBLE PARTICIPANTS.—In operating the pilot program, the Secretary may enter into contract with a producer who—

(1) is eligible for a production flexibility contract, a marketing assistance loan, or other assistance under this title;

(2) volunteers to participate in the pilot program;

(3) operates a farm located in a county selected for the pilot program; and

(4) meets such other eligibility requirements as the Secretary may establish.

(d) NOTICE TO PRODUCERS.—The Secretary shall provide notice to each producer participating in the pilot program that—

(1) the participation of the producer is voluntary; and

(2) neither the United States, the Commodity Credit Corporation, the Federal Crop Insurance Corporation, the Department of Agriculture, nor any other Federal agency is authorized to guarantee that participants in the pilot program will be better or worse off financially as a result of participation in the pilot program than the producer would have been if the producer had not participated in the pilot program.

(e) CONTRACTS.—The Secretary shall set forth in each contract under the pilot program the terms and conditions for participation in the pilot program and the notice required by subsection (d).

(f) ELIGIBLE MARKETS.—Trades for futures and options contracts under the pilot program shall be carried out on commodity futures and options markets designated as contract markets under the Commodity Exchange Act (7 U.S.C. 1 et seq.)

(g) RECORDKEEPING.—A producer participating in the pilot program shall compile, maintain, and submit (or authorize the compilation, maintenance, and submission) of such documentation as the regulations governing the pilot program require.

(h) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall fund and operate the pilot program through the Commodity Credit Corporation. To the maximum extent practicable, the Secretary shall operate the pilot program in a budget neutral manner.

(i) CONFORMING REPEAL.—The Options Pilot Program Act of 1990 (subtitle E of title XI of Public Law 101–624; 7 U.S.C. 1421 note) is repealed.

SEC. 192. RISK MANAGEMENT EDUCATION.

In consultation with the Commodity Futures Trading Commission, the Secretary shall provide such education in management of the financial risks inherent in the production and marketing of agricultural commodities as the Secretary considers appropriate. As part of such educational activities, the Secretary may develop and implement programs to facilitate the participation of agricultural producers in commodity futures trading programs, forward contracting options, and insurance protection programs by assisting and training producers in the usage of such programs. In implementing this authority, the Secretary may use existing research and extension authorities and resources of the Department of Agriculture.

SEC. 193. CROP INSURANCE.

(a) CATASTROPHIC RISK PROTECTION.—

(1) SINGLE DELIVERY.—Section 508(b)(4) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(4)) is amended by adding at the end the following:

''(C) DELIVERY OF COVERAGE.—

''(i) IN GENERAL.—In full consultation with approved insurance providers, the Secretary may continue to offer catastrophic risk protection in a State (or a portion of a State) through local offices of the Department if the Secretary determines that there is an insufficient number of approved insurance providers operating in the State or portion of the State to adequately provide catastrophic risk protection coverage to producers.

''(ii) COVERAGE BY APPROVED INSURANCE PROVIDERS.—To the extent that catastrophic risk protection coverage by approved insurance providers is sufficiently available in a State (or a portion of a State) as determined by the Secretary, only approved insurance providers may provide the coverage in the State or portion of the State.

''(iii) TIMING OF DETERMINATIONS.—Not later than 90 days after the date of enactment of this subparagraph, the Secretary shall announce the results of the determinations under clause (i) for policies for the 1997 crop year. For subsequent crop years, the Secretary shall make the announcement not later than April 30 of the year preceding the year in which the crop will be produced, or at such other times during the year as the Secretary finds practicable in consultation with affected crop insurance providers for those States (or portions of States) in which catastrophic coverage remains available through local offices of the Department.

''(iv) CURRENT POLICIES.—This clause shall take effect beginning with the 1997 crop year. Subject to clause (ii) all catastrophic risk protection policies written by local offices of the Department shall be transferred to the approved insurance provider for performance of all sales, service, and loss adjustment functions. Any fees in connection with such policies that are not yet collected at the time of the transfer shall be payable to the approved insurance providers assuming the policies. The transfer process for policies for the 1997 crop year with sales closing dates before January 1, 1997, shall begin at the time of the Secretary's announcement under clause (iii) and be completed by the sales closing date for the crop and county. The transfer process for all subsequent policies (including policies for the 1998 and subsequent crop years) shall begin at a date that permits the process to be completed not later than 45 days before the sales closing date.''.

(2) WAIVER OF MANDATORY LINKAGE.—Section 508(b)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(7)) is amended by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—Effective for the spring-planted 1996 and subsequent crops (and fall-planted 1996 crops at the option of the Secretary), to be eligible for any payment or loan under the Agricultural Market Transition Act, for the conservation reserve program, or for any benefit described in section 371 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008f), a person shall—

''(i) obtain at least the catastrophic level of insurance for each crop of economic significance in which the person has an interest; or

''(ii) provide a written waiver to the Secretary that waives any eligibility for emergency crop loss assistance in connection with the crop.''.

(3) SPECIAL RULE FOR 1996.—

(A) EFFECTIVE PERIOD.—This paragraph shall apply only to the 1996 crop year.

(B) AVAILABILITY.—During a period of not less than 2 weeks, but not more than 4 weeks, beginning on the date of enactment of this title, the Secretary shall provide producers with an opportunity to obtain catastrophic risk protection insurance under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)) for a spring-planted crop, and limited additional coverage for malting barley under the Malting Barley Price and Quality Endorsement. The Federal Crop Insurance Corporation may attach such limitations and restrictions on obtaining insurance during this period as the Corporation considers necessary to maintain the actuarial soundness of the crop insurance program.

(C) ATTACHMENT.—Insurance coverage under any policy obtained under this paragraph during the extended sales period shall not attach until 10 days after the application.

(D) CANCELLATION.—During the extended period, a producer may cancel a catastrophic risk protection policy if—

(i) the policy is a continuation of a policy that was obtained for a previous crop year; and

(ii) the cancellation request is made before the acreage reporting date for the policy for the 1996 crop year.

(b) CROP INSURANCE PILOT PROJECT.—

(1) COVERAGE.—The Secretary of Agriculture shall develop and administer a pilot project for crop insurance coverage that indemnifies crop losses due to a natural disaster such as insect infestation or disease.

(2) ACTUARIAL SOUNDNESS.—A pilot project under this paragraph shall be actuarially sound, as determined by the Secretary and administered at no net cost.

(3) DURATION.—A pilot project under this paragraph shall be of two years' duration.

(c) CROP INSURANCE FOR NURSERY CROPS.—Section 508(a)(6) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)(6)) is amended by adding at the end the following:

''(D) ADDITION OF NURSERY CROPS.—Not later than 2 years after the date of enactment of this subparagraph, the Corporation shall conduct a study and limited pilot program on the feasibility of insuring nursery crops.''.

(d) MARKETING WINDOWS.—Section 508(j) of the Federal Crop Insurance Act (7 U.S.C. 1508(j)) is amended by adding at the end the following:

''(4) MARKETING WINDOWS.—The Corporation shall consider marketing windows in determining whether it is feasible to require planting during a crop year.''.

(e) FUNDING.—

(1) MANDATORY EXPENSES.—Section 516(a)(2) of the Federal Crop Insurance Act (7 U.S.C. 1516(a)(2)) is amended—

(A) by inserting ''and'' at the end of subparagraph (A);

(B) by striking ''; and'' at the end of subparagraph (B) and inserting a period; and

(C) by striking subparagraph (C).

(2) FUNDING OF SALES COMMISSIONS.—Section 516(b) of the Federal Crop Insurance Act (7 U.S.C. 1516(b)) is amended—

(A) in paragraph (1)—

(i) by striking ''(A) IN GENERAL'' and all that follows through ''subparagraph (B), in'' and inserting ''In''; and

(ii) by striking subparagraph (B); and

(B) in paragraph (2)(B), by striking ''subject to paragraph (1)(B),''.

(3) OTHER EXPENSES.—Section 516(b)(2)(A) of the Federal Crop Insurance Act (7 U.S.C. 1516(b)(2)(A)) is amended by striking '', non-insured assistance benefits,''.

(f) LIMITATION ON MULTIPLE BENEFITS FOR SAME LOSS.—Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended by adding at the end the following:

''(n) LIMITATION ON MULTIPLE BENEFITS FOR SAME LOSS.—If a producer who is eligible to receive benefits under catastrophic risk protection under subsection (b) is also eligible to receive assistance for the same loss under any other program administered by the Secretary, the producer shall be required to elect whether to receive benefits under this title or under the other program, but not both. A producer who purchases additional coverage under subsection (c) may also receive assistance for the same loss under other programs administered by the Secretary, except that the amount received for the loss under the additional coverage together with the amount received under the other programs may not exceed the amount of the actual loss of the producer.''.

SEC. 194. ESTABLISHMENT OF OFFICE OF RISK MANAGEMENT.

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

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

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

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

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

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

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

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

''(c) ADMINISTRATOR.—

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

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

''(d) RESOURCES.—

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

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

(b) FISCAL YEAR 1996 FUNDING.—From funds appropriated for the salaries and expenses of the Consolidated Farm Service Agency in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996 (Public Law 104–37), the Secretary of Agriculture may use such sums as necessary for the salaries and expenses of the Office of Risk Management established under subsection (a).

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

SEC. 195. REVENUE INSURANCE.

Section 508(h) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)) is amended by adding at the end the following:

''(9) REVENUE INSURANCE PILOT PROGRAM.—

''(A) IN GENERAL.—Not later than December 31, 1996, the Secretary shall carry out a pilot program in a limited number of counties, as determined by the Secretary, for crop years 1997, 1998, 1999, and 2000, under which a producer of wheat, feed grains, soy-

beans, or such other commodity as the Secretary considers appropriate may elect to receive insurance against loss of revenue, as determined by the Secretary.

''(B) ADMINISTRATION.—Revenue insurance under this paragraph shall—

''(i) be offered through reinsurance arrangements with private insurance companies;

''(ii) offer at least a minimum level of coverage that is an alternative to catastrophic crop insurance;

''(iii) be actuarially sound; and

''(iv) require the payment of premiums and administrative fees by an insured producer.''.

SEC. 196. ADMINISTRATION AND OPERATION OF NONINSURED CROP ASSISTANCE PROGRAM.

(a) OPERATION AND ADMINISTRATION OF PROGRAM.—

(1) IN GENERAL.—In the case of an eligible crop described in paragraph (2), the Secretary of Agriculture shall operate a noninsured crop disaster assistance program to provide coverage equivalent to the catastrophic risk protection otherwise available under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)). The Secretary shall carry out this section through the Consolidated Farm Service Agency (in this section referred to as the ''Agency'').

(2) ELIGIBLE CROPS.—

(A) IN GENERAL.—In this section, the term ''eligible crop'' means each commercial crop or other agricultural commodity (except livestock)—

(i) for which catastrophic risk protection under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)) is not available; and

(ii) that is produced for food or fiber.

(B) CROPS SPECIFICALLY INCLUDED.—The term ''eligible crop'' shall include floricultural, ornamental nursery, and Christmas tree crops, turfgrass sod, seed crops, aquaculture (including ornamental fish), and industrial crops.

(3) CAUSE OF LOSS.—To qualify for assistance under this section, the losses of the noninsured commodity shall be due to drought, flood, or other natural disaster, as determined by the Secretary.

(b) APPLICATION FOR NONINSURED CROP DISASTER ASSISTANCE.—

(1) TIMELY APPLICATION.—To be eligible for assistance under this section, a producer shall submit an application for noninsured crop disaster assistance at a local office of the Department. The application shall be in such form, contain such information, and be submitted at such time as the Secretary may require.

(2) RECORDS.—A producer shall provide records, as required by the Secretary, of crop acreage, acreage yields, and production.

(3) ACREAGE REPORTS.—A producer shall provide reports on acreage planted or prevented from being planted, as required by the Secretary, by the designated acreage reporting date for the crop and location as established by the Secretary.

(c) LOSS REQUIREMENTS.—

(1) REQUIRED AREA LOSS.—A producer of an eligible crop shall not receive noninsured crop disaster assistance unless the average yield for that crop, or an equivalent measure in the event yield data are not available, in an area falls below 65 percent of the expected area yield, as established by the Secretary.

(2) PREVENTED PLANTING.—Subject to paragraph (1), the Secretary shall make a prevented planting noninsured crop disaster assistance payment if the producer is prevented from planting more than 35 percent of the acreage intended for the eligible crop because of drought, flood, or other natural disaster, as determined by the Secretary.

(3) REDUCED YIELDS.—Subject to paragraph (1), the Secretary shall make a reduced yield noninsured crop disaster assistance payment to a producer if the total quantity of the eligible crop that the producer is able to harvest on any farm is, because of drought, flood, or other natural disaster as determined by the Secretary, less than 50 percent of the expected individual yield for the crop, as determined by the Secretary, factored for the interest of the producer for the crop.

(d) PAYMENT.—The Secretary shall make available to a producer eligible for noninsured assistance under this section a payment computed by multiplying—

(1) the quantity that is less than 50 percent of the established yield for the crop; by

(2)(A) in the case of each of the 1996 through 1998 crop years, 60 percent of the average market price for the crop (or any comparable coverage determined by the Secretary); or

(B) in the case of each of the 1999 and subsequent crop years, 55 percent of the average market price for the crop (or any comparable coverage determined by the Secretary); by

(3) a payment rate for the type of crop (as determined by the Secretary) that—

(A) in the case of a crop that is produced with a significant and variable harvesting expense, reflects the decreasing cost incurred in the production cycle for the crop that is—

(i) harvested;

(ii) planted but not harvested; and

(iii) prevented from being planted because of drought, flood, or other natural disaster (as determined by the Secretary); and

(B) in the case of a crop that is not produced with a significant and variable harvesting expense, is determined by the Secretary.

(e) YIELD DETERMINATIONS.—

(1) ESTABLISHMENT.—The Secretary shall establish farm yields for purposes of providing noninsured crop disaster assistance under this section.

(2) ACTUAL PRODUCTION HISTORY.—The Secretary shall determine yield coverage using the actual production history of the producer over a period of not less than the 4 previous consecutive crop years and not more than 10 consecutive crop years. Subject to paragraph (3), the yield for the year in which noninsured crop disaster assistance is sought shall be equal to the average of the actual production history of the producer during the period considered.

(3) ASSIGNMENT OF YIELD.—If a producer does not submit adequate documentation of production history to determine a crop yield under paragraph (2), the Secretary shall assign to the producer a yield equal to not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Secretary for continuous years), as specified in regulations issued by the Secretary based on production history requirements.

(4) PROHIBITION ON ASSIGNED YIELDS IN CERTAIN COUNTIES.—

(A) IN GENERAL.—

(i) DOCUMENTATION.—If sufficient data are available to demonstrate that the acreage of a crop in a county for the crop year has increased by more than 100 percent over any year in the preceding 7 crop years or, if data are not available, if the acreage of the crop in the county has increased significantly from the previous crop years, a producer must provide such detailed documentation of production costs, acres planted, and yield for the crop year for which benefits are being claimed as is required by the Secretary. If the Secretary determines that the documentation provided is not sufficient, the Secretary may require documenting proof that the crop, had the crop been harvested, could have been marketed at a reasonable price.

(ii) PROHIBITION.—Except as provided in subparagraph (B), a producer who produces a crop on a farm located in a county described in clause (i) may not obtain an assigned yield.

(B) EXCEPTION.—A crop or a producer shall not be subject to this subsection if—

(i) the planted acreage of the producer for the crop has been inspected by a third party acceptable to the Secretary; or

(ii)(I) the County Executive Director and the State Executive Director recommend an exemption from the requirement to the Administrator of the Agency; and

(II) the Administrator approves the recommendation.

(5) LIMITATION ON RECEIPT OF SUBSEQUENT ASSIGNED YIELD.—A producer who receives an assigned yield for the current year of a natural disaster because required production records were not submitted to the local office of the Department shall not be eligible for an assigned yield for the year of the next natural disaster unless the required production records of the previous 1 or more years (as applicable) are provided to the local office.

(6) YIELD VARIATIONS DUE TO DIFFERENT FARMING PRACTICES.—The Secretary shall ensure that noninsured crop disaster assistance accurately reflects significant yield variations due to different farming practices, such as between irrigated and nonirrigated acreage.

(f) CONTRACT PAYMENTS.—A producer who has received a guaranteed payment for production, as opposed to delivery, of a crop pursuant to a contract shall have the production of the producer adjusted upward by the amount of the production equal to the amount of the contract payment received.

(g) USE OF COMMODITY CREDIT CORPORATION.—The Secretary may use the funds of the Commodity Credit Corporation to carry out this section.

(h) EXCLUSIONS.—Noninsured crop disaster assistance under this section shall not cover losses due to—

(1) the neglect or malfeasance of the producer;

(2) the failure of the producer to reseed to the same crop in those areas and under such circumstances where it is customary to reseed; or

(3) the failure of the producer to follow good farming practices, as determined by the Secretary.

(i) PAYMENT AND INCOME LIMITATIONS.—

(1) DEFINITIONS.—In this subsection:

(A) PERSON.—The term ''person'' has the meaning provided the term in regulations issued by the Secretary. The regulations shall conform, to the extent practicable, to the regulations defining the term ''person'' issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308).

(B) QUALIFYING GROSS REVENUES.—The term ''qualifying gross revenues'' means—

(i) if a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue from the farming, ranching, and forestry operations of the person; and

(ii) if less than a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue of the person from all sources.

(2) PAYMENT LIMITATION.—The total amount of payments that a person shall be entitled to receive annually under this section may not exceed $100,000.

(3) LIMITATION ON MULTIPLE BENEFITS FOR SAME LOSS.—If a producer who is eligible to receive benefits under this section is also eligible to receive assistance for the same loss under any other program administered by the Secretary, the producer shall be required to elect whether to receive benefits under

this section or under the other program, but not both.

(4) INCOME LIMITATION.—A person who has qualifying gross revenues in excess of the amount specified in section 2266(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) (as in effect on November 28, 1990) during the taxable year (as determined by the Secretary) shall not be eligible to receive any noninsured assistance payment under this section.

(5) REGULATIONS.—The Secretary shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and equitable application of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), the general payment limitation regulations of the Secretary, and the limitations established under this subsection.

(j) CONFORMING REPEAL.—Section 519 of the Federal Crop Insurance Act (7 U.S.C. 1519) is repealed.

TITLE II—AGRICULTURAL TRADE

Subtitle A—Amendments to Agricultural Trade Development and Assistance Act of 1954 and Related Statutes

SEC. 201. FOOD AID TO DEVELOPING COUNTRIES.

(a) IN GENERAL.—Section 3 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691a) is amended to read as follows:

"SEC. 3. FOOD AID TO DEVELOPING COUNTRIES.

''(a) POLICY.—In light of the Uruguay Round Agreement on Agriculture and the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Program on Least-Developed and Net-Food Importing Developing Countries, the United States reaffirms the commitment of the United States to providing food aid to developing countries.

''(b) SENSE OF CONGRESS.—It is the sense of Congress that—

''(1) the President should initiate consultations with other donor nations to consider appropriate levels of food aid commitments to meet the legitimate needs of developing countries; and

''(2) the United States should increase its contribution of bona fide food assistance to developing countries consistent with the Agreement on Agriculture.''.

(b) CONFORMING AMENDMENT.—Section 411 of the Uruguay Round Agreements Act is amended by striking subsection (e) (19 U.S.C. 3611).

SEC. 202. TRADE AND DEVELOPMENT ASSISTANCE.

Section 101 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701) is amended—

(1) by striking ''developing countries'' each place it appears and inserting ''developing countries and private entities''; and

(2) in subsection (b), by inserting ''and entities'' before the period at the end.

SEC. 203. AGREEMENTS REGARDING ELIGIBLE COUNTRIES AND PRIVATE ENTITIES.

Section 102 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1702) is amended to read as follows:

"SEC. 102. AGREEMENTS REGARDING ELIGIBLE COUNTRIES AND PRIVATE ENTITIES.

''(a) PRIORITY.—In selecting agreements to be entered into under this title, the Secretary shall give priority to agreements providing for the export of agricultural commodities to developing countries that—

''(1) have the demonstrated potential to become commercial markets for competitively priced United States agricultural commodities;

''(2) are undertaking measures for economic development purposes to improve food security and agricultural development, alleviate poverty, and promote broad-based equitable and sustainable development; and

''(3) demonstrate the greatest need for food.

''(b) PRIVATE ENTITIES.—An agreement entered into under this title with a private entity shall require such security, or such other provisions as the Secretary determines necessary, to provide reasonable and adequate assurance of repayment of the financing extended to the private entity.

''(c) AGRICULTURAL MARKET DEVELOPMENT PLAN.—

''(1) DEFINITION OF AGRICULTURAL TRADE ORGANIZATION.—In this subsection, the term 'agricultural trade organization' means a United States agricultural trade organization that promotes the export and sale of a United States agricultural commodity and that does not stand to profit directly from the specific sale of the commodity.

''(2) PLAN.—The Secretary shall consider a developing country for which an agricultural market development plan has been approved under this subsection to have the demonstrated potential to become a commercial market for competitively priced United States agricultural commodities for the purpose of granting a priority under subsection (a).

''(3) REQUIREMENTS.—

'(A) IN GENERAL.—To be approved by the Secretary, an agricultural market development plan shall—

''(i) be submitted by a developing country or private entity, in conjunction with an agricultural trade organization;

''(ii) describe a project or program for the development and expansion of a commercial market for a United States agricultural commodity in a developing country, and the economic development of the country, using funds derived from the sale of agricultural commodities received under an agreement described in section 101;

''(iii) provide for any matching funds that are required by the Secretary for the project or program;

''(iv) provide for a results-oriented means of measuring the success of the project or program; and

''(v) provide for graduation to the use of non-Federal funds to carry out the project or program, consistent with requirements established by the Secretary.

''(B) AGRICULTURAL TRADE ORGANIZATION.—The project or program shall be designed and carried out by the agricultural trade organization.

''(C) ADDITIONAL REQUIREMENTS.—An agricultural market development plan shall contain such additional requirements as are determined necessary by the Secretary.

''(4) ADMINISTRATIVE COSTS.—

''(A) IN GENERAL.—The Secretary may make funds made available to carry out this title available for the reimbursement of administrative expenses incurred by agricultural trade organizations in developing, implementing, and administering agricultural market development plans, subject to such requirements and in such amounts as the Secretary considers appropriate.

''(B) DURATION.—The funds may be made available to agricultural trade organizations for the duration of the applicable agricultural market development plan.

''(C) TERMINATION.—The Secretary may terminate assistance made available under this subsection if the agricultural trade organization is not carrying out the approved agricultural market development plan.''.

SEC. 204. TERMS AND CONDITIONS OF SALES.

Section 103 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1703) is amended—

(1) in subsection (a)(2)(A)—

(A) by striking ''a recipient country to make''; and

(B) by striking ''such country'' and inserting ''the appropriate country'';

(2) in subsection (c), by striking ''less than 10 nor''; and

(3) in subsection (d)—

(A) by striking ''recipient country'' and inserting ''developing country or private entity''; and

(B) by striking ''7'' and inserting ''5''.

SEC. 205. USE OF LOCAL CURRENCY PAYMENT.

Section 104 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1704) is amended—

(1) in subsection (a), by striking ''recipient country'' and inserting ''developing country or private entity''; and

(2) in subsection (c)—

(A) by striking ''recipient country'' each place it appears and inserting ''appropriate developing country''; and

(B) in paragraph (3), by striking ''recipient countries'' and inserting ''appropriate developing countries''.

SEC. 206. VALUE-ADDED FOODS.

Section 105 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1705) is repealed.

SEC. 207. ELIGIBLE ORGANIZATIONS.

(a) IN GENERAL.—Section 202 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) NONEMERGENCY ASSISTANCE.—

''(1) IN GENERAL.—The Administrator may provide agricultural commodities for nonemergency assistance under this title through eligible organizations (as described in subsection (d)) that have entered into an agreement with the Administrator to use the commodities in accordance with this title.

''(2) LIMITATION.—The Administrator may not deny a request for funds submitted under this subsection because the program for which the funds are requested—

''(A) would be carried out by the eligible organization in a foreign country in which the Agency for International Development does not have a mission, office, or other presence; or

''(B) is not part of a development plan for the country prepared by the Agency.''; and

(2) in subsection (e)—

(A) in the subsection heading, by striking ''PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES'' and inserting ''ELIGIBLE ORGANIZATIONS'';

(B) in paragraph (1)—

(i) by striking ''$13,500,000'' and inserting ''$28,000,000''; and

(ii) by striking ''private voluntary organizations and cooperatives to assist such organizations and cooperatives'' and inserting ''eligible organizations described in subsection (d), to assist the organizations'';

(C) by striking paragraph (2) and inserting the following:

''(2) REQUEST FOR FUNDS.—To receive funds made available under paragraph (1), an eligible organization described in subsection (d) shall submit a request for the funds that is subject to approval by the Administrator.''; and

(D) in paragraph (3), by striking ''a private voluntary organization or cooperative, the Administrator may provide assistance to that organization or cooperative'' and inserting ''an eligible organization, the Administrator may provide assistance to the eligible organization''.

(b) CONFORMING AMENDMENTS.—Section 207 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726a) is amended—

(1) in subsection (a)(1), by striking ''a private voluntary organization or cooperative'' each place it appears and inserting ''an eligible organization''; and

(2) in subsection (b)—

(A) in paragraph (1), by striking ''private voluntary organizations and cooperatives'' and inserting ''eligible organizations''; and

(B) in paragraph (2), by striking ''organizations, cooperatives,'' and inserting ''eligible organizations''.

SEC. 208. GENERATION AND USE OF FOREIGN CURRENCIES.

Section 203 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1723) is amended—

(1) in subsection (a), by inserting '', or in a country in the same region,'' after ''in the recipient country'';

(2) in subsection (b)—

(A) by inserting ''or in countries in the same region,'' after ''in recipient countries,''; and

(B) by striking ''10 percent'' and inserting ''15 percent'';

(3) in subsection (c), by inserting ''or in a country in the same region,'' after ''in the recipient country,''; and

(4) in subsection (d)(2), by inserting ''or within a country in the same region'' after ''within the recipient country''.

SEC. 209. GENERAL LEVELS OF ASSISTANCE UNDER PUBLIC LAW 480.

Section 204 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''amount that'' and all that follows through the period at the end and inserting ''amount that for each of fiscal years 1996 through 2002 is not less than 2,025,000 metric tons.'';

(B) in paragraph (2), by striking ''amount that'' and all that follows through the period at the end and inserting ''amount that for each of fiscal years 1996 through 2002 is not less than 1,550,000 metric tons.''; and

(C) in paragraph (3), by adding at the end the following: ''No waiver shall be made before the beginning of the applicable fiscal year.''; and

(2) in subsection (b)(1), by inserting before the period at the end the following: ''and that not less than 50 percent of the quantity of the bagged commodities that are whole grain commodities be bagged in the United States''.

SEC. 210. FOOD AID CONSULTATIVE GROUP.

Section 205 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1725) is amended—

(1) in subsection (a), by striking ''private voluntary organizations, cooperatives and indigenous non-governmental organizations'' and inserting ''eligible organizations described in section 202(d)(1)'';

(2) in subsection (b)—

(A) in paragraph (2), by striking ''for International Affairs and Commodity Programs'' and inserting ''of Agriculture for Farm and Foreign Agricultural Services'';

(B) in paragraph (4), by striking ''and'' at the end;

(C) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(6) representatives from agricultural producer groups in the United States.'';

(3) in the second sentence of subsection (d), by inserting ''(but at least twice per year)'' after ''when appropriate''; and

(4) in subsection (f), by striking ''1995'' and inserting ''2002''.

SEC. 211. SUPPORT OF NONGOVERNMENTAL ORGANIZATIONS.

(a) IN GENERAL.—Section 306(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1727e(b)) is amended—

(1) in the subsection heading, by striking ''INDIGENOUS NON-GOVERNMENTAL'' and inserting ''NONGOVERNMENTAL''; and

(2) by striking ''utilization of indigenous'' and inserting ''utilization of''.

(b) CONFORMING AMENDMENT.—Section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732) is amended by striking paragraph (6) and inserting the following:

''(6) NONGOVERNMENTAL ORGANIZATION.—The term 'nongovernmental organization' means an organization that works at the local level to solve development problems in a foreign country in which the organization is located, except that the term does not include an organization that is primarily an agency or instrumentality of the government of the foreign country.''.

SEC. 212. COMMODITY DETERMINATIONS.

Section 401 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1731) is amended—

(1) by striking subsections (a) through (d) and inserting the following:

''(a) AVAILABILITY OF COMMODITIES.—No agricultural commodity shall be available for disposition under this Act if the Secretary determines that the disposition would reduce the domestic supply of the commodity below the supply needed to meet domestic requirements and provide adequate carryover (as determined by the Secretary), unless the Secretary determines that some part of the supply should be used to carry out urgent humanitarian purposes under this Act.'';

(2) by redesignating subsections (e) and (f) as subsections (b) and (c), respectively; and

(3) in subsection (c) (as so redesignated), by striking ''(e)(1)'' and inserting ''(b)(1)''.

SEC. 213. GENERAL PROVISIONS.

Section 403 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733) is amended—

(1) in subsection (b)—

(A) in the subsection heading, by striking ''CONSULTATIONS'' and inserting ''IMPACT ON LOCAL FARMERS AND ECONOMY''; and

(B) by striking ''consult with'' and all that follows through ''other donor organizations to'';

(2) in subsection (c)—

(A) by striking ''from countries''; and

(B) by striking ''for use'' and inserting ''or use'';

(3) in subsection (f)—

(A) by inserting ''or private entities, as appropriate,'' after ''from countries''; and

(B) by inserting ''or private entities'' after ''such countries''; and

(4) in subsection (i)(2), by striking subparagraph (C).

SEC. 214. AGREEMENTS.

Section 404 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1734) is amended—

(1) in subsection (a), by inserting ''with foreign countries'' after ''Before entering into agreements'';

(2) in subsection (b)(2)—

(A) by inserting ''with foreign countries'' after ''with respect to agreements entered into''; and

(B) by inserting before the semicolon at the end the following: ''and broad-based economic growth''; and

(3) in subsection (c), by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—Agreements to provide assistance on a multi-year basis to recipient countries or to eligible organizations—

''(A) may be made available under titles I and III; and

''(B) shall be made available under title II.''.

SEC. 215. USE OF COMMODITY CREDIT CORPORATION.

Section 406 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736) is amended—

(1) in subsection (a), by striking ''shall'' and inserting ''may'';

(2) in subsection (b)—

(A) by striking ''this Act'' and inserting ''titles II and III''; and

(B) by striking paragraph (4) and inserting the following:

''(4) the vessel freight charges from United States ports or designated Canadian transshipment ports, as determined by the Secretary, to designated ports of entry abroad;''; and

(3) by striking subsection (d).

SEC. 216. ADMINISTRATIVE PROVISIONS.

Section 407 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting ''or private entity that enters into an agreement under title I'' after ''importing country''; and

(B) in paragraph (2), by adding at the end the following: ''Resulting contracts may contain such terms and conditions as the Secretary determines are necessary and appropriate.'';

(2) in subsection (c)—

(A) in paragraph (1)(A), by inserting ''importer or'' before ''importing country''; and

(B) in paragraph (2)(A), by inserting ''importer or'' before ''importing country'';

(3) in subsection (d)—

(A) by striking paragraph (2) and inserting the following:

''(2) FREIGHT PROCUREMENT.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or other similar provisions of law relating to the making or performance of Federal Government contracts, ocean transportation under titles II and III may be procured on the basis of full and open competitive procedures. Resulting contracts may contain such terms and conditions as the Administrator determines are necessary and appropriate.''; and

(B) by striking paragraph (4);

(4) in subsection (g)(2)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(D) an assessment of the progress towards achieving food security in each country receiving food assistance from the United States Government, with special emphasis on the nutritional status of the poorest populations in each country.''; and

(5) by striking subsection (h).

SEC. 217. EXPIRATION DATE.

Section 408 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736b) is amended by striking ''1995'' and inserting ''2002''.

SEC. 218. REGULATIONS.

Section 409 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736c) is repealed.

SEC. 219. INDEPENDENT EVALUATION OF PROGRAMS.

Section 410 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736d) is repealed.

SEC. 220. AUTHORIZATION OF APPROPRIATIONS.

Section 412 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f) is amended—

(1) by striking subsections (b) and (c) and inserting the following:

''(b) TRANSFER OF FUNDS.—

''(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, the President may direct that up to 15 percent of the funds available for any fiscal year for carrying out any title of this Act be used to carry out any other title of this Act.

''(2) TITLE III FUNDS.—The President may direct that up to 50 percent of the funds

available for any fiscal year for carrying out title III be used to carry out title II.''; and

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

SEC. 221. COORDINATION OF FOREIGN ASSISTANCE PROGRAMS.

Section 413 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736g) is amended by striking ''this Act'' each place it appears and inserting ''title III''.

SEC. 222. MICRONUTRIENT FORTIFICATION PILOT PROGRAM.

Title IV of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1731 et seq.) is amended by adding at the end the following:

''SEC. 415. MICRONUTRIENT FORTIFICATION PILOT PROGRAM.

''(a) IN GENERAL.—Subject to the availability of practical technology and to cost effectiveness, not later than September 30, 1997, the Secretary, in consultation with the Administrator, shall establish a micronutrient fortification pilot program under this Act. The purpose of the program shall be to—

''(1) assist developing countries in correcting micronutrient dietary deficiencies among segments of the populations of the countries; and

''(2) encourage the development of technologies for the fortification of whole grains and other commodities that are readily transferable to developing countries.

''(b) SELECTION OF PARTICIPATING COUNTRIES.—From among the countries eligible for assistance under this Act, the Secretary may select not more than 5 developing countries to participate in the pilot program.

''(c) FORTIFICATION.—Under the pilot program, whole grains and other commodities made available to a developing country selected to participate in the pilot program may be fortified with 1 or more micronutrients (including vitamin A, iron, and iodine) with respect to which a substantial portion of the population in the country is deficient. The commodity may be fortified in the United States or in the developing country.

''(d) TERMINATION OF AUTHORITY.—The authority to carry out the pilot program established under this section shall terminate on September 30, 2002.''.

SEC. 223. USE OF CERTAIN LOCAL CURRENCY.

Title IV of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1731 et seq.) (as amended by section 222) is amended by adding at the end the following:

''SEC. 416. USE OF CERTAIN LOCAL CURRENCY.

''Local currency payments received by the United States pursuant to agreements entered into under title I (as in effect on November 27, 1990) may be utilized by the Secretary in accordance with section 108 (as in effect on November 27, 1990).''.

SEC. 224. FARMER-TO-FARMER PROGRAM.

Section 501 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737) is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

''(6) to the extent that local currencies can be used to meet the costs of a program established under this section, augment funds of the United States that are available for such a program through the use of foreign currencies that accrue from the sale of agricultural commodities under this Act, and local currencies generated from other types of foreign assistance activities, within the country where the program is being conducted.''; and

(2) in subsection (c)—

(A) by striking ''0.2'' and inserting ''0.4'';

(B) by striking ''1991 through 1995'' and inserting ''1996 through 2002''; and

(C) by striking ''0.1'' and inserting ''0.2''.

SEC. 225. FOOD SECURITY COMMODITY RESERVE.

(a) IN GENERAL.—Title III of the Agricultural Act of 1980 (7 U.S.C. 1736f–1 et seq.) is amended to read as follows:

''TITLE III—FOOD SECURITY COMMODITY RESERVE

''SEC. 301. SHORT TITLE.

''This title may be cited as the 'Food Security Commodity Reserve Act of 1996'.

''SEC. 302. ESTABLISHMENT OF COMMODITY RESERVE.

''(a) IN GENERAL.—To provide for a reserve solely to meet emergency humanitarian food needs in developing countries, the Secretary of Agriculture (referred to in this title as the 'Secretary') shall establish a reserve stock of wheat, rice, corn, or sorghum, or any combination of the commodities, totalling not more than 4,000,000 metric tons for use as described in subsection (c).

''(b) COMMODITIES IN RESERVE.—

''(1) IN GENERAL.—The reserve established under this section shall consist of—

''(A) wheat in the reserve established under the Food Security Wheat Reserve Act of 1980 as of the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996;

''(B) wheat, rice, corn, and sorghum (referred to in this section as 'eligible commodities') acquired in accordance with paragraph (2) to replenish eligible commodities released from the reserve, including wheat to replenish wheat released from the reserve established under the Food Security Wheat Reserve Act of 1980 but not replenished as of the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996; and

''(C) such rice, corn, and sorghum as the Secretary may, at such time and in such manner as the Secretary determines appropriate, acquire as a result of exchanging an equivalent value of wheat in the reserve established under this section.

''(2) REPLENISHMENT OF RESERVE.—

''(A) IN GENERAL.—Subject to subsection (h), commodities of equivalent value to eligible commodities in the reserve established under this section may be acquired—

''(i) through purchases—

''(I) from producers; or

''(II) in the market, if the Secretary determines that the purchases will not unduly disrupt the market; or

''(ii) by designation by the Secretary of stocks of eligible commodities of the Commodity Credit Corporation.

''(B) FUNDS.—Any use of funds to acquire eligible commodities through purchases from producers or in the market to replenish the reserve must be authorized in an appropriations Act.

''(c) RELEASE OF ELIGIBLE COMMODITIES.—

''(1) EMERGENCY ASSISTANCE.—

''(A) IN GENERAL.—Notwithstanding paragraph (2), to meet unanticipated need, the Secretary may release eligible commodities in any fiscal year, without regard to the availability of domestic supply of the commodities, to provide emergency assistance to developing countries under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).

''(B) RELEASE FOR EMERGENCY ASSISTANCE.—If the eligible commodities needed to meet unanticipated need cannot be made available in a timely manner under normal means for obtaining eligible commodities for food assistance because of unanticipated need for emergency assistance as provided under section 202(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722(a)), the Secretary may in any fiscal year release from the reserve—

''(i) up to 500,000 metric tons of wheat or the equivalent value of eligible commodities other than wheat; and

''(ii) up to 500,000 metric tons of any eligible commodities under this paragraph that could have been released but were not released in prior fiscal years.

''(C) WAIVER OF MINIMUM TONNAGE REQUIREMENTS.—Nothing in this paragraph shall require a waiver under section 204(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724(a)(3)) as a prerequisite for the release of eligible commodities under this paragraph.

''(2) EMERGENCY FOOD ASSISTANCE.—Notwithstanding any other provision of law, eligible commodities designated or acquired for the reserve established under this section may be released by the Secretary to provide, on a donation or sale basis, emergency food assistance to developing countries at such time as the domestic supply of the eligible commodities is so limited that quantities of the eligible commodities cannot be made available for disposition under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) (other than disposition for urgent humanitarian purposes under section 401 of the Act (7 U.S.C. 1731)).

''(3) PROCESSING OF ELIGIBLE COMMODITIES.—Eligible commodities that are released from the reserve established under this section may be processed in the United States and shipped to a developing country when conditions in the recipient country require processing.

''(4) EXCHANGE.—The Secretary may exchange an eligible commodity for another United States commodity of equal value, including powdered milk, pulses, and vegetable oil.

''(5) USE OF NORMAL COMMERCIAL PRACTICES.—To the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section, the Secretary shall use the usual and customary channels, facilities, arrangements, and practices of trade and commerce to carry out this subsection.

''(d) MANAGEMENT OF ELIGIBLE COMMODITIES.—The Secretary shall provide—

''(1) for the management of eligible commodities in the reserve established under this section as to location and quality of eligible commodities needed to meet emergency situations; and

''(2) for the periodic rotation or replacement of stocks of eligible commodities in the reserve to avoid spoilage and deterioration of the commodities.

''(e) TREATMENT OF RESERVE UNDER OTHER LAW.—Eligible commodities in the reserve established under this section shall not be—

''(1) considered a part of the total domestic supply (including carryover) for the purpose of subsection (c) or for the purpose of administering the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.); and

''(2) subject to any quantitative limitation on exports that may be imposed under section 7 of the Export Administration Act of 1979 (50 U.S.C. App. 2406).

''(f) USE OF COMMODITY CREDIT CORPORATION.—

''(1) IN GENERAL.—Subject to the limitations provided in this section, the funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of eligible commodities owned or controlled by the Commodity Credit Corporation shall not apply.

''(2) REIMBURSEMENT.—

''(A) IN GENERAL.—The Commodity Credit Corporation shall be reimbursed for the release of eligible commodities from funds made available to carry out the Agricultural

Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.).

''(B) BASIS FOR REIMBURSEMENT.—The reimbursement shall be made on the basis of the lesser of—

''(i) the actual costs incurred by the Commodity Credit Corporation with respect to the eligible commodity; or

''(ii) the export market price of the eligible commodity (as determined by the Secretary) as of the time the eligible commodity is released from the reserve.

''(C) SOURCE OF FUNDS.—The reimbursement may be made from funds appropriated for subsequent fiscal years.

''(g) FINALITY OF DETERMINATION.—Any determination by the Secretary under this section shall be final.

''(h) TERMINATION OF AUTHORITY.—

''(1) IN GENERAL.—The authority to replenish stocks of eligible commodities to maintain the reserve established under this section shall terminate on September 30, 2002.

''(2) DISPOSAL OF ELIGIBLE COMMODITIES.—Eligible commodities remaining in the reserve after September 30, 2002, shall be disposed of by release for use in providing for emergency humanitarian food needs in developing countries as provided in this section.''.

(b) CONFORMING AMENDMENT.—Section 208(d) of the Agricultural Trade Suspension Adjustment Act of 1980 (7 U.S.C. 4001(d)) is amended by striking paragraph (2) and inserting the following:

''(2) APPLICABILITY OF CERTAIN PROVISIONS.—Subsections (c), (d), (e), and (f)(2) of section 302 of the Food Security Commodity Reserve Act of 1996 shall apply to commodities in any reserve established under paragraph (1), except that the references to 'eligible commodities' in the subsections shall be deemed to be references to 'agricultural commodities'.''.

SEC. 226. PROTEIN BYPRODUCTS DERIVED FROM ALCOHOL FUEL PRODUCTION.

Section 1208 of the Agriculture and Food Act of 1981 (7 U.S.C. 1736n) is repealed.

SEC. 227. FOOD FOR PROGRESS PROGRAM.

The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking ''(b)(1)'' and inserting ''(b)''; and

(ii) in the first sentence, by inserting ''intergovernmental organizations,'' after ''cooperatives,''; and

(B) by striking paragraph (2);

(2) in subsection (e)(4), by striking ''203'' and inserting ''406'';

(3) in subsection (f)—

(A) in paragraph (1)(B), by striking ''in the case of the independent states of the former Soviet Union,'';

(B) by striking paragraph (2);

(C) in paragraph (4), by inserting ''for each of fiscal years 1996 through 2002'' after ''may be used''; and

(D) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(4) in subsection (g), by striking ''1995'' and inserting ''2002'';

(5) in subsection (j), by striking ''shall'' and inserting ''may'';

(6) in subsection (k), by striking ''1995'' and inserting ''2002'';

(7) in subsection (l)(1)—

(A) by striking ''1991 through 1995'' and inserting ''1996 through 2002''; and

(B) by inserting '', and to provide technical assistance for monetization programs,'' after ''monitoring of food assistance programs''; and

(8) in subsection (m)—

(A) by striking ''with respect to the independent states of the former Soviet Union''; (B) by striking ''private voluntary organizations and cooperatives'' each place it appears and inserting ''agricultural trade organizations, intergovernmental organizations, private voluntary organizations, and cooperatives''; and

(C) in paragraph (2), by striking ''in the independent states''.

SEC. 228. USE OF FOREIGN CURRENCY PROCEEDS FROM EXPORT SALES FINANCING.

Section 402 of the Mutual Security Act of 1954 (22 U.S.C. 1922) is repealed.

SEC. 229. STIMULATION OF FOREIGN PRODUCTION.

Section 7 of the Act of December 30, 1947 (61 Stat. 947, chapter 526; 50 U.S.C. App. 1917), is repealed.

Subtitle B—Amendments to Agricultural Trade Act of 1978

SEC. 241. AGRICULTURAL EXPORT PROMOTION STRATEGY.

(a) IN GENERAL.—Section 103 of the Agricultural Trade Act of 1978 (7 U.S.C. 5603) is amended to read as follows:

''SEC. 103. AGRICULTURAL EXPORT PROMOTION STRATEGY.

''(a) IN GENERAL.—The Secretary shall develop a strategy for implementing Federal agricultural export promotion programs that takes into account the new market opportunities for agricultural products, including opportunities that result from—

''(1) the North American Free Trade Agreement and the Uruguay Round Agreements;

''(2) any accession to membership in the World Trade Organization;

''(3) the continued economic growth in the Pacific Rim; and

''(4) other developments.

''(b) PURPOSE OF STRATEGY.—The strategy developed under subsection (a) shall encourage the maintenance, development, and expansion of export markets for United States agricultural commodities and related products, including high-value and value-added products.

''(c) GOALS OF STRATEGY.—The strategy developed under subsection (a) shall have the following goals:

''(1) Increase the value of United States agricultural exports each year.

''(2) Increase the value of United States agricultural exports each year at a faster rate than the rate of increase in the value of overall world export trade in agricultural products.

''(3) Increase the value of United States high-value and value-added agricultural exports each year.

''(4) Increase the value of United States high-value and value-added agricultural exports each year at a faster rate than the rate of increase in the value of overall world export trade in high-value and value-added agricultural products.

''(5) Ensure that to the extent practicable—

''(A) all obligations undertaken in the Uruguay Round Agreement on Agriculture that significantly increase access for United States agricultural commodities are implemented to the extent required by the Uruguay Round Agreements; or

''(B) applicable United States laws are used to secure United States rights under the Uruguay Round Agreement on Agriculture.

''(d) PRIORITY MARKETS.—

''(1) IDENTIFICATION OF MARKETS.—In developing the strategy required under subsection (a), the Secretary shall annually identify as priority markets—

''(A) those markets in which imports of agricultural products show the greatest potential for increase; and

''(B) those markets in which, with the assistance of Federal export promotion programs, exports of United States agricultural products show the greatest potential for increase.

''(2) IDENTIFICATION OF SUPPORTING OFFICES.—The President shall identify annually in the budget of the United States Government submitted under section 1105 of title 31, United States Code, each overseas office of the Foreign Agricultural Service that provides assistance to United States exporters in each of the priority markets identified under paragraph (1).''.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate should conduct a thorough review of agricultural export and food aid programs not later than December 31, 1998; and

(2) the review should examine what changes, if any, need to be made in the programs as a result of the effects of the Agricultural Market Transition Act, the Uruguay Round agreements, changing world market conditions, and such other factors as the Committees consider appropriate.

(c) ELIMINATION OF REPORT.—

(1) IN GENERAL.—Section 601 of the Agricultural Trade Act of 1978 (7 U.S.C. 5711) is repealed.

(2) CONFORMING AMENDMENT.—The last sentence of section 603 of the Agricultural Trade Act of 1978 (7 U.S.C. 5713) is amended by striking '', in a consolidated report,'' and all that follows through ''section 601'' and inserting ''or in a consolidated report''.

SEC. 242. IMPLEMENTATION OF COMMITMENTS UNDER URUGUAY ROUND AGREEMENTS.

(a) IN GENERAL.—Title I of the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.) is amended by adding at the end the following:

''SEC. 106. IMPLEMENTATION OF COMMITMENTS UNDER URUGUAY ROUND AGREEMENTS.

''Not later than September 30 of each year, the Secretary shall evaluate whether the obligations undertaken by foreign countries under the Uruguay Round Agreement on Agriculture are being fully implemented. If the Secretary has reason to believe (based on the evaluation) that any foreign country, by not implementing the obligations of the country, may be significantly constraining an opportunity for United States agricultural exports, the Secretary shall—

''(1) submit the evaluation to the United States Trade Representative; and

''(2) transmit a copy of the evaluation to the Committee on Agriculture, and the Committee on Ways and Means, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, of the Senate.''.

(b) MONITORING COMPLIANCE WITH SANITARY AND PHYTOSANITARY MEASURES.—Section 414 of the Agricultural Trade Act of 1978 (7 U.S.C. 5674) is amended by adding at the end the following:

''(c) MONITORING COMPLIANCE WITH SANITARY AND PHYTOSANITARY MEASURES.—The Secretary shall monitor the compliance of World Trade Organization member countries with the sanitary and phytosanitary measures of the Agreement on Agriculture of the Uruguay Round of Multilateral Trade Negotiations of the General Agreement on Tariffs and Trade. If the Secretary has reason to believe that any country may have failed to meet the commitment on sanitary and phytosanitary measures under the Agreement in a manner that adversely impacts the exports of a United States agricultural commodity, the Secretary shall—

''(1) provide such information to the United States Trade Representative of the circumstances surrounding the matter arising under this subsection; and

''(2) with respect to any such circumstances that the Secretary considers to have a continuing adverse effect on United States agricultural exports, report to the Committee on Agriculture, and the Committee on Ways and Means, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, of the Senate—

''(A) that a country may have failed to meet the sanitary and phytosanitary commitments; and

''(B) any notice given by the Secretary to the United States Trade Representative.''.

SEC. 243. EXPORT CREDITS.

(a) EXPORT CREDIT GUARANTEE PROGRAM.—Section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622) is amended—

(1) in subsection (a)—

(A) by striking ''GUARANTEES.—The'' and inserting the following: ''GUARANTEES.—

''(1) IN GENERAL.—The''; and

(B) by adding at the end the following:

''(2) SUPPLIER CREDITS.—In carrying out this section, the Commodity Credit Corporation may issue guarantees for the repayment of credit made available for a period of not more than 180 days by a United States exporter to a buyer in a foreign country.'';

(2) in subsection (f)—

(A) by striking ''(f) RESTRICTIONS.—The'' and inserting the following:

''(f) RESTRICTIONS.—

''(1) IN GENERAL.—The''; and

(B) by adding at the end the following:

''(2) CRITERIA FOR DETERMINATION.—In making the determination required under paragraph (1) with respect to credit guarantees under subsection (b) for a country, the Secretary may consider, in addition to financial, macroeconomic, and monetary indicators—

''(A) whether an International Monetary Fund standby agreement, Paris Club rescheduling plan, or other economic restructuring plan is in place with respect to the country;

''(B) whether the country is addressing issues such as—

''(i) the convertibility of the currency of the country;

''(ii) adequate legal protection for foreign investments;

''(iii) the viability of the financial markets of the country; and

''(iv) adequate legal protection for the private property rights of citizens of the country; or

''(C) any other factors that are relevant to the ability of the country to service the debt of the country.'';

(3) by striking subsection (h) and inserting the following:

''(h) UNITED STATES AGRICULTURAL COMMODITIES.—The Commodity Credit Corporation shall finance or guarantee under this section only United States agricultural commodities.'';

(4) in subsection (i)—

(A) by striking paragraph (1);

(B) by striking ''INSTITUTIONS.—A financial'' and inserting the following: ''INSTITUTIONS.—

''(1) IN GENERAL.—A financial'';

(C) by striking ''(2) is'' and inserting the following:

''(A) is'';

(D) by striking ''(3) is'' and inserting the following:

''(B) is''; and

(E) by adding at the end the following:

''(2) THIRD COUNTRY BANKS.—The Commodity Credit Corporation may guarantee under subsections (a) and (b) the repayment of credit made available to finance an export sale irrespective of whether the obligor is located in the country to which the export sale is destined.''; and

(5) by striking subsection (k) and inserting the following:

''(k) PROCESSED AND HIGH-VALUE PRODUCTS.—

''(1) IN GENERAL.—In issuing export credit guarantees under this section, the Commodity Credit Corporation shall, subject to paragraph (2), ensure that not less than 25 percent for each of fiscal years 1996 and 1997, 30 percent for each of fiscal years 1998 and 1999, and 35 percent for each of fiscal years 2000, 2001, and 2002, of the total amount of credit guarantees issued for a fiscal year is issued to promote the export of processed or high-value agricultural products and that the balance is issued to promote the export of bulk or raw agricultural commodities.

''(2) LIMITATION.—The percentage requirement of paragraph (1) shall apply for a fiscal year to the extent that a reduction in the total amount of credit guarantees issued for the fiscal year is not required to meet the percentage requirement.''.

(b) FUNDING LEVELS.—Section 211 of the Agricultural Trade Act of 1978 (7 U.S.C. 5641) is amended by striking subsection (b) and inserting the following:

''(b) EXPORT CREDIT GUARANTEE PROGRAMS.—

''(1) EXPORT CREDIT GUARANTEES.—The Commodity Credit Corporation shall make available for each of fiscal years 1996 through 2002 not less than $5,500,000,000 in credit guarantees under subsections (a) and (b) of section 202.

''(2) LIMITATION ON ORIGINATION FEE.—Notwithstanding any other provision of law, the Secretary may not charge an origination fee with respect to any credit guarantee transaction under section 202(a) in excess of an amount equal to 1 percent of the amount of credit to be guaranteed under the transaction, except with respect to an export credit guarantee transaction pursuant to section 1542(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 5622 note).''.

(c) DEFINITION OF UNITED STATES AGRICULTURAL COMMODITY.—Section 102(7) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(7)) is amended by striking subparagraphs (A) and (B) and inserting the following:

''(A) an agricultural commodity or product entirely produced in the United States; or

''(B) a product of an agricultural commodity—

''(i) 90 percent or more of the agricultural components of which by weight, excluding packaging and added water, is entirely produced in the United States; and

''(ii) that the Secretary determines to be a high value agricultural product.''.

(d) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations to carry out the amendments made by this section.

SEC. 244. MARKET ACCESS PROGRAM.

(a) CHANGE OF NAME.—

(1) IN GENERAL.—Section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) is amended—

(A) in the section heading, by striking ''**MARKET PROMOTION PROGRAM**'' and inserting ''**MARKET ACCESS PROGRAM**''; and

(B) by striking ''marketing promotion program'' each place it appears and inserting ''market access program''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1302 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 7 U.S.C. 5623) is amended—

(i) in the section heading, by striking ''**MARKET PROMOTION PROGRAM**'' and inserting ''**MARKET ACCESS PROGRAM**''; and

(ii) in subsection (b), by striking ''market promotion program'' each place it appears and inserting ''market access program''.

(B) Section 211(c) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)) is amended—

(i) in the subsection heading, by striking ''MARKETING PROMOTION PROGRAMS'' and inserting ''MARKET ACCESS PROGRAMS'';

(ii) by striking ''market promotion activities'' and inserting ''market access activities'';

(iii) in paragraph (1), by striking ''market development program'' and inserting ''market access program''; and

(iv) in paragraph (2), by striking ''marketing promotion program'' and inserting ''market access program''.

(b) USE OF FUNDS.—Section 203(f) of the Agricultural Trade Act of 1978 (7 U.S.C. 5623(f)) is amended by adding at the end the following:

''(4) USE OF FUNDS.—Funds made available to carry out this section—

''(A) shall not be used to provide direct assistance to any foreign for-profit corporation for the corporation's use in promoting foreign-produced products;

''(B) shall not be used to provide direct assistance to any for-profit corporation that is not recognized as a small-business concern described in section 3(a) of the Small Business Act (15 U.S.C. 632(a)), excluding—

''(i) a cooperative;

''(ii) an association described in the first section of the Act entitled 'An Act To authorize association of producers of agricultural products', approved February 18, 1922 (7 U.S.C. 291); and

''(iii) a nonprofit trade association; and

''(C) may be used by a United States trade association, cooperative, or small business for individual branded promotional activity related to a United States branded product, if the beneficiaries of the activity have provided funds for the activity in an amount that is at least equivalent to the amount of assistance provided under this section.''.

(c) FUNDING.—Effective October 1, 1995, section 211(c)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)(1)) is amended—

(1) by striking ''and'' after ''1991 through 1993,''; and

(2) by striking ''through 1997,'' and inserting ''through 1995, and not more than $90,000,000 for each of fiscal years 1996 through 2002,''.

SEC. 245. EXPORT ENHANCEMENT PROGRAM.

(a) IN GENERAL.—Effective October 1, 1995, section 301(e) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)) is amended by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—The Commodity Credit Corporation shall make available to carry out the program established under this section not more than—

''(A) $350,000,000 for fiscal year 1996;

''(B) $250,000,000 for fiscal year 1997;

''(C) $500,000,000 for fiscal year 1998;

''(D) $550,000,000 for fiscal year 1999;

''(E) $579,000,000 for fiscal year 2000;

''(F) $478,000,000 for fiscal year 2001; and

''(G) $478,000,000 for fiscal year 2002.''.

(b) PRIORITY FUNDING FOR INTERMEDIATE PRODUCTS.—Section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651) is amended by adding at the end the following:

''(h) PRIORITY FUNDING FOR INTERMEDIATE PRODUCTS.—

''(1) IN GENERAL.—Effective beginning in fiscal year 1996, and consistent, as determined by the Secretary, with the obligations and reduction commitments undertaken by the United States under the Uruguay Round Agreements, the Secretary may make available not more than $100,000,000 for each fiscal year under this section for the sale of intermediate agricultural products in sufficient quantities to attain the volume of export sales consistent with the volume of intermediate agricultural products exported by the United States during the Uruguay Round base period years of 1986 through 1990.

''(2) ADDITIONAL ASSISTANCE.—Notwithstanding paragraph (1), if the export sale of any intermediate agricultural product attains the volume of export sales consistent with the volume of the intermediate agricultural product exported by the United States during the Uruguay Round base period years of 1986 through 1990, the Secretary may make available additional amounts under this section for the encouragement of export sales of the intermediate agricultural product.''.

SEC. 246. ARRIVAL CERTIFICATION.

Section 401 of the Agricultural Trade Act of 1978 (7 U.S.C. 5661) is amended by striking subsection (a) and inserting the following:

''(a) ARRIVAL CERTIFICATION.—With respect to a commodity provided, or for which financing or a credit guarantee or other assistance is made available, under a program authorized in section 201, 202, or 301, the Commodity Credit Corporation shall require the exporter of the commodity to maintain records of an official or customary commercial nature or other documents as the Secretary may require, and shall allow representatives of the Commodity Credit Corporation access to the records or documents as needed, to verify the arrival of the commodity in the country that is the intended destination of the commodity.''.

SEC. 247. COMPLIANCE.

Section 402(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5662(a)) is amended—

(1) by striking paragraph (2); and

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

SEC. 248. REGULATIONS.

Section 404 of the Agricultural Trade Act of 1978 (7 U.S.C. 5664) is repealed.

SEC. 249. TRADE COMPENSATION AND ASSISTANCE PROGRAMS.

Subtitle B of title IV of the Agricultural Trade Act of 1978 (7 U.S.C. 5671 et seq.) is amended by adding at the end the following:

''SEC. 417. TRADE COMPENSATION AND ASSISTANCE PROGRAMS.

''(a) IN GENERAL.—Except as provided in subsection (f), notwithstanding any other provision of law, if, after the date of enactment of this section, the President or any other member of the executive branch causes exports from the United States to any country to be unilaterally suspended for reasons of national security or foreign policy, and if within 90 days after the date on which the suspension is imposed on United States exports no other country with an agricultural economic interest agrees to participate in the suspension, the Secretary shall carry out a trade compensation assistance program in accordance with this section (referred to in this section as a 'program').

''(b) COMPENSATION OR PROVISION OF FUNDS.—Under a program, the Secretary shall, based on an evaluation by the Secretary of the method most likely to produce the greatest compensatory benefit for producers of the commodity involved in the suspension—

''(1) compensate producers of the commodity by making payments available to producers, as provided by subsection (c)(1); or

''(2) make available an amount of funds calculated under subsection (c)(2), to promote agricultural exports or provide agricultural commodities to developing countries under any authorities available to the Secretary.

''(c) DETERMINATION OF AMOUNT OF COMPENSATION OR FUNDS.—

''(1) COMPENSATION.—If the Secretary makes payments available to producers under subsection (b)(1), the amount of the payment shall be determined by the Secretary based on the Secretary's estimate of the loss suffered by producers of the commodity involved due to any decrease in the price of the commodity as a result of the suspension.

''(2) DETERMINATION OF AMOUNT OF FUNDS.—For each fiscal year of a program, the amount of funds made available under subsection (b)(2) shall be equal to 90 percent of the average annual value of United States agricultural exports to the country with respect to which exports are suspended during the most recent 3 years prior to the suspension for which data are available.

''(d) DURATION OF PROGRAM.—For each suspension of exports for which a program is implemented under this section, funds shall be made available under subsection (b) for each fiscal year or part of a fiscal year for which the suspension is in effect, but not to exceed 3 fiscal years.

''(e) COMMODITY CREDIT CORPORATION.—The Secretary shall use funds of the Commodity Credit Corporation to carry out this section.

''(f) EXCEPTION TO CARRYING OUT A PROGRAM.—This section shall not apply to any suspension of trade due to a war or armed hostility.

''(g) PARTIAL YEAR EMBARGOES.—If the Secretary makes funds available under subsection (b)(2), regardless of whether an embargo is in effect for only part of a fiscal year, the full amount of funds as calculated under subsection (c)(2) shall be made available under a program for the fiscal year. If the Secretary determines that making the required amount of funds available in a partial fiscal year is impracticable, the Secretary may make all or part of the funds required to be made available in the following fiscal year (in addition to any funds otherwise required under a program to be made available in the following fiscal year).

''(h) SHORT SUPPLY EMBARGOES.—If the President or any other member of the executive branch causes exports to be suspended based on a determination of short supply, the Secretary shall carry out section 1002 of the Food and Agriculture Act of 1977 (7 U.S.C. 1310).''.

SEC. 250. FOREIGN AGRICULTURAL SERVICE.

Section 503 of the Agricultural Trade Act of 1978 (7 U.S.C. 5693) is amended to read as follows:

''SEC. 503. DUTIES OF FOREIGN AGRICULTURAL SERVICE.

''The Service shall assist the Secretary in carrying out the agricultural trade policy and international cooperation policy of the United States by—

''(1) acquiring information pertaining to agricultural trade;

''(2) carrying out market promotion and development activities;

''(3) providing agricultural technical assistance and training; and

''(4) carrying out the programs authorized under this Act, the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), and other Acts.''.

SEC. 251. REPORTS.

The first sentence of section 603 of the Agricultural Trade Act of 1978 (7 U.S.C. 5713) is amended by striking ''The'' and inserting ''Subject to section 217 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6917), the''.

SEC. 252. FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM.

The Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.) is amended by adding at the end the following:

''TITLE VII—FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM

''SEC. 701. DEFINITION OF ELIGIBLE TRADE ORGANIZATION.

''In this title, the term 'eligible trade organization' means a United States trade organization that—

''(1) promotes the export of 1 or more United States agricultural commodities or products; and

''(2) does not have a business interest in or receive remuneration from specific sales of agricultural commodities or products.

''SEC. 702. FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM.

''(a) IN GENERAL.—The Secretary shall establish and, in cooperation with eligible trade organizations, carry out a foreign market development cooperator program to maintain and develop foreign markets for United States agricultural commodities and products.

''(b) ADMINISTRATION.—Funds made available to carry out this title shall be used only to provide—

''(1) cost-share assistance to an eligible trade organization under a contract or agreement with the organization; and

''(2) assistance for other costs that are necessary or appropriate to carry out the foreign market development cooperator program, including contingent liabilities that are not otherwise funded.

''SEC. 703. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title such sums as may be necessary for each of fiscal years 1996 through 2002.''.

Subtitle C—Miscellaneous Agricultural Trade Provisions

SEC. 261. EDWARD R. MADIGAN UNITED STATES AGRICULTURAL EXPORT EXCELLENCE AWARD.

(a) FINDINGS.—Congress finds that—

(1) United States producers of agricultural products are some of the most productive and efficient producers of agricultural products in the world;

(2) continued growth and expansion of markets for United States agricultural exports is crucial to the continued development and economic well-being of rural areas of the United States and the agricultural sector of the United States economy;

(3) in recent years, United States agricultural exports have steadily increased, surpassing $54,000,000,000 in value in 1995;

(4) as United States agricultural producers move toward a market-oriented system in which planting and other decisions by producers are driven by national and international market signals, developing new and expanding agricultural export markets is vital to maintaining a vibrant and healthy agricultural sector and rural economy; and

(5) a United States agricultural export excellence award will increase United States agricultural exports by—

(A) identifying efforts of United States entities to develop and expand markets for United States agricultural exports through the development of new products and services and through the use of innovative marketing techniques;

(B) recognizing achievements of those who have exhibited or supported entrepreneurial efforts to expand and create new markets for United States agricultural exports or increase the volume or value of United States agricultural exports; and

(C) disseminating information on successful methods used to develop and expand markets for United States agricultural exports.

(b) ESTABLISHMENT.—There is established the Edward R. Madigan United States Agricultural Export Excellence Award, which shall be evidenced by a medal bearing the inscription ''Edward R. Madigan United States Agricultural Export Excellence Award''. The medal shall be of such design and materials and bear such additional inscriptions as the Secretary of Agriculture (referred to in this section as the ''Secretary'') may prescribe.

(c) SELECTION OF RECIPIENT.—The President or the Secretary (on the basis of recommendations received from the board established under subsection (h)) shall periodically provide the award to companies and

other entities that in the judgment of the President or the Secretary substantially encourage entrepreneurial efforts in the food and agriculture sector for advancing United States agricultural exports.

(d) PRESENTATION OF AWARD.—The presentation of the award shall be made by the President or the Secretary with such ceremonies as the President or the Secretary considers proper.

(e) PUBLICATION OF AWARD.—An entity to which an award is made under this section may publicize the receipt of the award by the entity and use the award in advertising of the entity.

(f) CATEGORIES FOR WHICH AWARD MAY BE GIVEN.—Separate awards shall be made to qualifying entities in each of the following categories:

(1) Development of new products or services for agricultural export markets.

(2) Development of new agricultural export markets.

(3) Creative marketing of products or services in agricultural export markets.

(g) CRITERIA FOR QUALIFICATION.—An entity may qualify for an award under this section only if the entity—

(1)(A) applies to the board established under subsection (h) in writing for the award; or

(B) is recommended for the award by a Governor of a State;

(2)(A) has exhibited significant entrepreneurial effort to create new markets for United States agricultural exports or increase United States agricultural exports; or

(B) has provided significant assistance to others in an effort to create new markets for United States agricultural exports or increase United States agricultural exports;

(3) has not received another award in the same category under subsection (f) during the preceding 5-year period; and

(4) meets such other requirements and specifications as the Secretary determines are appropriate to achieve the objectives of this section.

(h) BOARD.—

(1) SELECTION.—The Secretary shall appoint a board of evaluators, consisting of at least 5 individuals from the private sector selected for their knowledge and experience in exporting United States agricultural products.

(2) MEETINGS.—The board shall meet at least once annually to review and evaluate all applicants and entities recommended by States under subsection (g)(1).

(3) RECOMMENDATIONS OF BOARD.—The board shall report its recommendations concerning the making of the award to the Secretary.

(4) TERM.—Each member of the board may serve a term of not to exceed 3 years.

(i) FUNDING.—The Secretary may seek and accept gifts from public and private sources to carry out this section.

SEC. 262. REPORTING REQUIREMENTS RELATING TO TOBACCO.

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

SEC. 263. TRIGGERED EXPORT ENHANCEMENT.

(a) READJUSTMENT OF SUPPORT LEVELS.—Section 1302 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 7 U.S.C. 1421 note) is repealed.

(b) TRIGGERED MARKETING LOANS AND EXPORT ENHANCEMENT.—Section 4301 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418; 7 U.S.C. 1446 note) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective beginning with the 1996 crops of wheat, feed grains, upland cotton, and rice.

SEC. 264. DISPOSITION OF COMMODITIES TO PREVENT WASTE.

Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) is amended—

(1) in subsection (b)—

(A) in paragraph (7)—

(i) in subparagraph (D)(iv), by striking ''one year of acquisition'' and all that follows through the period at the end and inserting the following: ''a reasonable length of time, as determined by the Secretary, except that the Secretary may permit the use of proceeds in a country other than the country of origin—

''(I) as necessary to expedite the transportation of commodities and products furnished under this subsection; or

''(II) if the proceeds are generated in a currency generally accepted in the other country.''; and

(ii) by striking the sentence following subparagraph (F) and inserting the following: ''The Secretary may approve the use of proceeds or services realized from the sale or barter of a commodity furnished under this subsection by a nonprofit voluntary agency, cooperative, or intergovernmental agency or organization to meet administrative expenses incurred in connection with activities undertaken under this subsection.'';

(B) in paragraph (8), by striking subparagraph (C); and

(C) by striking paragraphs (10), (11), and (12); and

(2) by striking subsection (c).

SEC. 265. DEBT-FOR-HEALTH-AND-PROTECTION SWAP.

(a) IN GENERAL.—Section 1517 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1706) is repealed.

(b) TECHNICAL AMENDMENT.—Subsection (e)(3) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(e)(3)) is amended by striking ''section 106'' and inserting ''section 103''.

SEC. 266. POLICY ON EXPANSION OF INTERNATIONAL MARKETS.

Section 1207 of the Agriculture and Food Act of 1981 (7 U.S.C. 1736m) is repealed.

SEC. 267. POLICY ON MAINTENANCE AND DEVELOPMENT OF EXPORT MARKETS.

Section 1121 of the Food Security Act of 1985 (7 U.S.C. 1736p) is amended—

(1) by striking subsection (a); and

(2) in subsection (b)—

(A) by striking ''(b)''; and

(B) by striking paragraphs (1) through (4) and inserting the following:

''(1) be the premier supplier of agricultural and food products to world markets and expand exports of high value products;

''(2) support the principle of free trade and the promotion of fair trade in agricultural commodities and products;

''(3) cooperate fully in all efforts to negotiate with foreign countries further reductions in tariff and nontariff barriers to trade, including sanitary and phytosanitary measures and trade-distorting subsidies;

''(4) aggressively counter unfair foreign trade practices as a means of encouraging fairer trade;''.

SEC. 268. POLICY ON TRADE LIBERALIZATION.

Section 1122 of the Food Security Act of 1985 (7 U.S.C. 1736q) is repealed.

SEC. 269. AGRICULTURAL TRADE NEGOTIATIONS.

Section 1123 of the Food Security Act of 1985 (7 U.S.C. 1736r) is amended to read as follows:

''SEC. 1123. TRADE NEGOTIATIONS POLICY.

''(a) FINDINGS.—Congress finds that—

''(1) on a level playing field, United States producers are the most competitive suppliers of agricultural products in the world;

''(2) exports of United States agricultural products accounted for $54,000,000,000 in 1995, contributing a net $24,000,000,000 to the merchandise trade balance of the United States and supporting approximately 1,000,000 jobs;

''(3) increased agricultural exports are critical to the future of the farm, rural, and overall United States economy, but the opportunities for increased agricultural exports are limited by the unfair subsidies of the competitors of the United States, and a variety of tariff and nontariff barriers to highly competitive United States agricultural products;

''(4) international negotiations can play a key role in breaking down barriers to United States agricultural exports;

''(5) the Uruguay Round Agreement on Agriculture made significant progress in the attainment of increased market access opportunities for United States exports of agricultural products, for the first time—

''(A) restraining foreign trade-distorting domestic support and export subsidy programs; and

''(B) developing common rules for the application of sanitary and phytosanitary restrictions;

that should result in increased exports of United States agricultural products, jobs, and income growth in the United States;

''(6) the Uruguay Round Agreement on Agriculture did not succeed in completely eliminating trade distorting domestic support and export subsidies by—

''(A) allowing the European Union to continue unreasonable levels of spending on export subsidies; and

''(B) failing to discipline monopolistic state trading entities, such as the Canadian Wheat Board, that use nontransparent and discriminatory pricing as a hidden de facto export subsidy;

''(7) during the period 1996 through 2002, there will be several opportunities for the United States to negotiate fairer trade in agricultural products, including further negotiations under the World Trade Organization, and steps toward possible free trade agreements of the Americas and Asian-Pacific Economic Cooperation (APEC); and

''(8) the United States should aggressively use these opportunities to achieve more open and fair opportunities for trade in agricultural products.

''(b) GOALS OF THE UNITED STATES IN AGRICULTURAL TRADE NEGOTIATIONS.—The objectives of the United States with respect to future negotiations on agricultural trade include—

''(1) increasing opportunities for United States exports of agricultural products by eliminating tariff and nontariff barriers to trade;

''(2) leveling the playing field for United States producers of agricultural products by limiting per unit domestic production supports to levels that are no greater than those available in the United States;

''(3) ending the practice of export dumping by eliminating all trade distorting export subsidies and disciplining state trading entities so that they do not (except in cases of bona fide food aid) sell in foreign markets at prices below domestic market prices or prices below their full costs of acquiring and delivering agricultural products to the foreign markets; and

''(4) encouraging government policies that avoid price-depressing surpluses.''.

SEC. 270. POLICY ON UNFAIR TRADE PRACTICES.

Section 1164 of the Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1499) is repealed.

SEC. 271. AGRICULTURAL AID AND TRADE MISSIONS.

(a) IN GENERAL.—The Agricultural Aid and Trade Missions Act (7 U.S.C. 1736bb et seq.) is repealed.

(b) CONFORMING AMENDMENT.—Section 7 of Public Law 100–277 (7 U.S.C. 1736bb note) is repealed.

SEC. 272. ANNUAL REPORTS BY AGRICULTURAL ATTACHES.

Section 108(b)(1)(B) of the Agricultural Act of 1954 (7 U.S.C. 1748(b)(1)(B)) is amended by striking ''including fruits, vegetables, legumes, popcorn and ducks''.

SEC. 273. WORLD LIVESTOCK MARKET PRICE INFORMATION.

Section 1545 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 1761 note) is repealed.

SEC. 274. ORDERLY LIQUIDATION OF STOCKS.

Sections 201 and 207 of the Agricultural Act of 1956 (7 U.S.C. 1851 and 1857) are repealed.

SEC. 275. SALES OF EXTRA LONG STAPLE COTTON.

Section 202 of the Agricultural Act of 1956 (7 U.S.C. 1852) is repealed.

SEC. 276. REGULATIONS.

Section 707 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102–511; 7 U.S.C. 5621 note) is amended by striking subsection (d).

SEC. 277. EMERGING MARKETS.

(a) PROMOTION OF AGRICULTURAL EXPORTS TO EMERGING MARKETS.—

(1) EMERGING MARKETS.—Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 5622 note) is amended—

(A) in the section heading, by striking ''**EMERGING DEMOCRACIES**'' and inserting ''**EMERGING MARKETS**'';

(B) by striking ''emerging democracies'' each place it appears in subsections (b), (d), and (e) and inserting ''emerging markets'';

(C) in subsection (c), by striking ''emerging democracy'' each place it appears and inserting ''emerging market''; and

(D) by striking subsection (f) and inserting the following:

''(f) EMERGING MARKET.—In this section and section 1543, the term 'emerging market' means any country that the Secretary determines—

''(1) is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

''(2) has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.''.

(2) FUNDING.—Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking subsection (a) and inserting the following:

''(a) FUNDING.—The Commodity Credit Corporation shall make available for fiscal years 1996 through 2002 not less than $1,000,000,000 of direct credits or export credit guarantees for exports to emerging markets under section 201 or 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5621 and 5622), in addition to the amounts acquired or authorized under section 211 of the Act (7 U.S.C. 5641) for the program.''.

(3) AGRICULTURAL FELLOWSHIP PROGRAM.—Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended—

(A) in subsection (b), by striking the last sentence and inserting the following: ''The Commodity Credit Corporation shall give priority under this subsection to—

''(A) projects that encourage the privatization of the agricultural sector or that benefit private farms or cooperatives in emerging markets; and

''(B) projects for which nongovernmental persons agree to assume a relatively larger share of the costs.''; and

(B) in subsection (d)—

(i) in the matter preceding paragraph (1), by striking ''the Soviet Union'' and inserting ''emerging markets'';

(ii) in paragraph (1)—

(I) in subparagraph (A)(i)—

(aa) by striking ''1995'' and inserting ''2002''; and

(bb) by striking ''those systems, and identify'' and inserting ''the systems, including potential reductions in trade barriers, and identify and carry out'';

(II) in subparagraph (B), by striking ''shall'' and inserting ''may'';

(III) in subparagraph (D), by inserting ''(including the establishment of extension services)'' after ''technical assistance'';

(IV) by striking subparagraph (F); and

(V) by redesignating subparagraphs (G), (H), and (I) as subparagraphs (F), (G), and (H), respectively;

(iii) in paragraph (2)—

(I) by striking ''the Soviet Union'' each place it appears and inserting ''emerging markets'';

(II) in subparagraph (A), by striking ''a free market food production and distribution system'' and inserting ''free market food production and distribution systems'';

(III) in subparagraph (B)—

(aa) in clause (i), by striking ''Government'' and inserting ''governments'';

(bb) in clause (iii)(II), by striking ''and'' at the end;

(cc) in clause (iii)(III), by striking the period at the end and inserting ''; and''; and

(dd) by adding at the end of clause (iii) the following:

''(IV) to provide for the exchange of administrators and faculty members from agricultural and other institutions to strengthen and revise educational programs in agricultural economics, agribusiness, and agrarian law, to support change towards a free market economy in emerging markets.'';

(IV) by striking subparagraph (D); and

(V) by redesignating subparagraph (E) as subparagraph (D); and

(iv) by striking paragraph (3).

(4) UNITED STATES AGRICULTURAL COMMODITY.—Subsections (b) and (c) of section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 are amended by striking ''section 101(6)'' each place it appears and inserting ''section 102(7)''.

(5) REPORT.—The first sentence of section 1542(e)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking ''Not'' and inserting ''Subject to section 217 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6917), not''.

(b) AGRICULTURAL FELLOWSHIP PROGRAM FOR MIDDLE INCOME COUNTRIES, EMERGING DEMOCRACIES, AND EMERGING MARKETS.—Section 1543 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3293) is amended—

(1) in the section heading, by striking ''**MIDDLE INCOME COUNTRIES AND EMERGING DEMOCRACIES**'' and inserting ''**MIDDLE INCOME COUNTRIES, EMERGING DEMOCRACIES, AND EMERGING MARKETS**'';

(2) in subsection (b), by adding at the end the following:

''(5) EMERGING MARKET.—Any emerging market, as defined in section 1542(f).''; and

(3) in subsection (c)(1), by striking ''food needs'' and inserting ''food and fiber needs''.

(c) CONFORMING AMENDMENTS.—

(1) Section 501 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737) is amended—

(A) in subsection (a), by striking ''emerging democracies'' and inserting ''emerging markets''; and

(B) in subsection (b), by striking paragraph (1) and inserting the following:

''(1) EMERGING MARKET.—The term 'emerging market' means any country that the Secretary determines—

''(A) is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

''(B) has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.''.

(2) Section 201(d)(1)(C)(ii) of the Agricultural Trade Act of 1978 (7 U.S.C. 5621(d)(1)(C)(ii)) is amended by striking ''emerging democracies'' and inserting ''emerging markets''.

(3) Section 202(d)(3)(B) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(d)(3)(B)) is amended by striking ''emerging democracies'' and inserting ''emerging markets''.

SEC. 278. REIMBURSEMENT FOR OVERHEAD EXPENSES.

Section 1542(d)(1)(D) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 5622 note) is amended by adding at the end the following: ''Notwithstanding any other provision of law, the assistance shall include assistance for administrative and overhead expenses of the International Cooperation and Development Program Area of the Foreign Agriculture Service, to the extent that the expenses were incurred pursuant to reimbursable agreements entered into prior to September 30, 1993, the expenses do not exceed $2,000,000 per year, and the expenses are not incurred for information technology systems.''.

SEC. 279. LABELING OF DOMESTIC AND IMPORTED LAMB AND MUTTON.

Section 7 of the Federal Meat Inspection Act (21 U.S.C. 607) is amended by adding at the end the following:

''(f) LAMB AND MUTTON.—The Secretary, consistent with United States international obligations, shall establish standards for the labeling of sheep carcasses, parts of sheep carcasses, sheepmeat, and sheepmeat food products.''.

SEC. 280. IMPORT ASSISTANCE FOR CBI BENEFICIARY COUNTRIES AND THE PHILIPPINES.

Section 583 of Public Law 100–202 (101 Stat. 1329–182) is repealed.

SEC. 281. STUDIES, REPORTS, AND OTHER PROVISIONS.

(a) IN GENERAL.—Sections 1551 through 1555, section 1558, and section 1559 of subtitle E of title XV of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3696) (as redesignated by section 1011(d) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66; 109 Stat. 709)) are repealed.

(b) LANGUAGE PROFICIENCY.—Section 1556 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 5694 note) is amended by striking subsection (c).

SEC. 282. SENSE OF CONGRESS CONCERNING MULTILATERAL DISCIPLINES ON CREDIT GUARANTEES.

It is the sense of Congress that—

(1) in negotiations to establish multilateral disciplines on agricultural export credits and credit guarantees, the United States should not agree to any arrangement that is incompatible with the provisions of United States law that authorize agricultural export credits and credit guarantees;

(2) in the negotiations (which are held under the auspices of the Organization for Economic Cooperation and Development), the United States should not reach any agreement that fails to impose disciplines on the practices of foreign government trading entities such as the Australian Wheat Board, the Canadian Wheat Board, the New Zealand Dairy Board, and the Australian Dairy Board; and

(3) the disciplines should include greater openness in the operations of the entities as

long as the entities are subsidized by the foreign government or have monopolies for exports of a commodity that are sanctioned by the foreign government.

SEC. 283. INTERNATIONAL COTTON ADVISORY COMMITTEE.

(a) IN GENERAL.—The President shall ensure that the Government of the United States participates as a full member of the International Cotton Advisory Committee.

(b) REPRESENTATION BY THE SECRETARY.—The Secretary of Agriculture shall represent the Government of the United States as a member of the International Cotton Advisory Committee and shall delegate the primary responsibility to represent the Government of the United States to appropriately qualified individuals.

TITLE III—CONSERVATION

Subtitle A—Definitions

SEC. 301. DEFINITIONS APPLICABLE TO HIGHLY ERODIBLE CROPLAND CONSERVATION.

(a) CONSERVATION PLAN AND CONSERVATION SYSTEM.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended—

(1) by redesignating paragraphs (2) through (16) as paragraphs (4) through (18), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) CONSERVATION PLAN.—The term 'conservation plan' means the document that—

''(A) applies to highly erodible cropland;

''(B) describes the conservation system applicable to the highly erodible cropland and describes the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedule; and

''(C) is approved by the local soil conservation district, in consultation with the local committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) and the Secretary, or by the Secretary.

''(3) CONSERVATION SYSTEM.—The term 'conservation system' means a combination of 1 or more conservation measures or management practices that—

''(A) are based on local resource conditions, available conservation technology, and the standards and guidelines contained in the Natural Resources Conservation Service field office technical guides; and

''(B) are designed to achieve, in a cost effective and technically practicable manner, a substantial reduction in soil erosion or a substantial improvement in soil conditions on a field or group of fields containing highly erodible cropland when compared to the level of erosion or soil conditions that existed before the application of the conservation measures and management practices.''.

(b) FIELD.—Section 1201(a) of the Food Security Act of 1985 is amended by striking paragraph (7) (as redesignated by subsection (a)(1)) and inserting the following:

''(7) FIELD.—The term 'field' means a part of a farm that is separated from the balance of the farm by permanent boundaries such as fences, roads, permanent waterways, or other similar features. At the option of the owner or operator of the farm, croplines may also be used to delineate a field if farming practices make it probable that the croplines are not subject to change. Any highly erodible land on which an agricultural commodity is produced after December 23, 1985, and that is not exempt under section 1212, shall be considered as part of the field in which the land was included on December 23, 1985, unless the owner and Secretary agree to modification of the boundaries of the field to carry out this title.''.

(c) HIGHLY ERODIBLE LAND.—Section 1201(a)(9) of the Food Security Act of 1985 (as redesignated by subsection (a)(1)) is amended by adding at the end the following:

''(C) EQUATIONS.—Not later than 60 days after the date of enactment of this subparagraph, the Secretary shall publish in the Federal Register the universal soil loss equation and wind erosion equation used by the Department of Agriculture as of that date. The Secretary may not change the equations after that date except following notice and comment in a manner consistent with section 553 of title 5, United States Code.''.

(d) CONFORMING AMENDMENTS.—Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) is amended—

(1) in the first sentence of subsection (a)(2), by striking ''that documents'' and all that follows through ''by the Secretary'';

(2) in subsection (c)(3), by striking ''based on'' and all that follows through ''and the Secretary,'' and inserting '', in which case,'';

(3) in subsection (e)(1)(A), by striking ''conservation compliance plan'' and inserting ''conservation plan''; and

(4) in subsection (f)—

(A) in paragraph (1), by striking ''that documents'' and all that follows through ''under subsection (a)'';

(B) in paragraph (3), by striking ''prepared under subsection (a)''; and

(C) in paragraph (4), by striking ''that documents'' and all that follows through ''subsection (a)''.

Subtitle B—Highly Erodible Land Conservation

SEC. 311. PROGRAM INELIGIBILITY.

Effective 90 days after the date of enactment of this Act, section 1211 of the Food Security Act of 1985 (16 U.S.C. 3811) is amended—

(1) in the matter preceding paragraph (1), by striking ''following the date of enactment of this Act,'';

(2) in paragraph (1)—

(A) by striking subparagraph (A) and inserting the following:

''(A) contract payments under a production flexibility contract, marketing assistance loans, and any type of price support or payment made available under the Agricultural Market Transition Act, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act;'';

(B) by striking subparagraph (C);

(C) in subparagraph (D), by striking ''made under'' and all that follows through ''August 14, 1989'';

(D) in subparagraph (E), by striking ''Farmers Home Administration'' and inserting ''Consolidated Farm Service Agency''; and

(E) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

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

''(3) during the crop year—

''(A) a payment made pursuant to a contract entered into under the environmental quality incentives program under chapter 4 of subtitle D;

''(B) a payment under any other provision of subtitle D;

''(C) a payment under section 401 or 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202); or

''(D) a payment, loan, or other assistance under section 3 or 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 and 1006a).''.

SEC. 312. CONSERVATION RESERVE LANDS.

Section 1212(a)(3) of the Food Security Act of 1985 (16 U.S.C. 3812(a)(3)) is amended by striking ''shall, if the conservation plan established under this subtitle for such land requires structures to be constructed,'' and inserting ''shall only be required to apply a conservation plan established under this subtitle. The person shall not be required to meet a higher conservation standard than the standard applied to other highly erodible cropland located within the same area. If the person's conservation plan requires structures to be constructed, the person shall''.

SEC. 313. GOOD FAITH EXEMPTION.

(a) GRACE PERIOD TO RESUME CONSERVATION COMPLIANCE.—Section 1212(f)(1) of the Food Security Act of 1985 (16 U.S.C. 3812(f)(1)) is amended—

(1) by striking ''Except to the extent provided in paragraph (2), no'' and inserting ''No''; and

(2) by striking ''such person has—'' and all that follows through the period at the end of subparagraph (B) and inserting the following: ''the person has acted in good faith and without an intent to violate this subtitle. A person who meets the requirements of this paragraph shall be allowed a reasonable period of time, as determined by the Secretary, but not to exceed 1 year, during which to implement the measures and practices necessary to be considered to be actively applying the person's conservation plan.''.

(b) SPECIAL PENALTIES REGARDING CERTAIN HIGHLY ERODIBLE CROPLAND.—Section 1212(f)(2) of the Food Security Act of 1985 (16 U.S.C. 3812(f)(2)) is amended by striking ''meets the requirements of paragraph (1)'' and inserting ''with respect to highly erodible cropland that was not in production prior to December 23, 1985, and has acted in good faith and without an intent to violate the provisions''.

(c) CONFORMING AMENDMENT.—Section 1212(f)(4) of the Food Security Act of 1985 (16 U.S.C. 3812(f)(4)) is amended by striking the last sentence.

SEC. 314. EXPEDITED PROCEDURES FOR GRANTING VARIANCES FROM CONSERVATION PLANS.

Section 1212(f) of the Food Security Act of 1985 (16 U.S.C. 3812(f)(4)) is amended—

(1) in paragraph (4)(C), by striking ''problem'' and inserting ''problem, including weather, pest, and disease problems''; and

(2) by adding at the end the following:

''(5) EXPEDITED PROCEDURES FOR TEMPORARY VARIANCES.—After consultation with local conservation districts, the Secretary shall establish expedited procedures for the consideration and granting of temporary variances under paragraph (4)(C). If the request for a temporary variance under paragraph (4)(C) involves the use of practices or measures to address weather, pest, or disease problems, the Secretary shall make a decision on whether to grant the variance during the 30-day period beginning on the date of receipt of the request. If the Secretary fails to render a decision during the period, the temporary variance shall be considered granted.''.

SEC. 315. DEVELOPMENT AND IMPLEMENTATION OF CONSERVATION PLANS AND CONSERVATION SYSTEMS.

(a) DEVELOPMENT AND IMPLEMENTATION.—The Food Security Act of 1985 is amended—

(1) by redesignating section 1213 (16 U.S.C. 3813) as section 1214; and

(2) by inserting after section 1212 (16 U.S.C. 3812) the following:

''SEC. 1213. DEVELOPMENT AND IMPLEMENTATION OF CONSERVATION PLANS AND CONSERVATION SYSTEMS.

''(a) TECHNICAL REQUIREMENTS.—In connection with the standards and guidelines contained in Natural Resources Conservation Service field office technical guides applicable to the development and use of conservation measures and management practices as part of a conservation system, the Secretary shall ensure that the standards and guidelines permit a person to use a conservation system that—

''(1) is technically and economically feasible;

''(2) is based on local resource conditions and available conservation technology;

''(3) is cost-effective; and

''(4) does not cause undue economic hardship on the person applying the conservation system under the person's conservation plan.

''(b) MEASUREMENT OF EROSION REDUCTION.—For the purpose of determining whether there is a substantial reduction in soil erosion on a field containing highly erodible cropland, the measurement of erosion reduction achieved by the application of a conservation system under a person's conservation plan shall be based on the estimated annual level of erosion at the time of the measurement compared to the estimated annual level of erosion that existed before the implementation of the conservation measures and management practices provided for in the conservation system.

''(c) RESIDUE MEASUREMENT.—

''(1) RESPONSIBILITIES OF THE SECRETARY.—For the purpose of measuring the level of residue on a field, the Secretary shall—

''(A) take into account any residue incorporated into the top 2 inches of soil, as well as the growing crop, in the measurement;

''(B) provide technical guidelines for acceptable residue measurement methods;

''(C) provide a certification system for third parties to perform residue measurements; and

''(D) provide for the acceptance and use of information and data voluntarily provided by the producer regarding the field.

''(2) ACCEPTANCE OF PRODUCER MEASUREMENTS.—Annual residue measurements supplied by a producer (including measurements performed by a certified third party) shall be used by the Secretary if the Secretary determines that the measurements indicate that the residue level for the field meets the level required under the conservation plan.

''(d) CERTIFICATION OF COMPLIANCE.—

''(1) IN GENERAL.—For the purpose of determining the eligibility of a person for program benefits specified in section 1211 at the time application is made for the benefits, the Secretary shall permit the person to certify that the person is complying with the person's conservation plan.

''(2) STATUS REVIEWS.—If a person makes a certification under paragraph (1), the Secretary shall not be required to carry out a review of the status of compliance of the person with the conservation plan under which the conservation system is being applied.

''(3) REVISIONS AND MODIFICATIONS.—The Secretary shall permit a person who makes a certification under paragraph (1) with respect to a conservation plan to revise the conservation plan in any manner, if the same level of conservation treatment provided for by the conservation system under the person's conservation plan is maintained. The Secretary may not revise the person's conservation plan without the concurrence of the person.

''(e) TECHNICAL ASSISTANCE.—The Secretary shall, using available resources and consistent with the Secretary's other conservation responsibilities and objectives, provide technical assistance to a person throughout the development, revision, and application of the conservation plan and any conservation system of the person. At the request of the person, the Secretary may provide technical assistance regarding conservation measures and management practices for other lands of the person that do not contain highly erodible cropland.

''(f) ENCOURAGEMENT OF ON-FARM RESEARCH.—To encourage on-farm conservation research, the Secretary may allow a person to include in the person's conservation plan or a conservation system under the plan, on a field trial basis, practices that are not currently approved but that the Secretary considers have a reasonable likelihood of success.''.

(b) TREATMENT OF TECHNICAL DETERMINATIONS.—Section 226(d)(2) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6932(d)(2)) is amended—

(1) by striking ''DETERMINATION.—With'' and inserting ''DETERMINATION.—

''(A) IN GENERAL.—With''; and

(2) by adding at the end the following:

''(B) ECONOMIC HARDSHIP.—After a technical determination has been made, on a producer's request, if a county or area committee determines that the application of the producer's conservation system would impose an undue economic hardship on the producer, the committee shall provide the producer with relief to avoid the hardship.''.

SEC. 316. INVESTIGATION OF POSSIBLE COMPLIANCE DEFICIENCIES.

Subtitle B of title XII of the Food Security Act of 1985 (as amended by section 315(a)(1)) is amended by adding at the end the following:

''SEC. 1215. NOTICE AND INVESTIGATION OF POSSIBLE COMPLIANCE DEFICIENCIES.

''(a) IN GENERAL.—An employee of the Department of Agriculture who observes a possible compliance deficiency or other potential violation of a conservation plan or this subtitle while providing on-site technical assistance shall provide to the responsible persons, not later than 45 days after observing the possible violation, information regarding actions needed to comply with the plan and this subtitle. The employee shall provide the information in lieu of reporting the observation as a compliance violation.

''(b) CORRECTIVE ACTION.—The responsible persons shall attempt to correct the deficiencies as soon as practicable after receiving the information.

''(c) REVIEW.—If the corrective action is not fully implemented not later than 1 year after the responsible persons receive the information, the Secretary may conduct a review of the status of compliance of the persons with the conservation plan and this subtitle.''.

SEC. 317. WIND EROSION ESTIMATION PILOT PROJECT.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a pilot project to review, and modify as appropriate, the use of wind erosion factors under the highly erodible conservation requirements of subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.)

(b) SELECTION OF COUNTIES AND PRODUCERS.—The pilot project shall be conducted for producers in those counties that—

(1) have approximately 100 percent of their cropland determined to be highly erodible under title XII of the Act;

(2) have a reasonable likelihood that the use of wind erosion factors under title XII of the Act have resulted in an inequitable application of the highly erodible land requirements of title XII of the Act; and

(3) if the use of the land classification system under section 1201(a)(9)(A) of the Act (as redesignated by section 301(a)(1)) may result in a more accurate delineation of the cropland.

(c) ERRORS IN DELINEATION.—If the Secretary determines that a significant error has occurred in delineating cropland under the pilot project, the Secretary shall, at the request of the owners or operators of the cropland, conduct a new delineation of the cropland using the most accurate available delineation process, as determined by the Secretary.

Subtitle C—Wetland Conservation

SEC. 321. PROGRAM INELIGIBILITY.

(a) PROGRAM INELIGIBILITY.—Section 1221 of the Food Security Act of 1985 (16 U.S.C. 3821) is amended—

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

(2) by striking the section heading and all that follows through the end of subsection (a) and inserting the following:

''SEC. 1221. PROGRAM INELIGIBILITY.

''(a) PRODUCTION ON CONVERTED WETLAND.—Except as provided in this subtitle and notwithstanding any other provision of law, any person who in any crop year produces an agricultural commodity on converted wetland, as determined by the Secretary, shall be—

''(1) in violation of this section; and

''(2) ineligible for loans or payments in an amount determined by the Secretary to be proportionate to the severity of the violation.

''(b) INELIGIBILITY FOR CERTAIN LOANS AND PAYMENTS.—If a person is determined to have committed a violation under subsection (a) during a crop year, the Secretary shall determine which of, and the amount of, the following loans and payments for which the person shall be ineligible:

''(1) Contract payments under a production flexibility contract, marketing assistance loans, and any type of price support or payment made available under the Agricultural Market Transition Act, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act.

''(2) A loan made or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Consolidated Farm Service Agency, if the Secretary determines that the proceeds of the loan will be used for a purpose that will contribute to conversion of a wetland (other than as provided in this subtitle) to produce an agricultural commodity.

''(3) During the crop year:

''(A) A payment made pursuant to a contract entered into under the environmental quality incentives program under chapter 4 of subtitle D.

''(B) A payment under any other provision of subtitle D.

''(C) A payment under section 401 or 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202).

''(D) A payment, loan, or other assistance under section 3 or 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 and 1006a).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1221(c) of the Food Security Act of 1985 (as redesignated by subsection (a)(1)) is amended—

(A) by striking ''Except'' and inserting ''WETLAND CONVERSION.—Except'';

(B) by striking ''subsequent to the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1990'' and inserting ''beginning after November 28, 1990,''; and

(C) by striking ''subsections (a) (1) through (3)'' and inserting ''subsection (b)''.

(2) Section 1221 of the Food Security Act of 1985 (as amended by subsection (a)) is amended by adding at the end the following:

''(d) PRIOR LOANS.—This section shall not apply to a loan described in subsection (b) made before December 23, 1985.''.

SEC. 322. DELINEATION OF WETLANDS; EXEMPTIONS TO PROGRAM INELIGIBILITY.

(a) DELINEATION OF WETLANDS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (a) and inserting the following:

''(a) DELINEATION BY THE SECRETARY.—

''(1) IN GENERAL.—Subject to subsection (b) and paragraph (6), the Secretary shall delineate, determine, and certify all wetlands located on subject land on a farm.

''(2) WETLAND DELINEATION MAPS.—The Secretary shall delineate wetlands on wetland delineation maps. On the request of a person,

the Secretary shall make a reasonable effort to make an on-site wetland determination prior to delineation.

''(3) CERTIFICATION.—On providing notice to affected persons, the Secretary shall—

''(A) certify whether a map is sufficient for the purpose of making a determination of ineligibility for program benefits under section 1221; and

''(B) provide an opportunity to appeal the certification prior to the certification becoming final.

''(4) DURATION OF CERTIFICATION.—A final certification made under paragraph (3) shall remain valid and in effect as long as the area is devoted to an agricultural use or until such time as the person affected by the certification requests review of the certification by the Secretary.

''(5) REVIEW OF MAPPING ON APPEAL.—In the case of an appeal of the Secretary's certification, the Secretary shall review and certify the accuracy of the mapping of all land subject to the appeal to ensure that the subject land has been accurately delineated. Prior to rendering a decision on the appeal, the Secretary shall conduct an on-site inspection of the subject land on a farm.

''(6) RELIANCE ON PRIOR CERTIFIED DELINEATION.—No person shall be adversely affected because of having taken an action based on a previous certified wetland delineation by the Secretary. The delineation shall not be subject to a subsequent wetland certification or delineation by the Secretary, unless requested by the person under paragraph (4).''.

(b) EXEMPTIONS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (b) and inserting the following:

''(b) EXEMPTIONS.—No person shall become ineligible under section 1221 for program loans or payments under the following circumstances:

''(1) As the result of the production of an agricultural commodity on the following lands:

''(A) A converted wetland if the conversion of the wetland was commenced before December 23, 1985.

''(B) Land that is a nontidal drainage or irrigation ditch excavated in upland.

''(C) A wet area created by a water delivery system, irrigation, irrigation system, or application of water for irrigation.

''(D) A wetland on which the owner or operator of a farm or ranch uses normal cropping or ranching practices to produce an agricultural commodity in a manner that is consistent for the area where the production is possible as a result of a natural condition, such as drought, and is without action by the producer that destroys a natural wetland characteristic.

''(E) Land that is an artificial lake or pond created by excavating or diking land (that is not a wetland) to collect and retain water and that is used primarily for livestock watering, fish production, irrigation, wildlife, fire control, flood control, cranberry growing, or rice production, or as a settling pond.

''(F) A wetland that is temporarily or incidentally created as a result of adjacent development activity.

''(G) A converted wetland if the original conversion of the wetland was commenced before December 23, 1985, and the Secretary determines the wetland characteristics returned after that date as a result of—

''(i) the lack of maintenance of drainage, dikes, levees, or similar structures;

''(ii) a lack of management of the lands containing the wetland; or

''(iii) circumstances beyond the control of the person.

''(H) A converted wetland, if—

''(i) the converted wetland was determined by the Natural Resources Conservation Service to have been manipulated for the production of an agricultural commodity or forage prior to December 23, 1985, and was returned to wetland conditions through a voluntary restoration, enhancement, or creation action subsequent to that determination;

''(ii) technical determinations regarding the prior site conditions and the restoration, enhancement, or creation action have been adequately documented by the Natural Resources Conservation Service;

''(iii) the proposed conversion action is approved by the Natural Resources Conservation Service prior to implementation; and

''(iv) the extent of the proposed conversion is limited so that the conditions will be at least equivalent to the wetland functions and values that existed prior to implementation of the voluntary wetland restoration, enhancement, or creation action.

''(2) For the conversion of the following:

''(A) An artificial lake or pond created by excavating or diking land that is not a wetland to collect and retain water and that is used primarily for livestock watering, fish production, irrigation, wildlife, fire control, flood control, cranberry growing, rice production, or as a settling pond.

''(B) A wetland that is temporarily or incidentally created as a result of adjacent development activity.

''(C) A wetland on which the owner or operator of a farm or ranch uses normal cropping or ranching practices to produce an agricultural commodity in a manner that is consistent for the area where the production is possible as a result of a natural condition, such as drought, and is without action by the producer that destroys a natural wetland characteristic.

''(D) A wetland previously identified as a converted wetland (if the original conversion of the wetland was commenced before December 23, 1985), but that the Secretary determines returned to wetland status after that date as a result of—

''(i) the lack of maintenance of drainage, dikes, levees, or similar structures;

''(ii) a lack of management of the lands containing the wetland; or

''(iii) circumstances beyond the control of the person.

''(E) A wetland, if—

''(i) the wetland was determined by the Natural Resources Conservation Service to have been manipulated for the production of an agricultural commodity or forage prior to December 23, 1985, and was returned to wetland conditions through a voluntary restoration, enhancement, or creation action subsequent to that determination;

''(ii) technical determinations regarding the prior site conditions and the restoration, enhancement, or creation action have been adequately documented by the Natural Resources Conservation Service;,

''(iii) the proposed conversion action is approved by the Natural Resources Conservation Service prior to implementation; and

''(iv) the extent of the proposed conversion is limited so that the conditions will be at least equivalent to the wetland functions and values that existed prior to implementation of the voluntary wetland restoration, enhancement, or creation action.''.

(c) IDENTIFICATION OF MINIMAL EFFECT EXEMPTIONS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (d) and inserting the following:

''(d) IDENTIFICATION OF MINIMAL EFFECT EXEMPTIONS.—For purposes of applying the minimal effect exemption under subsection (f)(1), the Secretary shall identify by regulation categorical minimal effect exemptions on a regional basis to assist persons in avoiding a violation of the ineligibility provisions of section 1221. The Secretary shall ensure that employees of the Department of Agriculture who administer this subtitle receive appropriate training to properly apply the minimal effect exemptions determined by the Secretary.''.

(d) MINIMAL EFFECT AND MITIGATION EXEMPTIONS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (f) and inserting the following:

''(f) MINIMAL EFFECT; MITIGATION.—The Secretary shall exempt a person from the ineligibility provisions of section 1221 for any action associated with the production of an agricultural commodity on a converted wetland, or the conversion of a wetland, if 1 or more of the following conditions apply, as determined by the Secretary:

''(1) The action, individually and in connection with all other similar actions authorized by the Secretary in the area, will have a minimal effect on the functional hydrological and biological value of the wetlands in the area, including the value to waterfowl and wildlife.

''(2) The wetland and the wetland values, acreage, and functions are mitigated by the person through the restoration of a converted wetland, the enhancement of an existing wetland, or the creation of a new wetland, and the restoration, enhancement, or creation is—

''(A) in accordance with a wetland conservation plan;

''(B) in advance of, or concurrent with, the action;

''(C) not at the expense of the Federal Government;

''(D) in the case of enhancement or restoration of wetlands, on not greater than a 1-for-1 acreage basis unless more acreage is needed to provide equivalent functions and values that will be lost as a result of the wetland conversion to be mitigated;

''(E) in the case of creation of wetlands, on greater than a 1-for-1 acreage basis if more acreage is needed to provide equivalent functions and values that will be lost as a result of the wetland conversion that is mitigated;

''(F) on lands in the same general area of the local watershed as the converted wetland; and

''(G) with respect to the restored, enhanced, or created wetland, made subject to an easement that—

''(i) is recorded on public land records;

''(ii) remains in force for as long as the converted wetland for which the restoration, enhancement, or creation to be mitigated remains in agricultural use or is not returned to its original wetland classification with equivalent functions and values; and

''(iii) prohibits making alterations to the restored, enhanced, or created wetland that lower the wetland's functions and values.

''(3) The wetland was converted after December 23, 1985, but before November 28, 1990, and the wetland values, acreage, and functions are mitigated by the producer through the requirements of subparagraphs (A), (B), (C), (D), (F), and (G) of paragraph (2).

''(4) The action was authorized by a permit issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) and the wetland values, acreage, and functions of the converted wetland were adequately mitigated for the purposes of this subtitle.''.

(e) REFERENCES TO PRODUCER.—Section 1222(g) of the Food Security Act of 1985 (16 U.S.C. 3822(g)) is amended by striking ''producer'' and inserting ''person''.

(f) GOOD FAITH EXEMPTION.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (h) and inserting the following:

''(h) GOOD FAITH EXEMPTION.—

''(1) EXEMPTION DESCRIBED.—The Secretary may waive a person's ineligibility under section 1221 for program loans, payments, and benefits as the result of the conversion of a wetland subsequent to November 28, 1990, or

the production of an agricultural commodity on a converted wetland, if the Secretary determines that the person has acted in good faith and without intent to violate this subtitle.

''(2) PERIOD FOR COMPLIANCE.—The Secretary shall provide a person who the Secretary determines has acted in good faith and without intent to violate this subtitle with a reasonable period, but not to exceed 1 year, during which to implement the measures and practices necessary to be considered to actively restoring the subject wetland.''.

(g) RESTORATION.—Section 1222(i) of the Food Security Act of 1985 (16 U.S.C. 3822(i)) is amended by inserting before the period at the end the following: ''or has otherwise mitigated for the loss of wetland values, as determined by the Secretary, through the restoration, enhancement, or creation of wetland values in the same general area of the local watershed as the converted wetland''.

(h) DETERMINATIONS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (j) and inserting the following:

''(j) DETERMINATIONS; RESTORATION AND MITIGATION PLANS; MONITORING ACTIVITIES.—Technical determinations, the development of restoration and mitigation plans, and monitoring activities under this section shall be made by the National Resources Conservation Service.''.

(i) MITIGATION BANKING.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by adding at the end the following:

''(k) MITIGATION BANKING PROGRAM.—Using authorities available to the Secretary, the Secretary may operate a pilot program for mitigation banking of wetlands to assist persons to increase the efficiency of agricultural operations while protecting wetland functions and values. Subsection (f)(2)(C) shall not apply to this subsection.''.

SEC. 323. CONSULTATION AND COOPERATION REQUIREMENTS.

Section 1223 of the Food Security Act of 1985 (16 U.S.C. 3823) is repealed.

SEC. 324. APPLICATION OF PROGRAM INELIGIBILITY TO AFFILIATED PERSONS.

The Food Security Act of 1985 (as amended by section 323) is amended by inserting after section 1222 (16 U.S.C. 3822) the following:

''SEC. 1223. AFFILIATED PERSONS.

''If a person is affected by a reduction in benefits under section 1221 and the affected person is affiliated with other persons for the purpose of receiving the benefits, the benefits of each affiliated person shall be reduced under section 1221 in proportion to the interest held by the affiliated person.''.

SEC. 325. CLARIFICATION OF DEFINITION OF AGRICULTURAL LANDS IN MEMORANDUM OF AGREEMENT.

(a) AGRICULTURAL LANDS.—For purposes of implementing the memorandum of agreement entered into between the Department of Agriculture, the Environmental Protection Agency, the Department of the Interior, and the Department of the Army on January 6, 1994, relating to the delineation of wetlands, the term ''agricultural lands'' shall include—

(1) native pasture, rangelands, and other lands used to produce or support the production of livestock; and

(2) tree farms.

(b) WETLAND CONSERVATION.—Subsection (a) shall not apply with respect to the delineation of wetlands under subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) or to the enforcement of the subtitle.

(c) SUCCESSOR MEMORANDUM.—Subsection (a) shall apply to any amendment to or successor of the memorandum of agreement described in subsection (a).

SEC. 326. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall become effective 90 days after the date of enactment of this Act.

Subtitle D—Environmental Conservation Acreage Reserve Program

SEC. 331. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM.

Section 1230 of the Food Security Act of 1985 (16 U.S.C. 3830) is amended to read as follows:

''SEC. 1230. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—During the 1996 through 2002 calendar years, the Secretary shall establish an environmental conservation acreage reserve program (referred to in this section as 'ECARP') to be implemented through contracts and the acquisition of easements to assist owners and operators of farms and ranches to conserve and enhance soil, water, and related natural resources, including grazing land, wetland, and wildlife habitat.

''(2) MEANS.—The Secretary shall carry out the ECARP by—

''(A) providing for the long-term protection of environmentally sensitive land; and

''(B) providing technical and financial assistance to farmers and ranchers to—

''(i) improve the management and operation of the farms and ranches; and

''(ii) reconcile productivity and profitability with protection and enhancement of the environment.

''(3) PROGRAMS.—The ECARP shall consist of—

''(A) the conservation reserve program established under subchapter B;

''(B) the wetlands reserve program established under subchapter C; and

''(C) the environmental quality incentives program established under chapter 4.

''(b) ADMINISTRATION.—

''(1) IN GENERAL.—In carrying out the ECARP, the Secretary shall enter into contracts with owners and operators and acquire interests in land through easements from owners, as provided in this chapter and chapter 4.

''(2) PRIOR ENROLLMENTS.—Acreage enrolled in the conservation reserve or wetlands reserve program prior to the date of enactment of this paragraph shall be considered to be placed into the ECARP.

''(c) CONSERVATION PRIORITY AREAS.—

''(1) DESIGNATION.—The Secretary may designate watersheds, multistate areas, or regions of special environmental sensitivity as conservation priority areas that are eligible for enhanced assistance under this chapter and chapter 4.

''(2) ASSISTANCE.—The Secretary may designate areas as conservation priority areas to assist, to the maximum extent practicable, agricultural producers within the conservation priority areas to comply with nonpoint source pollution requirements under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and other Federal and State environmental laws and to meet other conservation needs.

''(3) PRODUCERS.—The Secretary may provide technical assistance, cost-share payments, and incentive payments to producers in a conservation priority area under this chapter and chapter 4 based on—

''(A) the significance of the soil, water, wildlife habitat, and related natural resource problems in a watershed, multistate area, or region; and

''(B) the structural practices or land management practices that best address the problems, and that maximize environmental benefits for each dollar expended, as determined by the Secretary.''.

SEC. 332. CONSERVATION RESERVE PROGRAM.

(a) PROGRAM EXTENSIONS.—

(1) CONSERVATION RESERVE PROGRAM.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by striking ''1995'' each place it appears and inserting ''2002''.

(2) DUTIES OF OWNERS AND OPERATORS.—Section 1232(c) of the Food Security Act of 1985 (16 U.S.C. 3832(c)) is amended by striking ''1995'' and inserting ''2002''.

(b) MAXIMUM ENROLLMENT.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by striking subsection (d) and inserting the following:

''(d) MAXIMUM ENROLLMENT.—The Secretary may maintain up to 36,400,000 acres in the conservation reserve at any one time during the 1986 through 2002 calendar years (including contracts extended by the Secretary pursuant to section 1437(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note).''.

(c) OPTIONAL CONTRACT TERMINATION BY PRODUCERS.—Section 1235 of the Food Security Act of 1985 (16 U.S.C. 3835) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''3-year'' and inserting ''1-year''; and

(B) in paragraph (2)(B)(i), by striking ''3 years'' and inserting ''1 year''; and

(2) by adding at the end the following:

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

''(1) EARLY TERMINATION AUTHORIZED.—Subject to the other provisions of this subsection, the Secretary shall allow a participant who entered into a contract before January 1, 1995, to terminate the contract at any time if the contract has been in effect for at least 5 years. The termination shall not relieve the participant of liability for a contract violation occurring before the date of the termination. The participant shall provide the Secretary with reasonable notice of the participant's desire to terminate the contract.

''(2) CERTAIN LANDS EXCEPTED.—The following lands shall not be subject to an early termination of contract under this subsection:

''(A) Filterstrips, waterways, strips adjacent to riparian areas, windbreaks, and shelterbelts.

''(B) Land with an erodibility index of more than 15.

''(C) Other lands of high environmental value (including wetlands), as determined by the Secretary.

''(3) EFFECTIVE DATE.—The contract termination shall become effective 60 days after the date on which the owner or operator submits the notice required under paragraph (1).

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

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

''(6) CONSERVATION REQUIREMENTS.—If land that was subject to a contract is returned to production of an agricultural commodity, the conservation requirements under subtitles B and C shall apply to the use of the land to the extent that the requirements are similar to those requirements imposed on other similar lands in the area, except than the requirements may not be more onerous than the requirements imposed on other lands.''.

(d) ENROLLMENTS IN 1997.—Section 725 of the Agriculture, Rural Development, Food

and Drug Administration, and Related Agencies Appropriations Act, 1996 (Public Law 104–37; 109 Stat. 332), is amended by striking ": *Provided,*" and all that follows through "1997".

SEC. 333. WETLANDS RESERVE PROGRAM.

(a) ENROLLMENT.—Section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended by striking subsection (b) and inserting the following:

"(b) ENROLLMENT CONDITIONS.—

"(1) MAXIMUM ENROLLMENT.—The total number of acres enrolled in the wetlands reserve program shall not exceed 975,000 acres.

"(2) METHODS OF ENROLLMENT.—

"(A) IN GENERAL.—Subject to subparagraph (B), effective beginning October 1, 1996, to the maximum extent practicable, the Secretary shall enroll into the wetlands reserve program—

"(i) ⅓ of the acres through the use of permanent easements;

"(ii) ⅓ of the acres through the use of 30-year easements; and

"(iii) ⅓ of the acres through the use of restoration cost-share agreements.

"(B) TEMPORARY EASEMENTS.—Effective beginning October 1, 1996, the Secretary shall not enroll acres in the wetlands reserve program through the use of new permanent easements until the Secretary has enrolled at least 75,000 acres in the program through the use of temporary easements.".

(b) ELIGIBILITY.—Section 1237(c) of the Food Security Act of 1985 (16 U.S.C. 3837(c)) is amended—

(1) by striking "2000" and inserting "2002";

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

(3) by inserting after "determines that—" the following:

"(1) such land maximizes wildlife benefits and wetland values and functions;".

(c) OTHER ELIGIBLE LANDS.—Section 1237(d) of the Food Security Act of 1985 (16 U.S.C. 3837(d)) is amended—

(1) by inserting after "subsection (c)" the following ", land that maximizes wildlife benefits and that is"; and

(2) in paragraph (2), by striking "and" at the end and inserting "or".

(d) EASEMENTS.—Section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) is amended—

(1) in the section heading, by inserting before the period at the end the following: "**AND AGREEMENTS**";

(2) by striking subsection (c) and inserting the following:

"(c) RESTORATION PLANS.—The development of a restoration plan, including any compatible use, under this section shall be made through the local Natural Resources Conservation Service representative, in consultation with the State technical committee.";

(3) in subsection (f), by striking the third sentence and inserting the following: "Compensation may be provided in not less than 5, nor more than 30, annual payments of equal or unequal size, as agreed to by the owner and the Secretary."; and

(4) by adding at the end the following:

"(h) RESTORATION COST-SHARE AGREEMENTS.—The Secretary may enroll land into the wetlands reserve program through an agreement that requires the landowner to restore wetlands on the land, if the agreement does not provide the Secretary with an easement.".

(e) COST-SHARE AND TECHNICAL ASSISTANCE.—Section 1237C of the Food Security Act of 1985 (16 U.S.C. 3837c) is amended by striking subsection (b) and inserting the following:

"(b) COST-SHARE AND TECHNICAL ASSISTANCE.—

"(1) EASEMENTS.—Effective beginning October 1, 1996, in making cost-share payments under subsection (a)(1), the Secretary shall—

"(A) in the case of a permanent easement, pay the owner an amount that is not less than 75 percent, but not more than 100 percent, of the eligible costs; and

"(B) in the case of a 30-year easement, pay the owner an amount that is not less than 50 percent, but not more than 75 percent, of the eligible costs.

"(2) RESTORATION COST-SHARE AGREEMENTS.—In making cost-share payments in connection with a restoration cost-share agreement entered into under section 1237A(h), the Secretary shall pay the owner an amount that is not less than 50 percent, but not more than 75 percent, of the eligible costs.

"(3) TECHNICAL ASSISTANCE.—The Secretary shall provide owners with technical assistance to assist owners in complying with the terms of easements and restoration cost-share agreements.".

(f) EFFECT ON EXISTING AGREEMENTS.—The amendments made by this section shall not affect the validity or terms of any agreements entered into by the Secretary of Agriculture under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.) before the date of enactment of this Act or any payments required to be made in connection with the agreements.

SEC. 334. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended by adding at the end the following:

"CHAPTER 4—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

"SEC. 1240. PURPOSES.

"The purposes of the environmental quality incentives program established by this chapter are to—

"(1) combine into a single program the functions of—

"(A) the agricultural conservation program authorized by sections 7 and 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g and 590h) (as in effect before the amendments made by section 336(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996);

"(B) the Great Plains conservation program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)) (as in effect before the amendment made by section 336(b)(1) of the Federal Agriculture Improvement and Reform Act of 1996);

"(C) the water quality incentives program established under chapter 2 (as in effect before the amendment made by section 336(h) of the Federal Agriculture Improvement and Reform Act of 1996); and

"(D) the Colorado River Basin salinity control program established under section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)) (as in effect before the amendment made by section 336(c)(1) of the Federal Agriculture Improvement and Reform Act of 1996); and

"(2) carry out the single program in a manner that maximizes environmental benefits per dollar expended, and that provides—

"(A) flexible technical and financial assistance to farmers and ranchers that face the most serious threats to soil, water, and related natural resources, including grazing lands, wetlands, and wildlife habitat;

"(B) assistance to farmers and ranchers in complying with this title and Federal and State environmental laws, and encourages environmental enhancement;

"(C) assistance to farmers and ranchers in making beneficial, cost-effective changes to cropping systems, grazing management, manure, nutrient, pest, or irrigation management, land uses, or other measures needed to conserve and improve soil, water, and related natural resources; and

"(D) for the consolidation and simplification of the conservation planning process to reduce administrative burdens on producers.

"SEC. 1240A. DEFINITIONS.

"In this chapter:

"(1) ELIGIBLE LAND.—The term 'eligible land' means agricultural land (including cropland, rangeland, pasture, and other land on which crops or livestock are produced), including agricultural land that the Secretary determines poses a serious threat to soil, water, or related resources by reason of the soil types, terrain, climatic, soil, topographic, flood, or saline characteristics, or other factors or natural hazards.

"(2) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means a site-specific nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, or other land management practice carried out on eligible land that the Secretary determines is needed to protect, in the most cost-effective manner, water, soil, or related resources from degradation.

"(3) LIVESTOCK.—The term 'livestock' means dairy cattle, beef cattle, laying hens, broilers, turkeys, swine, sheep, and such other animals as determined by the Secretary.

"(4) PRODUCER.—The term 'producer' means a person who is engaged in livestock or agricultural production (as defined by the Secretary).

"(5) STRUCTURAL PRACTICE.—The term 'structural practice' means—

"(A) the establishment on eligible land of a site-specific animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, tailwater pit, permanent wildlife habitat, or other structural practice that the Secretary determines is needed to protect, in the most cost-effective manner, water, soil, or related resources from degradation; and

"(B) the capping of abandoned wells on eligible land.

"SEC. 1240B. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—During the 1996 through 2002 fiscal years, the Secretary shall provide technical assistance, cost-share payments, incentive payments, and education to producers, who enter into contracts with the Secretary, through an environmental quality incentives program in accordance with this chapter.

"(2) ELIGIBLE PRACTICES.—

"(A) STRUCTURAL PRACTICES.—A producer who implements a structural practice shall be eligible for any combination of technical assistance, cost-share payments, and education.

"(B) LAND MANAGEMENT PRACTICES.—A producer who performs a land management practice shall be eligible for any combination of technical assistance, incentive payments, and education.

"(b) APPLICATION AND TERM.—A contract between a producer and the Secretary under this chapter may—

"(1) apply to 1 or more structural practices or 1 or more land management practices, or both; and

"(2) have a term of not less than 5, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract.

"(c) STRUCTURAL PRACTICES.—

"(1) OFFER SELECTION PROCESS.—The Secretary shall, to the maximum extent prac-

ticable, establish a process for selecting applications for financial assistance if there are numerous applications for assistance for structural practices that would provide substantially the same level of environmental benefits. The process shall be based on—

''(A) a reasonable estimate of the projected cost of the proposals and other factors identified by the Secretary for determining which applications will result in the least cost to the program authorized by this chapter; and

''(B) the priorities established under this subtitle and such other factors determined by the Secretary that maximize environmental benefits per dollar expended.

''(2) CONCURRENCE OF OWNER.—If the producer making an offer to implement a structural practice is a tenant of the land involved in agricultural production, for the offer to be acceptable, the producer shall obtain the concurrence of the owner of the land with respect to the offer.

''(d) LAND MANAGEMENT PRACTICES.—The Secretary shall establish an application and evaluation process for awarding technical assistance or incentive payments, or both, to a producer in exchange for the performance of 1 or more land management practices by the producer.

''(e) COST-SHARE PAYMENTS, INCENTIVE PAYMENTS, AND TECHNICAL ASSISTANCE.—

''(1) COST-SHARE PAYMENTS.—

''(A) IN GENERAL.—The Federal share of cost-share payments to a producer proposing to implement 1 or more structural practices shall be not more than 75 percent of the projected cost of the practice, as determined by the Secretary, taking into consideration any payment received by the producer from a State or local government.

''(B) LIMITATION.—A producer who owns or operates a large confined livestock operation (as defined by the Secretary) shall not be eligible for cost-share payments to construct an animal waste management facility.

''(C) OTHER PAYMENTS.—A producer shall not be eligible for cost-share payments for structural practices on eligible land under this chapter if the producer receives cost-share payments or other benefits for the same land under chapter 1 or 3.

''(2) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage a producer to perform 1 or more land management practices.

''(3) TECHNICAL ASSISTANCE.—

''(A) FUNDING.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided for a fiscal year. The allocated amount may vary according to the type of expertise required, quantity of time involved, and other factors as determined appropriate by the Secretary. Funding shall not exceed the projected cost to the Secretary of the technical assistance provided for a fiscal year.

''(B) OTHER AUTHORITIES.—The receipt of technical assistance under this chapter shall not affect the eligibility of the producer to receive technical assistance under other authorities of law available to the Secretary.

''(C) PRIVATE SOURCES.—The Secretary shall ensure that the processes of writing and developing proposals and plans for contracts under this chapter, and of assisting in the implementation of structural practices and land management practices covered by the contracts, are open to individuals in agribusiness, including agricultural producers, representatives from agricultural cooperatives, agricultural input retail dealers, and certified crop advisers. The requirements of this subparagraph shall also apply to any other conservation program of the Department of Agriculture that provides incentive payments, technical assistance, or cost-share payments.

''(f) MODIFICATION OR TERMINATION OF CONTRACTS.—

''(1) VOLUNTARY MODIFICATION OR TERMINATION.—The Secretary may modify or terminate a contract entered into with a producer under this chapter if—

''(A) the producer agrees to the modification or termination; and

''(B) the Secretary determines that the modification or termination is in the public interest.

''(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under this chapter if the Secretary determines that the producer violated the contract.

''(g) NON-FEDERAL ASSISTANCE.—The Secretary may request the services of a State water quality agency, State fish and wildlife agency, State forestry agency, or any other governmental or private resource considered appropriate to assist in providing the technical assistance necessary for the development and implementation of a structural practice or land management practice.

''SEC. 1240C. EVALUATION OF OFFERS AND PAYMENTS.

''In providing technical assistance, cost-share payments, and incentive payments to producers, the Secretary shall accord a higher priority to assistance and payments that—

''(1) are provided in conservation priority areas established under section 1230(c);

''(2) maximize environmental benefits per dollar expended; or

''(3) are provided in watersheds, regions, or conservation priority areas in which State or local governments have provided, or will provide, financial or technical assistance to producers for the same conservation or environmental purposes.

''SEC. 1240D. DUTIES OF PRODUCERS.

''To receive technical assistance, cost-share payments, or incentive payments under this chapter, a producer shall agree—

''(1) to implement an environmental quality incentives program plan that describes conservation and environmental goals to be achieved through a structural practice or land management practice, or both, that is approved by the Secretary;

''(2) not to conduct any practices on the farm or ranch that would tend to defeat the purposes of this chapter;

''(3) on the violation of a term or condition of the contract at any time the producer has control of the land, to refund any cost-share or incentive payment received with interest, and forfeit any future payments under this chapter, as determined by the Secretary;

''(4) on the transfer of the right and interest of the producer in land subject to the contract, unless the transferee of the right and interest agrees with the Secretary to assume all obligations of the contract, to refund all cost-share payments and incentive payments received under this chapter, as determined by the Secretary;

''(5) to supply information as required by the Secretary to determine compliance with the environmental quality incentives program plan and requirements of the program; and

''(6) to comply with such additional provisions as the Secretary determines are necessary to carry out the environmental quality incentives program plan.

''SEC. 1240E. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

''(a) IN GENERAL.—To be eligible to enter into a contract under the environmental quality incentives program, an owner or producer of a livestock or agricultural operation must submit to the Secretary for approval a plan of operations that incorporates such conservation practices, and is based on such principles, as the Secretary considers necessary to carry out the program, including a description of structural practices and land management practices to be implemented and the objectives to be met by the plan's implementation.

''(b) AVOIDANCE OF DUPLICATION.—The Secretary shall, to the maximum extent practicable, eliminate duplication of planning activities under the environmental quality incentives program and comparable conservation programs.

''SEC. 1240F. DUTIES OF THE SECRETARY.

''To the extent appropriate, the Secretary shall assist a producer in achieving the conservation and environmental goals of an environmental quality incentives program plan by—

''(1) providing an eligibility assessment of the farming or ranching operation of the producer as a basis for developing the plan;

''(2) providing technical assistance in developing and implementing the plan;

''(3) providing technical assistance, cost-share payments, or incentive payments for developing and implementing 1 or more structural practices or 1 or more land management practices, as appropriate;

''(4) providing the producer with information, education, and training to aid in implementation of the plan; and

''(5) encouraging the producer to obtain technical assistance, cost-share payments, or grants from other Federal, State, local, or private sources.

''SEC. 1240G. LIMITATION ON PAYMENTS.

''(a) IN GENERAL.—The total amount of cost-share and incentive payments paid to a producer under this chapter may not exceed—

''(1) $10,000 for any fiscal year; or

''(2) $50,000 for any multiyear contract.

''(b) EXCEPTION TO ANNUAL LIMIT.—The Secretary may exceed the limitation on the annual amount of a payment under subsection (a)(1) on a case-by-case basis if the Secretary determines that a larger payment is—

''(1) essential to accomplish the land management practice or structural practice for which the payment is made; and

''(2) consistent with the maximization of environmental benefits per dollar expended and the purposes of this chapter specified in section 1240.

''(c) TIMING OF EXPENDITURES.—Expenditures under a contract entered into under this chapter during a fiscal year may not be made by the Secretary until the subsequent fiscal year.

''SEC. 1240H. TEMPORARY ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

''(a) INTERIM ADMINISTRATION.—

''(1) IN GENERAL.—During the period beginning on the date of enactment of this section and ending on the termination date provided under paragraph (2), to ensure that technical assistance, cost-share payments, and incentive payments continue to be administered in an orderly manner until such time as assistance can be provided through final regulations issued to implement the environmental quality incentives program established under this chapter, the Secretary shall continue to—

''(A) provide technical assistance, cost-share payments, and incentive payments under the terms and conditions of the agricultural conservation program, the Great Plains conservation program, the water quality incentives program, and the Colorado River Basin salinity control program, to the extent the terms and conditions of the program are consistent with the environmental quality incentives program; and

''(B) use for those purposes—

''(i) any funds remaining available for the agricultural conservation program, the

Great Plains conservation program, the water quality incentives program, and the Colorado River Basin salinity control program; and

''(ii) as the Secretary determines to be necessary, any funds authorized to be used to carry out the environmental quality incentives program.

''(2) TERMINATION OF AUTHORITY.—The authority of the Secretary to carry out paragraph (1) shall terminate on the date that is 180 days after the date of enactment of this section.

''(b) PERMANENT ADMINISTRATION.—Effective beginning on the termination date provided under subsection (a)(2), the Secretary shall provide technical assistance, cost-share payments, and incentive payments for structural practices and land management practices related to crop and livestock production in accordance with final regulations issued to carry out the environmental quality incentives program.''.

SEC. 335. CONSERVATION FARM OPTION.

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) (as amended by section 334) is amended by adding at the end the following:

''CHAPTER 5—CONSERVATION FARM OPTION

''SEC. 1240M. CONSERVATION FARM OPTION.

''(a) IN GENERAL.—The Secretary shall establish conservation farm option pilot programs for producers of wheat, feed grains, cotton, and rice.

''(b) ELIGIBLE OWNERS AND PRODUCERS.—An owner or producer with a farm that has contract acreage enrolled in the agricultural market transition program established under the Agricultural Market Transition Act shall be eligible to participate in the conservation farm option offered under a pilot program under subsection (a) if the owner or producer meets the conditions established under section (e).

''(c) PURPOSES.—The purposes of the conservation farm option pilot programs shall include—

''(1) conservation of soil, water, and related resources;

''(2) water quality protection or improvement;

''(3) wetland restoration, protection, and creation;

''(4) wildlife habitat development and protection; or

''(5) other similar conservation purposes.

''(d) CONSERVATION FARM PLAN.—

''(1) IN GENERAL.—To be eligible to enter into a conservation farm option contract, an owner or producer must prepare and submit to the Secretary, for approval, a conservation farm plan that shall become a part of the conservation farm option contract.

''(2) REQUIREMENTS.—A conservation farm plan shall—

''(A) describe the resource-conserving crop rotations, and all other conservation practices, to be implemented and maintained on the acreage that is subject to contract during the contract period;

''(B) contain a schedule for the implementation and maintenance of the practices described in the conservation farm plan;

''(C) comply with highly erodible land and wetland conservation requirements of this title; and

''(D) contain such other terms as the Secretary may require.

''(e) CONTRACTS.—

''(1) IN GENERAL.—On approval of a conservation farm plan, the Secretary may enter into a contract with the owner or producer that specifies the acres being enrolled and the practices being adopted.

''(2) DURATION OF CONTRACT.—The contract shall be for a period of 10 years. The contract may be renewed for a period of not to exceed 5 years on mutual agreement of the Secretary and the owner or producer.

''(3) CONSIDERATION.—In exchange for payments under this subsection, the owner or producer shall not participate in and shall forgo payments under—

''(A) the conservation reserve program established under subchapter B of chapter 1;

''(B) the wetlands reserve program established under subchapter C of chapter 1; and

''(C) the environmental quality incentives program established under chapter 4.

''(4) OWNER OR PRODUCER RESPONSIBILITIES UNDER THE AGREEMENT.—Under the terms of the contract entered into under this section, an owner or producer shall agree to—

''(A) actively comply with the terms and conditions of the approved conservation farm plan;

''(B) keep such records as the Secretary may reasonably require for purposes of evaluation of the implementation of the conservation farm plan; and

''(C) not engage in any activity that would defeat the purposes of the conservation farm option pilot program.

''(5) PAYMENTS.—The Secretary shall offer an owner or producer annual payments under the contract that are equivalent to the payments the owner or producer would have received under the conservation reserve program, the wetlands reserve program, and the environmental quality incentives program.

''(6) BALANCE OF BENEFITS.—The Secretary shall not permit an owner or producer to terminate a conservation reserve program contract and enter a conservation farm option contract if the Secretary determines that such action will reduce net environmental benefits.

''(f) SECRETARIAL DETERMINATIONS.—

''(1) ACREAGE ESTIMATES.—Prior to each year during which the Secretary intends to offer conservation reserve program contracts, the Secretary shall estimate the number of acres that—

''(A) will be retired under the conservation farm option under the terms and conditions the Secretary intends to offer for that program; and

''(B) would be retired under the conservation reserve program if the conservation farm option were not available.

''(2) TOTAL LAND RETIREMENT.—The Secretary shall announce a number of acres to be enrolled in the conservation reserve program that will result in a total number of acres retired under the conservation reserve program and the conservation farm option that does not exceed the amount estimated under paragraph (1)(B) for the current or future years.

''(3) LIMITATION.—The Secretary shall not enroll additional conservation reserve program contracts to offset the land retired under the conservation farm option.

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

''(h) FUNDING.—Of the funds of the Commodity Credit Corporation, the Corporation shall make available to carry out this section—

''(1) $7,500,000 for fiscal year 1997;

''(2) $15,000,000 for fiscal year 1998;

''(3) $25,000,000 for fiscal year 1999;

''(4) $37,500,000 for fiscal year 2000;

''(5) $50,000,000 for fiscal year 2001; and

''(6) $62,500,000 for fiscal year 2002.''.

SEC. 336. REPEAL OF SUPERSEDED AUTHORITIES.

(a) AGRICULTURAL CONSERVATION PROGRAM.—

(1) ELIMINATION.—

(A) Section 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h) is amended—

(i) in subsection (b)—

(I) by striking paragraphs (1) through (4) and inserting the following:

''(1) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—The Secretary shall provide technical assistance, cost-share payments, and incentive payments to operators through the environmental quality incentives program in accordance with chapter 4 of subtitle D of title XII of the Food Security Act of 1985.''; and

(II) by striking paragraphs (6) through (8); and

(ii) by striking subsections (d), (e), and (f).

(B) The first sentence of section 11 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590k) is amended by striking ''performance: *Provided further,*'' and all that follows through ''or other law'' and inserting ''performance''.

(C) Section 14 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590n) is amended—

(i) in the first sentence, by striking ''or 8''; and

(ii) by striking the second sentence.

(D) Section 15 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590o) is amended—

(i) in the first undesignated paragraph—

(I) in the first sentence, by striking ''sections 7 and 8'' and inserting ''section 7''; and

(II) by striking the third sentence; and

(ii) by striking the second undesignated paragraph.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of the last proviso of the matter under the heading ''CONSERVATION RESERVE PROGRAM'' under the heading ''SOIL BANK PROGRAMS'' of title I of the Department of Agriculture and Farm Credit Administration Appropriation Act, 1959 (72 Stat. 195; 7 U.S.C. 1831a), is amended by striking ''Agricultural Conservation Program'' and inserting ''environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985''.

(B) Section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) is amended by striking ''as added by the Agriculture and Consumer Protection Act of 1973'' each place it appears in subsections (d) and (i) and inserting ''as in effect before the amendment made by section 336(d)(1) of the Federal Agriculture Improvement and Reform Act of 1996''.

(C) Section 226(b)(4) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6932(b)(4)) is amended by striking ''and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.)''.

(D) Section 246(b)(8) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)(8)) is amended by striking ''and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.)''.

(E) Section 1271(c)(3)(C) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 2106a(c)(3)(C)) is amended by striking ''Agricultural Conservation Program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h, 590l, or 590p)'' and inserting ''environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985''.

(F) Section 304(a) of the Lake Champlain Special Designation Act of 1990 (Public Law 101–596; 33 U.S.C. 1270 note) is amended—

(i) in the subsection heading, by striking ''SPECIAL PROJECT AREA UNDER THE AGRICULTURAL CONSERVATION PROGRAM'' and inserting ''PRIORITY AREA UNDER THE ENVIRONMENTAL QUALITY INCENTIVES PROGRAM''; and

(ii) in paragraph (1), by striking ''special project area under the Agricultural Con-

servation Program established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b))'' and inserting ''priority area under the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985''.

(G) Section 6 of the Department of Agriculture Organic Act of 1956 (70 Stat. 1033) is amended by striking subsection (b).

(b) GREAT PLAINS CONSERVATION PROGRAM.—

(1) ELIMINATION.—Section 16 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) The Agricultural Adjustment Act of 1938 is amended by striking ''Great Plains program'' each place it appears in sections 344(f)(8) and 377 (7 U.S.C. 1344(f)(8) and 1377) and inserting ''environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985''.

(B) Section 246(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)) is amended by striking paragraph (2).

(c) COLORADO RIVER BASIN SALINITY CONTROL PROGRAM.—

(1) IN GENERAL.—Section 202 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592) is amended by striking subsection (c) and inserting the following:

''(c) SALINITY CONTROL MEASURES.—The Secretary of Agriculture shall carry out salinity control measures (including watershed enhancement and cost-share measures with livestock and crop producers) in the Colorado River Basin as part of the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985.''.

(2) FUNDS.—Section 205 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1595) is amended—

(A) in subsection (a), by striking ''pursuant to section 202(c)(2)(C)''; and

(B) by adding at the end the following:

''(f) FUNDS.—The Secretary may expend funds available in the Basin Funds referred to in this section to carry out cost-share salinity measures in a manner that is consistent with the cost allocations required under this section.''.

(3) CONFORMING AMENDMENT.—Section 246(b)(6) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)(6)) is amended by striking ''program'' and inserting ''measures''.

(d) RURAL ENVIRONMENTAL CONSERVATION PROGRAM.—

(1) ELIMINATION.—Title X of the Agricultural Act of 1970 (16 U.S.C. 1501 et seq.) is repealed.

(2) CONFORMING AMENDMENTS.—Section 246 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962) (as amended by subsection (b)(2)(B))) is amended—

(A) in subsection (b)—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (3) through (8) as paragraphs (1) through (6), respectively; and

(B) in subsection (c), by striking ''(2), (3), (4), and (6)'' and inserting ''(1), (2), and (4)''.

(e) OTHER CONSERVATION PROVISIONS.—Subtitle F of title XII of the Food Security Act of 1985 (16 U.S.C. 2005a and 2101 note) is repealed.

(f) RESOURCE CONSERVATION.—

(1) ELIMINATION.—Subtitles A, B, D, E, and F of title XV of the Agriculture and Food Act of 1981 (95 Stat. 1328; 16 U.S.C. 3401 et seq.) are repealed.

(2) CONFORMING AMENDMENT.—Section 739 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1992 (7 U.S.C. 2272a), is repealed.

(g) TECHNICAL AMENDMENT.—The first sentence of the matter under the heading ''COMMODITY CREDIT CORPORATION'' of Public Law 99–263 (100 Stat. 59; 16 U.S.C. 3841 note) is amended by striking ''prices: *Provided further*,'' and all that follows through ''Acts.'' and inserting ''prices.''.

(h) AGRICULTURAL WATER QUALITY INCENTIVES PROGRAM.—Chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.) is repealed.

Subtitle E—Conservation Funding and Administration

SEC. 341. CONSERVATION FUNDING AND ADMINISTRATION.

Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended to read as follows:

"Subtitle E—Funding and Administration

"SEC. 1241. FUNDING.

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

''(1) subchapter B of chapter 1 of subtitle D (including contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note));

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

''(3) chapter 4 of subtitle D.

''(b) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—

''(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available $130,000,000 for fiscal year 1996, and $200,000,000 for each of fiscal years 1997 through 2002, for providing technical assistance, cost-share payments, incentive payments, and education under the environmental quality incentives program under chapter 4 of subtitle D.

''(2) LIVESTOCK PRODUCTION.—For each of fiscal years 1996 through 2002, 50 percent of the funding available for technical assistance, cost-share payments, incentive payments, and education under the environmental quality incentives program shall be targeted at practices relating to livestock production.

"SEC. 1242. USE OF OTHER AGENCIES.

''(a) COMMITTEES.—In carrying out subtitles B, C, and D, the Secretary shall use the services of local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

''(b) OTHER AGENCIES.—

''(1) USE.—In carrying out subtitles C and D, the Secretary may utilize the services of the Natural Resources Conservation Service and the Forest Service, the Fish and Wildlife Service, State forestry agencies, State fish and game agencies, land-grant colleges, local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h), soil and water conservation districts, and other appropriate agencies.

''(2) CONSULTATION.—In carrying out subtitle D at the State and county levels, the Secretary shall consult with, to the extent practicable, the Fish and Wildlife Service, State forestry agencies, State fish and game agencies, land-grant colleges, soil-conservation districts, and other appropriate agencies.

"SEC. 1243. ADMINISTRATION.

''(a) PLANS.—The Secretary shall, to the extent practicable, avoid duplication in—

''(1) the conservation plans required for—

''(A) highly erodible land conservation under subtitle B;

''(B) the conservation reserve program established under subchapter B of chapter 1 of subtitle D; and

''(C) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D; and

''(2) the environmental quality incentives program established under chapter 4 of subtitle D.

''(b) ACREAGE LIMITATION.—

''(1) IN GENERAL.—The Secretary shall not enroll more than 25 percent of the cropland in any county in the programs administered under the conservation reserve and wetlands reserve programs established under subchapters B and C, respectively, of chapter 1 of subtitle D. Not more than 10 percent of the cropland in a county may be subject to an easement acquired under the subchapters.

''(2) EXCEPTION.—The Secretary may exceed the limitations in paragraph (1) if the Secretary determines that—

''(A) the action would not adversely affect the local economy of a county; and

''(B) operators in the county are having difficulties complying with conservation plans implemented under section 1212.

''(3) SHELTERBELTS AND WINDBREAKS.—The limitations established under this subsection shall not apply to cropland that is subject to an easement under chapter 1 or 3 of subtitle D that is used for the establishment of shelterbelts and windbreaks.

''(c) TENANT PROTECTION.—Except for a person who is a tenant on land that is subject to a conservation reserve contract that has been extended by the Secretary, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under the programs established under subtitles B through D.

''(d) PROVISION OF TECHNICAL ASSISTANCE BY OTHER SOURCES.—In the preparation and application of a conservation compliance plan under subtitle B or similar plan required as a condition for assistance from the Department of Agriculture, the Secretary shall permit persons to secure technical assistance from approved sources, as determined by the Secretary, other than the Natural Resources Conservation Service. If the Secretary rejects a technical determination made by such a source, the basis of the Secretary's determination must be supported by documented evidence.

''(e) REGULATIONS.—Not later than 90 days after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, the Secretary shall issue regulations to implement the conservation reserve and wetlands reserve programs established under chapter 1 of subtitle D.''.

SEC. 342. STATE TECHNICAL COMMITTEES.

(a) COMPOSITION.—Section 1261(c) of the Food Security Act of 1985 (16 U.S.C. 3861(c))—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(9) agricultural producers with demonstrable conservation expertise;

''(10) nonprofit organizations with demonstrable conservation expertise;

''(11) persons knowledgeable about conservation techniques; and

''(12) agribusiness.''.

(b) RESPONSIBILITIES.—Section 1262 of the Food Security Act of 1985 (16 U.S.C. 3862) is amended—

(1) in subsection (a), by adding at the end the following: ''Each State technical committee shall provide public notice of, and permit public attendance at meetings considering, issues of concern related to carrying out this title.'';

(2) in subsection (b)(1), by adding at the end the following: ''Each State technical committee shall establish criteria and guide-

lines for evaluating petitions by agricultural producers regarding new conservation practices and systems not already described in field office technical guides.''; and

(3) in subsection (c)—

(A) in paragraph (7), by striking ''and'' at the end;

(B) by redesignating paragraph (8) as paragraph (9); and

(C) by inserting after paragraph (7) the following:

''(8) establishing criteria and priorities for State initiatives under the environmental quality incentives program under chapter 4 of subtitle D; and''.

SEC. 343. PUBLIC NOTICE AND COMMENT FOR REVISIONS TO CERTAIN STATE TECHNICAL GUIDES.

After the date of enactment of this Act, the Secretary of Agriculture shall provide for public notice and comment under section 553 of title 5, United States Code, with regard to any future revisions to those provisions of the Natural Resources Conservation Service State technical guides that are used to carry out subtitles A, B, and C of title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.).

Subtitle F—National Natural Resources Conservation Foundation

SEC. 351. SHORT TITLE.

This subtitle may be cited as the ''National Natural Resources Conservation Foundation Act''.

SEC. 352. DEFINITIONS.

In this subtitle (unless the context otherwise requires):

(1) BOARD.—The term ''Board'' means the Board of Trustees established under section 354.

(2) DEPARTMENT.—The term ''Department'' means the Department of Agriculture.

(3) FOUNDATION.—The term ''Foundation'' means the National Natural Resources Conservation Foundation established by section 353(a).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 353. NATIONAL NATURAL RESOURCES CONSERVATION FOUNDATION.

(a) ESTABLISHMENT.—A National Natural Resources Conservation Foundation is established as a charitable and nonprofit corporation for charitable, scientific, and educational purposes specified in subsection (b). The Foundation is not an agency or instrumentality of the United States.

(b) DUTIES.—The Foundation shall—

(1) promote innovative solutions to the problems associated with the conservation of natural resources on private lands, particularly with respect to agriculture and soil and water conservation;

(2) promote voluntary partnerships between government and private interests in the conservation of natural resources;

(3) conduct research and undertake educational activities, conduct and support demonstration projects, and make grants to State and local agencies and nonprofit organizations;

(4) provide such other leadership and support as may be necessary to address conservation challenges, such as the prevention of excessive soil erosion, the enhancement of soil and water quality, and the protection of wetlands, wildlife habitat, and strategically important farmland subject to urban conversion and fragmentation;

(5) encourage, accept, and administer private gifts of money and real and personal property for the benefit of, or in connection with, the conservation and related activities and services of the Department, particularly the Natural Resources Conservation Service;

(6) undertake, conduct, and encourage educational, technical, and other assistance, and other activities, that support the conservation and related programs administered by the Department (other than activities carried out on National Forest System lands), particularly the Natural Resources Conservation Service, except that the Foundation may not enforce or administer a regulation of the Department; and

(7) raise private funds to promote the purposes of the Foundation.

(c) LIMITATIONS AND CONFLICTS OF INTEREST.—

(1) POLITICAL ACTIVITIES.—The Foundation shall not participate or intervene in a political campaign on behalf of any candidate for public office.

(2) CONFLICTS OF INTEREST.—No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation affecting—

(A) the financial interests of the director, officer, or employee; or

(B) the interests of any corporation, partnership, entity, organization, or other person in which the director, officer, or employee—

(i) is an officer, director, or trustee; or

(ii) has any direct or indirect financial interest.

(3) LEGISLATION OR GOVERNMENT ACTION OR POLICY.—No funds of the Foundation may be used in any manner for the purpose of influencing legislation or government action or policy.

(4) LITIGATION.—No funds of the Foundation may be used to bring or join an action against the United States.

SEC. 354. COMPOSITION AND OPERATION.

(a) COMPOSITION.—The Foundation shall be administered by a Board of Trustees that shall consist of 9 voting members, each of whom shall be a United States citizen and not a Federal officer. The Board shall be composed of—

(1) individuals with expertise in agricultural conservation policy matters;

(2) a representative of private sector organizations with a demonstrable interest in natural resources conservation;

(3) a representative of statewide conservation organizations;

(4) a representative of soil and water conservation districts;

(5) a representative of organizations outside the Federal Government that are dedicated to natural resources conservation education; and

(6) a farmer or rancher.

(b) NONGOVERNMENTAL EMPLOYEES.—Service as a member of the Board shall not constitute employment by, or the holding of, an office of the United States for the purposes of any Federal law.

(c) MEMBERSHIP.—

(1) INITIAL MEMBERS.—The Secretary shall appoint 9 persons who meet the criteria established under subsection (a) as the initial members of the Board and designate 1 of the members as the initial chairperson for a 2-year term.

(2) TERMS OF OFFICE.—

(A) IN GENERAL.—A member of the Board shall serve for a term of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) LIMITATION ON TERMS.—No individual may serve more than 2 consecutive 3-year terms as a member of the Board.

(3) SUBSEQUENT MEMBERS.—The initial members of the Board shall adopt procedures in the constitution of the Foundation for the nomination and selection of subsequent members of the Board. The procedures shall require that each member, at a minimum, meets the criteria established under subsection (a) and shall provide for the selection of an individual, who is not a Federal officer or a member of the Board.

(d) CHAIRPERSON.—After the appointment of an initial chairperson under subsection (c)(1), each succeeding chairperson of the Board shall be elected by the members of the Board for a 2-year term.

(e) VACANCIES.—A vacancy on the Board shall be filled by the Board not later than 60 days after the occurrence of the vacancy.

(f) COMPENSATION.—A member of the Board shall receive no compensation from the Foundation for the service of the member on the Board.

(g) TRAVEL EXPENSES.—While away from the home or regular place of business of a member of the Board in the performance of services for the Board, the member shall be allowed travel expenses paid by the Foundation, including per diem in lieu of subsistence, at the same rate as a person employed intermittently in the Government service is allowed under section 5703 of title 5, United States Code.

SEC. 355. OFFICERS AND EMPLOYEES.

(a) IN GENERAL.—The Board may—

(1) appoint, hire, and discharge the officers and employees of the Foundation, other than appoint the initial Executive Director of the Foundation;

(2) adopt a constitution and bylaws for the Foundation that are consistent with the purposes of this subtitle; and

(3) undertake any other activities that may be necessary to carry out this subtitle.

(b) OFFICERS AND EMPLOYEES.—

(1) APPOINTMENT AND HIRING.—An officer or employee of the Foundation—

(A) shall not, by virtue of the appointment or employment of the officer or employee, be considered a Federal employee for any purpose, including the provisions of title 5, United States Code, governing appointments in the competitive service, except that such an individual may participate in the Federal employee retirement system as if the individual were a Federal employee; and

(B) may not be paid by the Foundation a salary in excess of $125,000 per year.

(2) EXECUTIVE DIRECTOR.—

(A) INITIAL DIRECTOR.—The Secretary shall appoint an individual to serve as the initial Executive Director of the Foundation who shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

(B) SUBSEQUENT DIRECTORS.—The Board shall appoint each subsequent Executive Director of the Foundation who shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

(C) QUALIFICATIONS.—The Executive Director shall be knowledgeable and experienced in matters relating to natural resources conservation.

SEC. 356. CORPORATE POWERS AND OBLIGATIONS OF THE FOUNDATION.

(a) IN GENERAL.—The Foundation—

(1) may conduct business throughout the United States and the territories and possessions of the United States; and

(2) shall at all times maintain a designated agent who is authorized to accept service of process for the Foundation, so that the serving of notice to, or service of process on, the agent, or mailed to the business address of the agent, shall be considered as service on or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board that shall be judicially noticed.

(c) POWERS.—To carry out the purposes of the Foundation under section 353(b), the Foundation shall have, in addition to the powers otherwise provided under this subtitle, the usual powers of a corporation, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or per-

sonal property or any income from, or other interest in, the gift, devise, or bequest;

(2) to acquire by purchase or exchange any real or personal property or interest in property, except that funds provided under section 360 may not be used to purchase an interest in real property;

(3) unless otherwise required by instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income from property;

(4) to borrow money from private sources and issue bonds, debentures, or other debt instruments, subject to section 359, except that the aggregate amount of the borrowing and debt instruments outstanding at any time may not exceed $1,000,000;

(5) to sue and be sued, and complain and defend itself, in any court of competent jurisdiction, except that a member of the Board shall not be personally liable for an action in the performance of services for the Board, except for gross negligence;

(6) to enter into a contract or other agreement with an agency of State or local government, educational institution, or other private organization or person and to make such payments as may be necessary to carry out the functions of the Foundation; and

(7) to do any and all acts that are necessary to carry out the purposes of the Foundation.

(d) INTERESTS IN PROPERTY.—

(1) INTERESTS IN REAL PROPERTY.—The Foundation may acquire, hold, and dispose of lands, waters, or other interests in real property by donation, gift, devise, purchase, or exchange. An interest in real property shall be treated, among other things, as including an easement or other right for the preservation, conservation, protection, or enhancement of agricultural, natural, scenic, historic, scientific, educational, inspirational, or recreational resources.

(2) GIFTS.—A gift, devise, or bequest may be accepted by the Foundation even though the gift, devise, or bequest is encumbered, restricted, or subject to a beneficial interest of a private person if any current or future interest in the gift, devise, or bequest is for the benefit of the Foundation.

SEC. 357. ADMINISTRATIVE SERVICES AND SUPPORT.

For each of fiscal years 1996 through 1998, the Secretary may provide, without reimbursement, personnel, facilities, and other administrative services of the Department to the Foundation.

SEC. 358. AUDITS AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—

(1) IN GENERAL.—The accounts of the Foundation shall be audited in accordance with Public Law 88–504 (36 U.S.C. 1101 et seq.), including an audit of lobbying and litigation activities carried out by the Foundation.

(2) CONFORMING AMENDMENT.—The first section of Public Law 88–504 (36 U.S.C. 1101) is amended by adding at the end the following:

''(77) The National Natural Resources Conservation Foundation.''.

(b) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—The Attorney General may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate, if the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with this subtitle; or

(2) refuses, fails, neglects, or threatens to refuse, fail, or neglect, to discharge the obligations of the Foundation under this subtitle.

SEC. 359. RELEASE FROM LIABILITY.

(a) IN GENERAL.—The United States shall not be liable for any debt, default, act, or omission of the Foundation. The full faith and credit of the United States shall not extend to the Foundation.

(b) STATEMENT.—An obligation issued by the Foundation, and a document offering an obligation, shall include a prominent statement that the obligation is not directly or indirectly guaranteed, in whole or in part, by the United States (or an agency or instrumentality of the United States).

SEC. 360. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department to be made available to the Foundation $1,000,000 for each of fiscal years 1997 through 1999 to initially establish and carry out activities of the Foundation.

Subtitle G—Forestry

SEC. 371. OFFICE OF INTERNATIONAL FORESTRY.

Section 2405 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6704) is amended by adding at the end the following:

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1996 through 2002 such sums as are necessary to carry out this section.''.

SEC. 372. COOPERATIVE WORK FOR PROTECTION, MANAGEMENT, AND IMPROVEMENT OF NATIONAL FOREST SYSTEM.

The penultimate paragraph of the matter under the heading ''FOREST SERVICE.'' of the first section of the Act of June 30, 1914 (38 Stat. 430, chapter 131; 16 U.S.C. 498), is amended—

(1) by inserting '', management,'' after ''the protection'';

(2) by striking ''national forests,'' and inserting ''National Forest System,'';

(3) by inserting ''management,'' after ''protection,'' both places it appears; and

(4) by adding at the end the following: ''Payment for work undertaken pursuant to this paragraph may be made from any appropriation of the Forest Service that is available for similar work if a written agreement so provides and reimbursement will be provided by a cooperator in the same fiscal year as the expenditure by the Forest Service. A reimbursement received from a cooperator that covers the proportionate share of the cooperator of the cost of the work shall be deposited to the credit of the appropriation of the Forest Service from which the payment was initially made or, if the appropriation is no longer available, to the credit of an appropriation of the Forest Service that is available for similar work. The Secretary of Agriculture shall establish written rules that establish criteria to be used to determine whether the acceptance of contributions of money under this paragraph would adversely affect the ability of an officer or employee of the Department of Agriculture to carry out a duty or program of the officer or employee in a fair and objective manner or would compromise, or appear to compromise, the integrity of the program, officer, or employee. The Secretary of Agriculture shall establish written rules that protect the interests of the Forest Service in cooperative work agreements.''.

SEC. 373. FORESTRY INCENTIVES PROGRAM.

Section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) is amended—

(1) in subsection (j), by striking ''annually'' and inserting ''for each of fiscal years 1996 through 2002''; and

(2) by striking subsection (k).

SEC. 374. OPTIONAL STATE GRANTS FOR FOREST LEGACY PROGRAM.

Section 7 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c) is amended—

(1) by redesignating subsection (l) as subsection (m); and

(2) by inserting after subsection (k) the following:

''(l) OPTIONAL STATE GRANTS.—

''(1) IN GENERAL.—The Secretary shall, at the request of a participating State, provide a grant to the State to carry out the Forest Legacy Program in the State.

''(2) ADMINISTRATION.—If a State elects to receive a grant under this subsection—

''(A) the Secretary shall use a portion of the funds made available under subsection (m), as determined by the Secretary, to provide a grant to the State; and

''(B) the State shall use the grant to carry out the Forest Legacy Program in the State, including the acquisition by the State of lands and interests in lands.''.

Subtitle H—Miscellaneous Conservation Provisions

SEC. 381. CONSERVATION ACTIVITIES OF COMMODITY CREDIT CORPORATION.

(a) IN GENERAL.—Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

''(g) Carry out conservation or environmental programs authorized by law.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1997.

SEC. 382. FLOODPLAIN EASEMENTS.

Section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) is amended by inserting '', including the purchase of floodplain easements,'' after ''emergency measures''.

SEC. 383. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.

Section 1538 of the Agriculture and Food Act of 1981 (16 U.S.C. 3461) is amended by striking ''1991 through 1995'' and inserting ''1996 through 2002''.

SEC. 384. REPEAL OF REPORT REQUIREMENT.

Section 1342 of title 44, United States Code, is repealed.

SEC. 385. FLOOD RISK REDUCTION.

(a) IN GENERAL.—During fiscal years 1996 through 2002, the Secretary of Agriculture (referred to in this section as the ''Secretary'') may enter into a contract with a producer on a farm who has contract acreage under the Agricultural Market Transition Act that is frequently flooded.

(b) DUTIES OF PRODUCERS.—Under the terms of the contract, with respect to acres that are subject to the contract, the producer must agree to—

(1) the termination of any contract acreage and production flexibility contract under the Agricultural Market Transition Act;

(2) forgo loans for contract commodities, oilseeds, and extra long staple cotton;

(3) not apply for crop insurance issued or reinsured by the Secretary;

(4) comply with applicable highly erodible land and wetlands conservation compliance requirements established under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.);

(5) not apply for any conservation program payments from the Secretary;

(6) not apply for disaster program benefits provided by the Secretary; and

(7) refund the payments, with interest, issued under the flood risk reduction contract to the Secretary, if the producer violates the terms of the contract or if the producer transfers the property to another person who violates the contract.

(c) DUTIES OF THE SECRETARY.—In return for a contract entered into by a producer under this section, the Secretary shall pay the producer an amount that is not more than 95 percent of projected contract payments under the Agricultural Market Tran-

sition Act that the Secretary estimates the producer would otherwise have received during the period beginning at the time the contract is entered into under this section and ending September 30, 2002.

(d) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section (other than subsection (e)) through the Commodity Credit Corporation.

(e) ADDITIONAL PAYMENTS.—

(1) IN GENERAL.—Subject to the availability of advanced appropriations, the Secretary may make payments to a producer described in subsection (a), in addition to the payments provided under subsection (c), to offset other estimated Federal Government outlays on frequently flooded land.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out paragraph (1).

(f) LIMITATION ON PAYMENTS.—Amounts made available for production flexibility contracts under section 113 shall be reduced by an amount that is equal to the contract payments that producers forgo under subsection (b)(1) of this section.

SEC. 386. CONSERVATION OF PRIVATE GRAZING LAND.

(a) FINDINGS.—Congress finds that—

(1) private grazing land constitutes nearly ½ of the non-Federal land of the United States and is basic to the environmental, social, and economic stability of rural communities;

(2) private grazing land contains a complex set of interactions among soil, water, air, plants, and animals;

(3) grazing land constitutes the single largest watershed cover type in the United States and contributes significantly to the quality and quantity of water available for all of the many uses of the land;

(4) private grazing land constitutes the most extensive wildlife habitat in the United States;

(5) private grazing land can provide opportunities for improved nutrient management from land application of animal manures and other by-product nutrient resources;

(6) owners and managers of private grazing land need to continue to recognize conservation problems when the problems arise and receive sound technical assistance to improve or conserve grazing land resources to meet ecological and economic demands;

(7) new science and technology must continually be made available in a practical manner so owners and managers of private grazing land may make informed decisions concerning vital grazing land resources;

(8) agencies of the Department with private grazing land responsibilities are the agencies that have the expertise and experience to provide technical assistance, education, and research to owners and managers of private grazing land for the long-term productivity and ecological health of grazing land;

(9) although competing demands on private grazing land resources are greater than ever before, assistance to private owners and managers of private grazing land is currently limited and does not meet the demand and basic need for adequately sustaining or enhancing the private grazing land resources; and

(10) private grazing land can be enhanced to provide many benefits to all citizens of the United States through voluntary cooperation among owners and managers of the land, local conservation districts, and the agencies of the Department responsible for providing assistance to owners and managers of land and to conservation districts.

(b) PURPOSE.—It is the purpose of this section to authorize the Secretary to provide a coordinated technical, educational, and related assistance program to conserve and enhance private grazing land resources and provide related benefits to all citizens of the United States by—

(1) establishing a coordinated and cooperative Federal, State, and local grazing conservation program for management of private grazing land;

(2) strengthening technical, educational, and related assistance programs that provide assistance to owners and managers of private grazing land;

(3) conserving and improving wildlife habitat on private grazing land;

(4) conserving and improving fish habitat and aquatic systems through grazing land conservation treatment;

(5) protecting and improving water quality;

(6) improving the dependability and consistency of water supplies;

(7) identifying and managing weed, noxious weed, and brush encroachment problems on private grazing land; and

(8) integrating conservation planning and management decisions by owners and managers of private grazing land, on a voluntary basis.

(c) DEFINITIONS.—In this section:

(1) DEPARTMENT.—The term ''Department'' means the Department of Agriculture.

(2) PRIVATE GRAZING LAND.—The term ''private grazing land'' means private, State-owned, tribally-owned, and any other non-federally owned rangeland, pastureland, grazed forest land, and hay land.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(d) PRIVATE GRAZING LAND CONSERVATION ASSISTANCE.—

(1) ASSISTANCE TO GRAZING LANDOWNERS AND OTHERS.—Subject to the availability of appropriations for this section, the Secretary shall establish a voluntary program to provide technical, educational, and related assistance to owners and managers of private grazing land and public agencies, through local conservation districts, to enable the landowners, managers, and public agencies to voluntarily carry out activities that are consistent with this section, including—

(A) maintaining and improving private grazing land and the multiple values and uses that depend on private grazing land;

(B) implementing grazing land management technologies;

(C) managing resources on private grazing land, including—

(i) planning, managing, and treating private grazing land resources;

(ii) ensuring the long-term sustainability of private grazing land resources;

(iii) harvesting, processing, and marketing private grazing land resources; and

(iv) identifying and managing weed, noxious weed, and brush encroachment problems;

(D) protecting and improving the quality and quantity of water yields from private grazing land;

(E) maintaining and improving wildlife and fish habitat on private grazing land;

(F) enhancing recreational opportunities on private grazing land;

(G) maintaining and improving the aesthetic character of private grazing lands; and

(H) identifying the opportunities and encouraging the diversification of private grazing land enterprises.

(2) PROGRAM ELEMENTS.—

(A) FUNDING.—If funding is provided to carry out this section, it shall be provided through a specific line-item in the annual appropriations for the Natural Resources Conservation Service.

(B) TECHNICAL ASSISTANCE AND EDUCATION.—Personnel of the Department trained in pasture and range management shall be made available under the program to deliver and coordinate technical assistance and education to owners and managers of private grazing land, at the request of the owners and managers.

(e) GRAZING TECHNICAL ASSISTANCE SELF-HELP.—

(1) FINDINGS.—Congress finds that—

(A) there is a severe lack of technical assistance for farmers and ranchers who graze livestock;

(B) Federal budgetary constraints preclude any significant expansion, and may force a reduction of, current levels of technical support; and

(C) farmers and ranchers have a history of cooperatively working together to address common needs in the promotion of their products and in the drainage of wet areas through drainage districts.

(2) ESTABLISHMENT OF GRAZING DEMONSTRATION.—In accordance with paragraph (3), the Secretary may establish 2 grazing management demonstration districts at the recommendation of the grazing lands conservation initiative steering committee.

(3) PROCEDURE.—

(A) PROPOSAL.—Within a reasonable time after the submission of a request of an organization of farmers or ranchers engaged in grazing, the Secretary shall propose that a grazing management district be established.

(B) FUNDING.—The terms and conditions of the funding and operation of the grazing management district shall be proposed by the producers.

(C) APPROVAL.—The Secretary shall approve the proposal if the Secretary determines that the proposal—

(i) is reasonable;

(ii) will promote sound grazing practices; and

(iii) contains provisions similar to the provisions contained in the beef promotion and research order issued under section 4 of the Beef Research and Information Act (7 U.S.C. 2903) in effect on the date of enactment of this Act.

(D) AREA INCLUDED.—The area proposed to be included in a grazing management district shall be determined by the Secretary on the basis of a petition by farmers or ranchers.

(E) AUTHORIZATION.—The Secretary may use authority under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to operate, on a demonstration basis, a grazing management district.

(F) ACTIVITIES.—The activities of a grazing management district shall be scientifically sound activities, as determined by the Secretary in consultation with a technical advisory committee composed of ranchers, farmers, and technical experts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $20,000,000 for fiscal year 1996;

(2) $40,000,000 for fiscal year 1997; and

(3) $60,000,000 for fiscal year 1998 and each subsequent fiscal year.

SEC. 387. WILDLIFE HABITAT INCENTIVES PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture, in consultation with the State technical committees established under section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), shall establish a program under the Natural Resources Conservation Service to be known as the ''Wildlife Habitat Incentive Program''.

(b) COST-SHARE PAYMENTS.—Under the program, the Secretary shall make cost-share payments to landowners to develop upland wildlife, wetland wildlife, threatened and endangered species, fish, and other types of wildlife habitat approved by the Secretary.

(c) FUNDING.—To carry out this section, a total of $50,000,000 shall be made available for fiscal years 1996 through 2002 from funds made available to carry out subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

SEC. 388. FARMLAND PROTECTION PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture shall establish and carry out a farmland protection program under which the Secretary shall purchase conservation easements or other interests in not less than 170,000, nor more than 340,000, acres of land with prime, unique, or other productive soil that is subject to a pending offer from a State or local government for the purpose of protecting topsoil by limiting non-agricultural uses of the land.

(b) CONSERVATION PLAN.—Any highly erodible cropland for which a conservation easement or other interest is purchased under this section shall be subject to the requirements of a conservation plan that requires, at the option of the Secretary, the conversion of the cropland to less intensive uses.

(c) FUNDING.—The Secretary shall use not more than $35,000,000 of the funds of the Commodity Credit Corporation to carry out this section.

SEC. 389. INTERIM MORATORIUM ON BYPASS FLOWS.

(a) MORATORIUM.—There shall be an 18-month moratorium on any Forest Service decision to require bypass flows or any other relinquishment of the unimpaired use of a decreed water right as a condition of renewal or reissuance of a land use authorization permit.

(b) LIMITATIONS.—Subsection (a) shall not affect—

(1) obligations or authority of the Secretary of Agriculture to protect public health and safety; and

(2) obligations or authority under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or applicable State law.

(c) RULES OF CONSTRUCTION.—

(1) EXISTING NON-FEDERAL WATER RIGHTS.—Nothing in this section prevents or inhibits the exercise of the use and operation of existing non-Federal water rights on or above the National Forest land that require land use authorization permits from the Forest Service to access water supply facilities.

(2) RENEWAL OR REISSUANCE OF EXPIRING LAND USE AUTHORIZATION FOR DECREED WATER RIGHTS.—Nothing in this section prevents or inhibits the renewal or reissuance of expiring land use authorizations for decreed water rights. The Forest Service may extend, as needed, any expiring land use authorization for such time as is necessary to incorporate the results of the study authorized by subsection (d).

(d) STUDY OF WATER RIGHTS ACROSS FEDERAL LANDS.—

(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, there shall be established a Water Rights Task Force to study the subjects described in paragraph (3).

(2) MEMBERSHIP.—The Task Force shall be composed of 7 members appointed as follows:

(A) 1 member shall be appointed by the Secretary of Agriculture.

(B) 2 members shall be appointed by the Speaker of the House of Representatives and 1 member shall be appointed by the Minority Leader of the House of Representatives.

(C) 2 members shall be appointed by the Majority Leader of the Senate and 1 member shall be appointed by the Minority Leader of the Senate.

(3) SUBJECTS TO BE STUDIED.—The Task Force shall study and make recommendations on—

(A) whether Federal water rights should be acquired for environmental protection on National Forest land;

(B) measures necessary to protect the free exercise of non-Federal water rights requiring easements and permits from the Forest Service;

(C) the protection of minimum instream flows for environmental and watershed management purposes on National Forest land through purchases or exchanges from willing sellers in accordance with State law;

(D) the effects of any of the recommendations made under this paragraph on existing State laws, regulations, and customs of water usage; and

(E) measures that would be useful in avoiding or resolving conflicts between the Forest Service's responsibilities for natural resource and environmental protection, the public interest, and the property rights and interests of water holders with special use permits for water facilities, including the study of the Federal acquisition of water rights, dispute resolution, mitigation, and compensation.

(4) FINAL REPORT.—As soon as practicable, but not later than 1 year, after the date of enactment of this Act, the Task Force shall provide the final report of the Task Force to—

(A) the Secretary of Agriculture;

(B) the Speaker of the House of Representatives;

(C) the President pro tempore of the Senate;

(D) the Chairman of the Committee on Agriculture of the House of Representatives;

(E) the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(F) the Chairman of the Committee on Resources of the House of Representatives; and

(G) the Chairman of the Committee on Energy and Natural Resources of the Senate.

(5) AUTHORIZATION OF FUNDS.—The Secretary of Agriculture shall use funds made available for salaries and administrative expenses of the Department of Agriculture to carry out this subsection.

SEC. 390. EVERGLADES ECOSYSTEM RESTORATION.

(a) IN GENERAL.—On July 1, 1996, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide $200,000,000 to the Secretary of the Interior to carry out this section.

(b) ENTITLEMENT.—The Secretary of the Interior (referred to in this section as the ''Secretary'')—

(1) shall be entitled to receive the funds made available under subsection (a);

(2) shall accept the funds; and

(3) shall use the funds to—

(A) conduct restoration activities in the Everglades ecosystem in South Florida, which shall include the acquisition of real property and interests in real property located within the Everglades ecosystem; and

(B) fund resource protection and resource maintenance activities in the Everglades ecosystem.

(c) SAVINGS PROVISION.—Nothing in this subsection precludes the Secretary from transferring funds to the Army Corps of Engineers, the State of Florida, or the South Florida Water Management District to carry out subsection (b)(3).

(d) DEADLINE.—The Secretary shall use the funds made available under subsection (a) for restoration activities referred to in subsection (b)(3) not later than December 31, 1999.

(e) REPORT TO CONGRESS.—For each of calendar years 1996 through 1999, the Secretary shall submit an annual report to Congress describing all activities carried out under subsection (b)(3).

(f) SEPARATE AND ADDITIONAL EVERGLADES RESTORATION ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury a special account (to be known as the ''Everglades Restoration Account''), which shall consist of such funds as may be deposited in the account under paragraph (2). The account shall be separate, and in addition to, funds deposited in the Treasury under subsection (a).

(2) SOURCE OF FUNDS FOR ACCOUNT.—

(A) PROCEEDS FROM SURPLUS PROPERTY.—

(i) IN GENERAL.—Subject to subparagraph (B), the Administrator shall deposit in the special account all funds received by the Administrator, on or after the date of enactment of this Act, from the disposal pursuant to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) of surplus real property located in the State of Florida.

(ii) AVAILABILITY AND DISPOSITION OF FEDERAL LAND.—

(I) IDENTIFICATION.—Any Federal real property located in the State of Florida (excluding lands under the administrative jurisdiction of the Secretary that are set aside for conservation purposes) shall be identified for disposal or exchange under this subsection and shall be presumed available for purposes of this subsection unless the head of the agency controlling the property determines that there is a compelling program need for any property identified by the Secretary.

(II) AVAILABILITY.—Property identified by the Secretary for which there is no demonstrated compelling program need shall, not later than 90 days after a request by the Secretary, be reported to the Administrator and shall be made available to the Administrator who shall consider the property to be surplus property for purposes of the Federal Property and Administrative Services Act of 1949 (40 U.S.C 471 et. seq.).

(III) PRIORITIZATION OF DISPOSITION.—The Administrator may prioritize the disposition of property made available under this subparagraph to permit the property to be sold as quickly as practicable in a manner that is consistent with the best interests of the Federal Government.

(B) LIMIT ON TOTAL AMOUNT OF DEPOSITS.—The total amount of funds deposited in the special account under subparagraph (A) shall not exceed $100,000,000.

(C) EFFECT ON CLOSURE OF MILITARY INSTALLATIONS.—Nothing in this section alters the disposition of any proceeds arising from the disposal of real property pursuant to a base closure law.

(3) USE OF SPECIAL ACCOUNT.—Funds in the special account shall be available to the Secretary until expended under this paragraph. The Secretary shall use funds in the special account to assist in the restoration of the Everglades ecosystem in South Florida through—

(A) subject to paragraph (4), the acquisition of real property and interests in real property located within the Everglades ecosystem; and

(B) the funding of resource protection and resource maintenance activities in the Everglades ecosystem.

(4) STATE CONTRIBUTION.—The Secretary may not expend any funds from the special account to acquire a parcel of real property, or an interest in a parcel of real property, under paragraph (3)(A) unless the Secretary obtains, or has previously obtained, a contribution from the State of Florida in an amount equal to not less than 50 percent of the appraised value of the parcel or interest to be acquired, as determined by the Secretary.

(5) DEFINITIONS.—In this subsection:

(A) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of General Services.

(B) BASE CLOSURE LAW.—The term ''base closure law'' means each of the following:

(i) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(ii) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(iii) Section 2687 of title 10, United States Code.

(iv) Any other similar law enacted after the date of enactment of this Act.

(C) EVERGLADES ECOSYSTEM.—The term ''Everglades ecosystem'' means the Florida Everglades Restoration area that extends from the Kissimmee River basin to Florida Bay.

(D) EXCESS PROPERTY.—The term ''excess property'' has the meaning provided in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(E) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning provided in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(F) SPECIAL ACCOUNT.—The term ''special account'' means the Everglades Restoration Account established under paragraph (1).

(G) SURPLUS PROPERTY.—The term ''surplus property'' has the meaning provided in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(g) REPORT TO DETERMINE THE FEASIBILITY OF ADDITIONAL LAND ACQUISITION AND RESTORATION ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall conduct an investigation to determine what, if any, unreserved and unappropriated Federal lands (or mineral interests in any such lands) under the administrative jurisdiction of the Secretary are suitable for disposal or exchange for the purpose of conducting restoration activities in the Everglades region.

(2) CONSERVATION LANDS.—No lands under the administrative jurisdiction of the Secretary that are set aside for conservation purposes shall be identified for disposal or exchange under this subsection.

(3) FLORIDA.—In carrying out this subsection, the Secretary shall, to the maximum extent practicable, determine which lands and mineral interests located within the State of Florida are suitable for disposal or exchange before making the determination for eligible lands or interests in other States.

(4) PUBLIC ACCESS.—In carrying out this subsection, the Secretary shall consider that in disposing of lands, the Secretary shall retain such interest in the lands as may be necessary to ensure that the general public is not precluded from reasonable access to the lands for purposes of fishing, hunting, or other recreational uses.

(5) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate describing the results of the investigation conducted under this subsection. The report shall describe the specific parcels identified under this subsection, establish the priorities for disposal or exchange among the parcels, and estimate the values of the parcels.

SEC. 391. AGRICULTURAL AIR QUALITY RESEARCH OVERSIGHT.

(a) FINDINGS.—Congress finds that—

(1) various studies have alleged that agriculture is a source of PM-10 emissions;

(2) many of these studies have often been based on erroneous data;

(3) Federal research activities are currently being conducted by the Department of Agriculture to determine the true extent to which agricultural activities contribute to air pollution and to determine cost-effective ways in which the agricultural industry can reduce any pollution that exists; and

(4) any Federal policy recommendations that may be issued by any Federal agency to address air pollution problems related to agriculture or any other industrial activity should be based on sound scientific findings that are subject to adequate peer review and should take into account economic feasibility.

(b) PURPOSE.—The purpose of this section is to encourage the Secretary of Agriculture to continue to strengthen vital research efforts related to agricultural air quality.

(c) OVERSIGHT COORDINATION.—

(1) INTERGOVERNMENTAL COOPERATION.—The Secretary shall, to the maximum extent practicable with respect to the Department of Agriculture and other Federal departments and agencies, ensure intergovernmental cooperation in research activities related to agricultural air quality and avoid duplication of the activities.

(2) CORRECT DATA.—The Secretary shall, to the maximum extent practicable, ensure that the results of any research related to agricultural air quality conducted by Federal agencies not report erroneous data with respect to agricultural air quality.

(d) TASK FORCE.—

(1) ESTABLISHMENT.—The Chief of the National Resources Conservation Service shall establish a task force to address agricultural air quality issues.

(2) COMPOSITION.—The task force shall be comprised of employees of the Department of Agriculture, industry representatives, and other experts in the fields of agriculture and air quality.

(3) DUTIES.—The task force shall advise the Secretary with respect to the role of the Secretary for providing oversight and coordination related to agricultural air quality.

TITLE IV—NUTRITION ASSISTANCE

SEC. 401. FOOD STAMP PROGRAM.

(a) DISQUALIFICATION OF A STORE OR CONCERN.—Section 12(b)(3)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2021(b)(3)(B)) is amended—

(1) by striking the second parenthetical; and

(2) by striking ''; or'' and inserting the following: '', including evidence that—

''(i) the ownership of the store or food concern was not aware of, did not approve of, did not benefit from, and was not involved in the conduct of the violation; and

''(ii)(I) the management of the store or food concern was not aware of, did not approve of, did not benefit from, and was not involved in the conduct of the violation; or

''(II) the management was aware of, approved of, benefited from, or was involved in the conduct of no more than 1 previous violation by the store or food concern; or''.

(b) EMPLOYMENT AND TRAINING.—Section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended by striking ''1995'' each place it appears and inserting ''2002''.

(c) AUTHORIZATION OF PILOT PROJECTS.—The last sentence of section 17(b)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(A)) is amended by striking ''1995'' and inserting ''2002''.

(d) OUTREACH DEMONSTRATION PROJECTS.—The first sentence of section 17(j)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(j)(1)(A)) is amended by striking ''1995'' and inserting ''2002''.

(e) AUTHORIZATION FOR APPROPRIATIONS.—The first sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by striking ''1995'' and inserting ''1997''.

(f) REAUTHORIZATION OF PUERTO RICO NUTRITION ASSISTANCE PROGRAM.—The first sentence of section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by striking ''$974,000,000'' and all that follows through ''fiscal year 1995'' and inserting ''$1,143,000,000 for fiscal year 1996, $1,174,000,000 for fiscal year 1997, $1,204,000,000 for fiscal year 1998, $1,236,000,000 for fiscal year 1999, $1,268,000,000 for fiscal year 2000, $1,301,000,000 for fiscal year 2001, and $1,335,000,000 for fiscal year 2002''.

(g) AMERICAN SAMOA.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

''SEC. 24. TERRITORY OF AMERICAN SAMOA.

''Effective October 1, 1995, from amounts made available to carry out this Act, the Secretary shall pay to the Territory of American Samoa not more than $5,300,000 for each of fiscal years 1996 through 2002 to finance 100 percent of the expenditures for the fiscal year for a nutrition assistance program extended under section 601(c) of Public Law 96–597 (48 U.S.C. 1469d(c)).''.

(h) ASSISTANCE FOR COMMUNITY FOOD PROJECTS.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) (as amended by subsection (g)) is amended by adding at the end the following:

''SEC. 25. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.

''(a) DEFINITION OF COMMUNITY FOOD PROJECTS.—In this section, the term 'community food project' means a community-based project that requires a 1-time infusion of Federal assistance to become self-sustaining and that is designed to—

''(1) meet the food needs of low-income people;

''(2) increase the self-reliance of communities in providing for their own food needs; and

''(3) promote comprehensive responses to local food, farm, and nutrition issues.

''(b) AUTHORITY TO PROVIDE ASSISTANCE.—

''(1) IN GENERAL.—From amounts made available to carry out this Act, the Secretary may make grants to assist eligible private nonprofit entities to establish and carry out community food projects.

''(2) LIMITATION ON GRANTS.—The total amount of funds provided as grants under this section may not exceed—

''(A) $1,000,000 for fiscal year 1996; and

''(B) $2,500,000 for each of fiscal years 1997 through 2002.

''(c) ELIGIBLE ENTITIES.—To be eligible for a grant under subsection (b), a private nonprofit entity must—

''(1) have experience in the area of—

''(A) community food work, particularly concerning small and medium-sized farms, including the provision of food to people in low-income communities and the development of new markets in low-income communities for agricultural producers; or

''(B) job training and business development activities for food-related activities in low-income communities;

''(2) demonstrate competency to implement a project, provide fiscal accountability, collect data, and prepare reports and other necessary documentation; and

''(3) demonstrate a willingness to share information with researchers, practitioners, and other interested parties.

''(d) PREFERENCE FOR CERTAIN PROJECTS.—In selecting community food projects to receive assistance under subsection (b), the Secretary shall give a preference to projects designed to—

''(1) develop linkages between 2 or more sectors of the food system;

''(2) support the development of entrepreneurial projects;

''(3) develop innovative linkages between the for-profit and nonprofit food sectors; or

''(4) encourage long-term planning activities and multi-system, interagency approaches.

''(e) MATCHING FUNDS REQUIREMENTS.—

''(1) REQUIREMENTS.—The Federal share of the cost of establishing or carrying out a community food project that receives assistance under subsection (b) may not exceed 50 percent of the cost of the project during the term of the grant.

''(2) CALCULATION.—In providing for the non-Federal share of the cost of carrying out a community food project, the entity receiving the grant shall provide for the share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services.

''(3) SOURCES.—An entity may provide for the non-Federal share through State government, local government, or private sources.

''(f) TERM OF GRANT.—

''(1) SINGLE GRANT.—A community food project may be supported by only a single grant under subsection (b).

''(2) TERM.—The term of a grant under subsection (b) may not exceed 3 years.

''(g) TECHNICAL ASSISTANCE AND RELATED INFORMATION.—

''(1) TECHNICAL ASSISTANCE.—In carrying out this section, the Secretary may provide technical assistance regarding community food projects, processes, and development to an entity seeking the assistance.

''(2) SHARING INFORMATION.—

''(A) IN GENERAL.—The Secretary may provide for the sharing of information concerning community food projects and issues among and between government, private for-profit and nonprofit groups, and the public through publications, conferences, and other appropriate forums.

''(B) OTHER INTERESTED PARTIES.—The Secretary may share information concerning community food projects with researchers, practitioners, and other interested parties.

''(h) EVALUATION.—

''(1) IN GENERAL.—The Secretary shall provide for the evaluation of the success of community food projects supported using funds under this section.

''(2) REPORT.—Not later than January 30, 2002, the Secretary shall submit a report to Congress regarding the results of the evaluation.''.

SEC. 402. COMMODITY DISTRIBUTION PROGRAM; COMMODITY SUPPLEMENTAL FOOD PROGRAM.

(a) REAUTHORIZATION.—The first sentence of section 4(a) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note) is amended by striking ''1995'' and inserting ''2002''.

(b) FUNDING.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note) is amended—

(1) in subsection (a)(2), by striking ''1995'' and inserting ''2002'';

(2) in subsection (d)(2), by striking ''1995'' and inserting ''2002''; and

(3) by adding at the end the following:

''(l) CARRIED-OVER FUNDS.—Not more than 20 percent of any commodity supplemental food program food funds carried over under this section shall be available for administrative expenses of the program.''.

SEC. 403. EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) REAUTHORIZATION.—The first sentence of section 204(a)(1) of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended by striking ''1995'' and inserting ''2002''.

(b) PROGRAM TERMINATION.—Section 212 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended by striking ''1995'' and inserting ''2002''.

(c) REQUIRED PURCHASES OF COMMODITIES.—Section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended—

(1) in the first sentence of subsection (a), by striking ''1995'' and inserting ''2002''; and

(2) in subsection (e), by striking ''1995'' each place it appears and inserting ''2002''.

SEC. 404. SOUP KITCHEN AND FOOD BANK PROGRAM.

Section 110 of the Hunger Prevention Act of 1988 (Public Law 100–435; 7 U.S.C. 612c note) is amended—

(1) in the first sentence of subsection (a), by striking ''1995'' and inserting ''2002''; and

(2) in subsection (c)(2)—

(A) in the paragraph heading, by striking ''1992 THROUGH 1995'' and inserting ''SUBSEQUENT''; and

(B) by striking ''1995'' each place it appears and inserting ''2002''.

SEC. 405. NATIONAL COMMODITY PROCESSING.

The first sentence of section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended by striking ''1995'' and inserting ''2002''.

TITLE V—AGRICULTURAL PROMOTION

Subtitle A—Commodity Promotion and Evaluation

SEC. 501. COMMODITY PROMOTION AND EVALUATION.

(a) COMMODITY PROMOTION LAW DEFINED.—In this section, the term ''commodity promotion law'' means a Federal law that provides for the establishment and operation of a promotion program regarding an agricultural commodity that includes a combination of promotion, research, industry information, or consumer information activities, is funded by mandatory assessments on producers or processors, and is designed to maintain or expand markets and uses for the commodity (as determined by the Secretary). The term includes—

(1) the marketing promotion provisions under section 8c(6)(I) of the Agricultural Adjustment Act (7 U.S.C. 608c(6)(I)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937;

(2) Public Law 89–502 (7 U.S.C. 2101 et seq.);

(3) title III of Public Law 91–670 (7 U.S.C. 2611 et seq.);

(4) Public Law 93–428 (7 U.S.C. 2701 et seq.);

(5) Public Law 94–294 (7 U.S.C. 2901 et seq.);

(6) subtitle B of title I of Public Law 98–180 (7 U.S.C. 4501 et seq.);

(7) Public Law 98–590 (7 U.S.C. 4601 et seq.);

(8) subtitle B of title XVI of Public Law 99–198 (7 U.S.C. 4801 et seq.);

(9) subtitle C of title XVI of Public Law 99–198 (7 U.S.C. 4901 et seq.);

(10) subtitle B of title XIX of Public Law 101–624 (7 U.S.C. 6101 et seq.);

(11) subtitle E of title XIX of Public Law 101–624 (7 U.S.C. 6301 et seq.);

(12) subtitle H of title XIX of Public Law 101–624 (7 U.S.C. 6401 et seq.);

(13) Public Law 103–190 (7 U.S.C. 6801 et seq.);

(14) Public Law 103–407 (7 U.S.C. 7101 et seq.);

(15) subtitle B;

(16) subtitle C;

(17) subtitle D; or

(18) subtitle E.

(b) FINDINGS.—Congress finds the following:

(1) It is in the national public interest and vital to the welfare of the agricultural economy of the United States to maintain and expand existing markets and develop new markets and uses for agricultural commodities through industry-funded, Government-supervised, generic commodity promotion programs established under commodity promotion laws.

(2) These generic commodity promotion programs, funded by the agricultural producers or processors who most directly reap the benefits of the programs and supervised by the Secretary of Agriculture, provide a unique opportunity for producers and processors to inform consumers about their products.

(3) The central congressional purpose underlying each commodity promotion law has always been to maintain and expand markets for the agricultural commodity covered by the law, rather than to maintain or expand the share of those markets held by any individual producer or processor.

(4) The commodity promotion laws were neither designed nor intended to prohibit or restrict, and the promotion programs established and funded pursuant to these laws do not prohibit or restrict, individual advertising or promotion of the covered commodities by any producer, processor, or group of producers or processors.

(5) It has never been the intent of Congress for the generic commodity promotion programs established and funded by the commodity promotion laws to replace the individual advertising and promotion efforts of producers or processors.

(6) An individual producer's or processor's own advertising initiatives are typically designed to increase the share of the market held by that producer or processor rather than to increase or expand the overall size of the market.

(7) In contrast, a generic commodity promotion program is intended and designed to maintain or increase the overall demand for the agricultural commodity covered by the program and increase the size of the market for that commodity, often by utilizing promotion methods and techniques that individual producers and processors typically are unable, or have no incentive, to employ.

(8) The commodity promotion laws establish promotion programs that operate as ''self-help'' mechanisms for producers and processors to fund generic promotions for covered commodities which, under the required supervision and oversight of the Secretary of Agriculture—

(A) further specific national governmental goals, as established by Congress; and

(B) produce nonideological and commercial communication the purpose of which is to further the governmental policy and objective of maintaining and expanding the markets for the covered commodities.

(9) While some commodity promotion laws grant a producer or processor the option of crediting individual advertising conducted by the producer or processor for all or a portion of the producer's or processor's marketing promotion assessments, all promotion programs established under the commodity promotion laws, both those programs that permit credit for individual advertising and those programs that do not contain such provisions, are very narrowly tailored to fulfill the congressional purposes of the commodity promotion laws without impairing or infringing the legal or constitutional rights of any individual producer or processor.

(10) These generic commodity promotion programs are of particular benefit to small producers who often lack the resources or market power to advertise on their own and who are otherwise often unable to benefit from the economies of scale available in promotion and advertising.

(11) Periodic independent evaluation of the effectiveness of these generic commodity promotion programs will assist Congress and the Secretary of Agriculture in ensuring that the objectives of the programs are met.

(c) INDEPENDENT EVALUATION OF PROMOTION PROGRAM EFFECTIVENESS.—Except as otherwise provided by law, each commodity board established under the supervision and oversight of the Secretary of Agriculture pursuant to a commodity promotion law shall, not less often than every 5 years, authorize and fund, from funds otherwise available to the board, an independent evaluation of the ef-

fectiveness of the generic commodity promotion programs and other programs conducted by the board pursuant to a commodity promotion law. The board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this subsection.

(d) ADMINISTRATIVE COSTS.—The Secretary shall annually provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information on administrative expenses on programs established under commodity promotion laws.

Subtitle B—Issuance of Orders for Promotion, Research, and Information Activities Regarding Agricultural Commodities

SEC. 511. SHORT TITLE.

This subtitle may be cited as the ''Commodity Promotion, Research, and Information Act of 1996''.

SEC. 512. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The production of agricultural commodities plays a significant role in the economy of the United States. Thousands of producers in the United States are involved in the production of agricultural commodities, and such commodities are consumed by millions of people throughout the United States and foreign countries.

(2) Agricultural commodities must be of high quality, readily available, handled properly, and marketed efficiently to ensure that consumers have an adequate supply.

(3) The maintenance and expansion of existing markets and the development of new markets for agricultural commodities through generic commodity promotion, research, and information programs are vital to the welfare of persons engaged in the production, marketing, and consumption of such commodities, as well as to the general economy of the United States.

(4) Generic promotion, research, and information activities for agricultural commodities play a unique role in advancing the demand for such commodities, since such activities increase the total market for a product to the benefit of consumers and all producers. These generic activities complement branded advertising initiatives, which are aimed at increasing the market share of individual competitors, and are of particular benefit to small producers who lack the resources or market power to advertise on their own. These generic activities do not impede the branded advertising efforts of individual firms, but instead increase general market demand for an agricultural commodity using methods that individual companies do not have the incentive to employ.

(5) Generic promotion, research, and information activities for agricultural commodities, paid by the producers and others in the industry who reap the benefits of such activities, provide a unique opportunity for producers to inform consumers about a particular agricultural commodity.

(6) It is important to ensure that generic promotion, research, and information activities for agricultural commodities be carried out in an effective and coordinated manner designed to strengthen the position of the commodities in the marketplace and to maintain and expand their markets and uses. Independent evaluation of the effectiveness of the generic promotion activities of these programs will assist the Secretary of Agriculture and Congress in ensuring that these objectives are met.

(7) The cooperative development, financing, and implementation of a coordinated national program of research, promotion, and information regarding agricultural commodities are necessary to maintain and expand existing markets and to develop new markets for these commodities.

(8) Agricultural commodities move in interstate and foreign commerce, and agricultural commodities and their products that do not move in such channels of commerce directly burden or affect interstate commerce in agricultural commodities and their products.

(9) Commodity promotion programs have the ability to provide significant conservation benefits to producers and the public.

(b) PURPOSE.—The purpose of this subtitle is to authorize the establishment, through the exercise by the Secretary of Agriculture of the authority provided in this subtitle, of an orderly program for developing, financing, and carrying out an effective, continuous, and coordinated program of generic promotion, research, and information regarding agricultural commodities designed to—

(1) strengthen the position of agricultural commodity industries in the marketplace;

(2) maintain and expand existing domestic and foreign markets and uses for agricultural commodities;

(3) develop new markets and uses for agricultural commodities; or

(4) assist producers in meeting their conservation objectives.

(c) RULE OF CONSTRUCTION.—Nothing in this subtitle provides for the control of production or otherwise limits the right of any person to produce, handle, or import an agricultural commodity.

SEC. 513. DEFINITIONS.

In this subtitle (unless the context otherwise requires):

(1) AGRICULTURAL COMMODITY.—The term ''agricultural commodity'' means—

(A) agricultural, horticultural, viticultural, and dairy products;

(B) livestock and the products of livestock;

(C) the products of poultry and bee raising;

(D) the products of forestry;

(E) other commodities raised or produced on farms, as determined appropriate by the Secretary; and

(F) products processed or manufactured from products specified in the preceding subparagraphs, as determined appropriate by the Secretary.

(2) BOARD.—The term ''board'' means a board established under an order issued under section 514.

(3) CONFLICT OF INTEREST.—The term ''conflict of interest'' means a situation in which a member or employee of a board has a direct or indirect financial interest in a person that performs a service for, or enters into a contract with, a board for anything of economic value.

(4) DEPARTMENT.—The term ''Department'' means the Department of Agriculture.

(5) FIRST HANDLER.—The term ''first handler'' means the first person who buys or takes possession of an agricultural commodity from a producer for marketing. If a producer markets the agricultural commodity directly to consumers, the producer shall be considered to be the first handler with respect to the agricultural commodity produced by the producer.

(6) IMPORTER.—The term ''importer'' means any person who imports an agricultural commodity from outside the United States for sale in the United States as a principal or as an agent, broker, or consignee of any person.

(7) INFORMATION.—The term ''information'' means information and programs that are designed to increase—

(A) efficiency in processing; and

(B) the development of new markets, marketing strategies, increased marketing efficiency, and activities to enhance the image of agricultural commodities on a national or international basis.

(8) MARKET.—The term ''market'' means to sell or to otherwise dispose of an agricultural commodity in interstate, foreign, or intrastate commerce.

(9) ORDER.—The term ''order'' means an order issued by the Secretary under section 514 that provides for a program of generic promotion, research, and information regarding agricultural commodities designed to—

(A) strengthen the position of agricultural commodity industries in the marketplace;

(B) maintain and expand existing domestic and foreign markets and uses for agricultural commodities;

(C) develop new markets and uses for agricultural commodities; or

(D) assist producers in meeting their conservation objectives.

(10) PERSON.—The term ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(11) PRODUCER.—The term ''producer'' means any person who is engaged in the production and sale of an agricultural commodity in the United States and who owns, or shares the ownership and risk of loss of, the agricultural commodity.

(12) PROMOTION.—The term ''promotion'' means any action taken by a board under an order, including paid advertising, to present a favorable image of an agricultural commodity to the public to improve the competitive position of the agricultural commodity in the marketplace and to stimulate sales of the agricultural commodity.

(13) RESEARCH.—The term ''research'' means any type of test, study, or analysis designed to advance the image, desirability, use, marketability, production, product development, or quality of an agricultural commodity.

(14) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(15) STATE.—The term ''State'' means any of the States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(16) SUSPEND.—The term ''suspend'' means to issue a rule under section 553 of title 5, United States Code, to temporarily prevent the operation of an order during a particular period of time specified in the rule.

(17) TERMINATE.—The term ''terminate'' means to issue a rule under section 553 of title 5, United States Code, to cancel permanently the operation of an order beginning on a date certain specified in the rule.

(18) UNITED STATES.—The term ''United States'' means collectively the 50 States, the District of Columbia, the Commonwealth of Puerto Rico and the territories and possessions of the United States.

SEC. 514. ISSUANCE OF ORDERS.

(a) ISSUANCE AUTHORIZED.—

(1) IN GENERAL.—To effectuate the purpose of this subtitle, the Secretary may issue, and amend from time to time, orders applicable to—

(A) the producers of an agricultural commodity;

(B) the first handlers of the agricultural commodity and other persons in the marketing chain as appropriate; and

(C) the importers of the agricultural commodity, if imports of the agricultural commodity are subject to assessment under section 516(f).

(2) NATIONAL SCOPE.—Each order issued under this section shall be national in scope.

(b) PROCEDURE FOR ISSUANCE.—

(1) DEVELOPMENT OR RECEIPT OF PROPOSED ORDER.—A proposed order with respect to an agricultural commodity may be—

(A) prepared by the Secretary at any time; or

(B) submitted to the Secretary by—

(i) an association of producers of the agricultural commodity; or

(ii) any other person that may be affected by the issuance of an order with respect to the agricultural commodity.

(2) CONSIDERATION OF PROPOSED ORDER.—If the Secretary determines that a proposed order is consistent with and will effectuate the purpose of this subtitle, the Secretary shall publish the proposed order in the Federal Register and give due notice and opportunity for public comment on the proposed order.

(3) EXISTENCE OF OTHER ORDERS.—In deciding whether a proposal for an order is consistent with and will effectuate the purpose of this subtitle, the Secretary may consider the existence of other Federal promotion, research, and information programs or orders issued or developed pursuant to any other law.

(4) PREPARATION OF FINAL ORDER.—After notice and opportunity for public comment under paragraph (2) regarding a proposed order, the Secretary shall take into consideration the comments received in preparing a final order. The Secretary shall ensure that the final order is in conformity with the terms, conditions, and requirements of this subtitle.

(c) ISSUANCE AND EFFECTIVE DATE.—If the Secretary determines that the final order developed with respect to an agricultural commodity is consistent with and will effectuate the purpose of this subtitle, the Secretary shall issue the final order. Except in the case of an order for which an initial referendum is conducted under section 518(a), the final order shall be issued and become effective not later than 270 days after the date of publication of the proposed order that was the basis for the final order.

(d) AMENDMENTS.—From time to time the Secretary may amend any order, consistent with the requirements of section 523.

SEC. 515. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—Each order shall contain the terms and conditions specified in this section.

(b) BOARD.—

(1) ESTABLISHMENT.—Each order shall establish a board to carry out a program of generic promotion, research, and information regarding the agricultural commodity covered by the order and intended to effectuate the purpose of this subtitle.

(2) BOARD MEMBERSHIP.—

(A) NUMBER OF MEMBERS.—Each board shall consist of the number of members considered by the Secretary, in consultation with the agricultural commodity industry involved, to be appropriate to administer the order. In addition to members, the Secretary may also provide for alternates on the board.

(B) APPOINTMENT.—The Secretary shall appoint the members and any alternates of a board from among producers of the agricultural commodity and first handlers and others in the marketing chain as appropriate. If imports of the agricultural commodity covered by an order are subject to assessment under section 516(f), the Secretary shall also appoint importers as members of the board and as alternates if alternates are included on the board. The Secretary may appoint 1 or more members of the general public to each board.

(C) NOMINATIONS.—The Secretary may make appointments from nominations made pursuant to the method set forth in the order.

(D) GEOGRAPHICAL REPRESENTATION.—To ensure fair and equitable representation of the agricultural commodity industry covered by an order, the composition of each board shall reflect the geographical distribution of the production of the agricultural commodity involved in the United States and the quantity or value of the agricultural commodity imported into the United States.

(3) REAPPORTIONMENT OF BOARD MEMBERSHIP.—In accordance with rules issued by the Secretary, at least once in each 5-year period, but not more frequently than once in each 3-year period, each board shall—

(A) review the geographical distribution in the United States of the production of the agricultural commodity covered by the order involved and the quantity or value of the agricultural commodity imported into the United States; and

(B) if warranted, recommend to the Secretary the reapportionment of the board membership to reflect changes in the geographical distribution of the production of the agricultural commodity and the quantity or value of the imported agricultural commodity.

(4) NOTICE.—

(A) VACANCIES.—Each order shall provide for notice of board vacancies to the agricultural commodity industry involved.

(B) MEETINGS.—Each board shall provide the Secretary with prior notice of meetings of the board to permit the Secretary, or a designated representative of the Secretary, to attend the meetings.

(5) TERM OF OFFICE.—

(A) IN GENERAL.—The members and any alternates of a board shall each serve for a term of 3 years, except that the members and any alternates initially appointed to a board shall serve for terms of not more than 2, 3, and 4 years, as specified by the order.

(B) LIMITATION ON CONSECUTIVE TERMS.—A member or alternate may serve not more than 2 consecutive terms.

(C) CONTINUATION OF TERM.—Notwithstanding subparagraph (B), each member or alternate shall continue to serve until a successor is appointed by the Secretary.

(D) VACANCIES.—A vacancy arising before the expiration of a term of office of an incumbent member or alternate of a board shall be filled in a manner provided for in the order.

(6) COMPENSATION.—

(A) IN GENERAL.—Members and any alternates of a board shall serve without compensation.

(B) TRAVEL EXPENSES.—If approved by a board, members or alternates shall be reimbursed for reasonable travel expenses, which may include a per diem allowance or actual subsistence incurred while away from their homes or regular places of business in the performance of services for the board.

(c) POWERS AND DUTIES OF A BOARD.—Each order shall specify the powers and duties of the board established under the order, which shall include the power and duty—

(1) to administer the order in accordance with its terms and conditions and to collect assessments;

(2) to develop and recommend to the Secretary for approval such bylaws as may be necessary for the functioning of the board and such rules as may be necessary to administer the order, including activities authorized to be carried out under the order;

(3) to meet, organize, and select from among the members of the board a chairperson, other officers, and committees and subcommittees, as the board determines to be appropriate;

(4) to employ persons, other than the members, as the board considers necessary to assist the board in carrying out its duties, and to determine the compensation and specify the duties of the persons;

(5) subject to subsection (e), to develop and carry out generic promotion, research, and information activities relating to the agricultural commodity covered by the order;

(6) to prepare and submit for the approval of the Secretary, before the beginning of each fiscal year, rates of assessment under section 517 and an annual budget of the anticipated expenses to be incurred in the administration of the order, including the probable cost of each promotion, research, and information activity proposed to be developed or carried out by the board;

(7) to borrow funds necessary for the startup expenses of the order;

(8) subject to subsection (f), to enter into contracts or agreements to develop and carry out generic promotion, research, and information activities relating to the agricultural commodity covered by the order;

(9) to pay the cost of the activities with assessments collected under section 517, earnings from invested assessments, and other funds;

(10) to keep records that accurately reflect the actions and transactions of the board, to keep and report minutes of each meeting of the board to the Secretary, and to furnish the Secretary with any information or records the Secretary requests;

(11) to receive, investigate, and report to the Secretary complaints of violations of the order; and

(12) to recommend to the Secretary such amendments to the order as the board considers appropriate.

(d) PROHIBITED ACTIVITIES.—A board may not engage in, and shall prohibit the employees and agents of the board from engaging in—

(1) any action that would be a conflict of interest;

(2) using funds collected by the board under the order, any action undertaken for the purpose of influencing any legislation or governmental action or policy other than recommending to the Secretary amendments to the order; and

(3) any advertising, including promotion, research, and information activities authorized to be carried out under the order, that may be false or misleading or disparaging to another agricultural commodity.

(e) ACTIVITIES AND BUDGETS.—

(1) ACTIVITIES.—Each order shall require the board established under the order to submit to the Secretary for approval plans and projects for promotion, research, or information relating to the agricultural commodity covered by the order.

(2) BUDGETS.—

(A) SUBMISSION TO SECRETARY.—Each order shall require the board established under the order to submit to the Secretary for approval a budget of its anticipated annual expenses and disbursements to be paid to administer the order. The budget shall be submitted before the beginning of a fiscal year and as frequently as may be necessary after the beginning of the fiscal year.

(B) REIMBURSEMENT OF SECRETARY.—Each order shall require that the Secretary be reimbursed for all expenses incurred by the Secretary in the implementation, administration, and supervision of the order, including all referenda costs incurred in connection with the order.

(3) INCURRING EXPENSES.—A board may incur the expenses described in paragraph (2) and other expenses for the administration, maintenance, and functioning of the board as authorized by the Secretary.

(4) PAYMENT OF EXPENSES.—Expenses incurred under paragraph (3) shall be paid by a board using assessments collected under section 517, earnings obtained from assessments, and other income of the board. Any funds borrowed by the board shall be expended only for startup costs and capital outlays.

(5) LIMITATION ON SPENDING.—For fiscal years beginning 3 or more years after the date of the establishment of a board, the board may not expend for administration (except for reimbursements to the Secretary required under paragraph (2)(B)), mainte-

nance, and functioning of the board in a fiscal year an amount that exceeds 15 percent of the assessment and other income received by the board for the fiscal year.

(f) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—Each order shall provide that, with the approval of the Secretary, the board established under the order may—

(A) enter into contracts and agreements to carry out generic promotion, research, and information activities relating to the agricultural commodity covered by the order, including contracts and agreements with producer associations or other entities as considered appropriate by the Secretary; and

(B) pay the cost of approved generic promotion, research, and information activities using assessments collected under section 517, earnings obtained from assessments, and other income of the board.

(2) REQUIREMENTS.—Each contract or agreement shall provide that any person who enters into the contract or agreement with the board shall—

(A) develop and submit to the board a proposed activity together with a budget that specifies the cost to be incurred to carry out the activity;

(B) keep accurate records of all of its transactions relating to the contract or agreement;

(C) account for funds received and expended in connection with the contract or agreement;

(D) make periodic reports to the board of activities conducted under the contract or agreement; and

(E) make such other reports as the board or the Secretary considers relevant.

(g) RECORDS OF BOARD.—

(1) IN GENERAL.—Each order shall require the board established under the order—

(A) to maintain such records as the Secretary may require and to make the records available to the Secretary for inspection and audit;

(B) to collect and submit to the Secretary, at any time the Secretary may specify, any information the Secretary may request; and

(C) to account for the receipt and disbursement of all funds in the possession, or under the control, of the board.

(2) AUDITS.—Each order shall require the board established under the order to have—

(A) its records audited by an independent auditor at the end of each fiscal year; and

(B) a report of the audit submitted directly to the Secretary.

(h) PERIODIC EVALUATION.—In accordance with section 501(c), each order shall require the board established under the order to provide for the independent evaluation of all generic promotion, research, and information activities undertaken under the order.

(i) BOOKS AND RECORDS OF PERSONS COVERED BY ORDER.—

(1) IN GENERAL.—Each order shall require that producers, first handlers and other persons in the marketing chain as appropriate, and importers covered by the order shall—

(A) maintain records sufficient to ensure compliance with the order and regulations;

(B) submit to the board established under the order any information required by the board to carry out its responsibilities under the order; and

(C) make the records described in subparagraph (A) available, during normal business hours, for inspection by employees or agents of the board or the Department, including any records necessary to verify information required under subparagraph (B).

(2) TIME REQUIREMENT.—Any record required to be maintained under paragraph (1) shall be maintained for such time period as the Secretary may prescribe.

(3) OTHER INFORMATION.—The Secretary may use, and may authorize the board to use under this subtitle, information regarding persons subject to an order that is collected by the Department under any other law.

(4) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—Except as otherwise provided in this subtitle, all information obtained under paragraph (1) or as part of a referendum under section 518 shall be kept confidential by all officers, employees, and agents of the Department and of the board.

(B) DISCLOSURE.—Information referred to in subparagraph (A) may be disclosed only if—

(i) the Secretary considers the information relevant; and

(ii) the information is revealed in a judicial proceeding or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party.

(C) OTHER EXCEPTIONS.—This paragraph shall not prohibit—

(i) the issuance of general statements based on reports or on information relating to a number of persons subject to an order if the statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order and a statement of the particular provisions of the order violated by the person.

(D) PENALTY.—Any person who willfully violates this subsection shall be subject, on conviction, to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both.

(5) WITHHOLDING INFORMATION.—This subsection shall not authorize the withholding of information from Congress.

SEC. 516. PERMISSIVE TERMS IN ORDERS.

(a) EXEMPTIONS.—An order issued under this subtitle may contain—

(1) authority for the Secretary to exempt from the order any de minimis quantity of an agricultural commodity otherwise covered by the order; and

(2) authority for the board established under the order to require satisfactory safeguards against improper use of the exemption.

(b) DIFFERENT PAYMENT AND REPORTING SCHEDULES.—An order issued under this subtitle may contain authority for the board established under the order to designate different payment and reporting schedules to recognize differences in agricultural commodity industry marketing practices and procedures used in different production and importing areas.

(c) ACTIVITIES.—An order issued under this subtitle may contain authority to develop and carry out research, promotion, and information activities designed to expand, improve, or make more efficient the marketing or use of the agricultural commodity covered by the order in domestic and foreign markets. Section 515(e) shall apply with respect to activities authorized under this subsection.

(d) RESERVE FUNDS.—An order issued under this subtitle may contain authority to reserve funds from assessments collected under section 517 to permit an effective and continuous coordinated program of research, promotion, and information in years when the yield from assessments may be reduced, except that the amount of funds reserved may not exceed the greatest aggregate amount of the anticipated disbursements specified in budgets approved under section 515(e) by the Secretary for any 2 fiscal years.

(e) CREDITS.—

(1) GENERIC ACTIVITIES.—An order issued under this subtitle may contain authority to provide credits of assessments for those individuals who contribute to other similar generic research, promotion, and information programs at the State, regional, or local level.

(2) BRANDED ACTIVITIES.—

(A) IN GENERAL.—The Secretary may permit a farmer cooperative that engages in branded activities relating to the marketing of the products of members of the cooperative to receive an annual credit for the activities and related expenditures in the form of a deduction of the total cost of the activities and related expenditures from the amount of any assessment that would otherwise be required to be paid by the producer members of the cooperative under an order issued under this subtitle.

(B) ELECTION BY COOPERATIVE.—A farmer cooperative may elect to voluntarily waive the application of subparagraph (A) to the cooperative.

(f) ASSESSMENT OF IMPORTS.—An order issued under this subtitle may contain authority for the board established under the order to assess under section 517 an imported agricultural commodity, or products of such an agricultural commodity, at a rate comparable to the rate determined by the appropriate board for the domestic agricultural commodity covered by the order.

(g) OTHER AUTHORITY.—An order issued under this subtitle may contain authority to take any other action that—

(1) is not inconsistent with the purpose of this subtitle, any term or condition specified in section 515, or any rule issued to carry out this subtitle; and

(2) is necessary to administer the order.

SEC. 517. ASSESSMENTS.

(a) ASSESSMENTS AUTHORIZED.—While an order issued under this subtitle is in effect with respect to an agricultural commodity, assessments shall be—

(1) paid by first handlers with respect to the agricultural commodity produced and marketed in the United States; and

(2) paid by importers with respect to the agricultural commodity imported into the United States, if the imported agricultural commodity is covered by the order pursuant to section 516(f).

(b) COLLECTION.—Assessments required under an order shall be remitted to the board established under the order at the time and in the manner prescribed by the order.

(c) LIMITATION ON ASSESSMENTS.—Not more than 1 assessment may be levied on a first handler or importer under subsection (a) with respect to any agricultural commodity.

(d) ASSESSMENT RATES.—The board shall recommend to the Secretary 1 or more rates of assessment to be levied under subsection (a). If approved by the Secretary, the rates shall take effect. An order may provide that an assessment rate may not be increased unless approved by a referendum conducted pursuant to section 518.

(e) LATE-PAYMENT AND INTEREST CHARGES.—

(1) IN GENERAL.—Late-payment and interest charges may be levied on each person subject to an order who fails to remit an assessment in accordance with subsection (b).

(2) RATE.—The rate for the charges shall be specified by the Secretary.

(f) INVESTMENT OF ASSESSMENTS.—Pending disbursement of assessments under a budget approved by the Secretary, a board may invest assessments collected under this section in—

(1) obligations of the United States or any agency of the United States;

(2) general obligations of any State or any political subdivision of a State;

(3) interest-bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve System; or

(4) obligations fully guaranteed as to principal and interest by the United States.

(g) REFUND OF ASSESSMENTS FROM ESCROW ACCOUNT.—

(1) ESCROW ACCOUNT.—During the period beginning on the effective date of an order and ending on the date the Secretary announces the results of a referendum that is conducted under section 518(b)(1) with respect to the order, the board established under the order shall—

(A) establish and maintain an escrow account of the kind described in subsection (f)(3) to be used to refund assessments; and

(B) deposit funds in the account in accordance with paragraph (2).

(2) AMOUNT TO BE DEPOSITED.—The board shall deposit in the account an amount equal to 10 percent of the assessments collected during the period referred to in paragraph (1).

(3) RIGHT TO RECEIVE REFUND.—Subject to paragraphs (4), (5), and (6), persons subject to an order shall be eligible to demand a refund of assessments collected during the period referred to in paragraph (1) if—

(A) the assessments were remitted on behalf of the person; and

(B) the order is not approved in the referendum.

(4) FORM OF DEMAND.—The demand for a refund shall be made at such time and in such form as specified by the order.

(5) PAYMENT OF REFUND.—A person entitled to a refund shall be paid promptly after the board receives satisfactory proof that the assessment for which the refund is demanded was paid on behalf of the person who makes the demand.

(6) PRORATION.—If the funds in the escrow account required by paragraph (1) are insufficient to pay the amount of all refunds that persons subject to an order otherwise would have a right to receive under this subsection, the board shall prorate the amount of the funds among all the persons.

(7) CLOSING OF ESCROW ACCOUNT.—If the order is approved in a referendum conducted under section 518(b)(1)—

(A) the escrow account shall be closed; and

(B) the funds shall be available to the board for disbursement as authorized in the order.

SEC. 518. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) OPTIONAL REFERENDUM.—For the purpose of ascertaining whether the persons to be covered by an order favor the order going into effect, the order may provide for the Secretary to conduct an initial referendum among persons to be subject to an assessment under section 517 who, during a representative period determined by the Secretary, engaged in—

(A) the production or handling of the agricultural commodity covered by the order; or

(B) the importation of the agricultural commodity.

(2) PROCEDURE.—The results of the referendum shall be determined in accordance with subsection (e). The Secretary may require that the agricultural commodity industry involved post a bond or other collateral to cover the cost of the referendum.

(b) REQUIRED REFERENDA.—

(1) IN GENERAL.—For the purpose of ascertaining whether the persons covered by an order favor the continuation, suspension, or termination of the order, the Secretary shall conduct a referendum among persons subject to assessments under section 517 who, during a representative period determined by the Secretary, have engaged in—

(A) the production or handling of the agricultural commodity covered by the order; or

(B) the importation of the agricultural commodity.

(2) TIME FOR REFERENDUM.—The referendum shall be conducted not later than 3 years after assessments first begin under the order.

(3) EXCEPTION.—This subsection shall not apply if an initial referendum was conducted under subsection (a).

(c) SUBSEQUENT REFERENDA.—The Secretary shall conduct a subsequent referendum—

(1) not later than 7 years after assessments first begin under the order;

(2) at the request of the board established under the order; or

(3) at the request of 10 percent or more of the number of persons eligible to vote under subsection (b)(1);

to determine if the persons favor the continuation, suspension or termination of the order.

(d) OTHER REFERENDA.—The Secretary may conduct a referendum at any time to determine whether the continuation, suspension, or termination of the order or a provision of the order is favored by persons eligible to vote under subsection (b)(1).

(e) APPROVAL OF ORDER.—An order may provide for its approval in a referendum—

(1) by a majority of those persons voting;

(2) by persons voting for approval who represent a majority of the volume of the agricultural commodity; or

(3) by a majority of those persons voting for approval who also represent a majority of the volume of the agricultural commodity.

(f) COSTS OF REFERENDA.—The board established under an order with respect to which a referendum is conducted under this section shall reimburse the Secretary for any expenses incurred by the Secretary to conduct the referendum.

(g) MANNER OF CONDUCTING REFERENDA.—

(1) IN GENERAL.—A referendum conducted under this section shall be conducted in the manner determined by the Secretary to be appropriate.

(2) ADVANCE REGISTRATION.—If the Secretary determines that an advance registration of eligible voters in a referendum is necessary before the voting period in order to facilitate the conduct of the referendum, the Secretary may institute the advance registration procedures by mail, or in person through the use of national and local offices of the Department.

(3) VOTING.—Eligible voters may vote by mail ballot in the referendum or in person if so prescribed by the Secretary.

(4) NOTICE.—Not later than 30 days before a referendum is conducted under this section with respect to an order, the Secretary shall notify the agricultural commodity industry involved, in such manner as determined by the Secretary, of the period during which voting in the referendum will occur. The notice shall explain any registration and voting procedures established under this subsection.

SEC. 519. PETITION AND REVIEW OF ORDERS.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this subtitle may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARING.—The Secretary shall give the petitioner an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After the hearing, the Secretary shall make a ruling on the petition. The ruling shall be final, subject to review as set forth in subsection (b).

(4) LIMITATION ON PETITION.—Any petition filed under this subsection challenging an order, any provision of the order, or any obligation imposed in connection with the order, shall be filed within 2 years after the effective date of the order, provision, or obligation subject to challenge in the petition.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which a person who is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review the final ruling on the petition of the person, if a complaint for that purpose is filed not later than 20 days after the date of the entry of the final ruling by the Secretary under subsection (a)(3).

(2) PROCESS.—Service of process in a proceeding may be made on the Secretary by delivering a copy of the complaint to the Secretary.

(3) REMANDS.—If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court determines to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(c) EFFECT ON ENFORCEMENT PROCEEDINGS.—The pendency of a petition filed under subsection (a) or an action commenced under subsection (b) shall not operate as a stay of any action authorized by section 520 to be taken to enforce this subtitle, including any rule, order, or penalty in effect under this subtitle.

SEC. 520. ENFORCEMENT.

(a) JURISDICTION.—The district courts of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating, an order or regulation issued under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General a violation of this subtitle if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by providing a suitable written notice or warning to the person who committed the violation or by an administrative action under this section.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—A person who willfully violates an order or regulation issued by the Secretary under this Act may be assessed by the Secretary a civil penalty of not less than $1,000 and not more than $10,000 for each violation.

(2) SEPARATE OFFENSE.—Each violation and each day during which there is a failure to comply with an order or regulation issued by the Secretary shall be considered to be a separate offense.

(3) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, a civil penalty, the Secretary may issue an order requiring a person to cease and desist from violating the order or regulation.

(4) NOTICE AND HEARING.—No order assessing a penalty or cease-and-desist order may be issued by the Secretary under this subsection unless the Secretary provides notice and an opportunity for a hearing on the record with respect to the violation.

(5) FINALITY.—An order assessing a penalty or a cease-and-desist order issued under this subsection by the Secretary shall be final and conclusive unless the person against whom the order is issued files an appeal from the order with the United States court of appeals, as provided in subsection (d).

(d) REVIEW BY COURT OF APPEALS.—

(1) IN GENERAL.—A person against whom an order is issued under subsection (c) may obtain review of the order by—

(A) filing, not later than 30 days after the person receives notice of the order, a notice of appeal in—

(i) the United States court of appeals for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice of appeal by certified mail to the Secretary.

(2) RECORD.—The Secretary shall file with the court a certified copy of the record on which the Secretary has determined that the person has committed a violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary under this section shall be set aside only if the finding is found to be unsupported by substantial evidence on the record.

(e) FAILURE TO OBEY CEASE-AND-DESIST ORDERS.—A person who fails to obey a valid cease-and-desist order issued by the Secretary under this section, after an opportunity for a hearing, shall be subject to a civil penalty assessed by the Secretary of not less than $1,000 and not more than $10,000 for each offense. Each day during which the failure continues shall be considered to be a separate violation of the cease-and-desist order.

(f) FAILURE TO PAY PENALTIES.—If a person fails to pay a civil penalty imposed under this section by the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In the action, the validity and appropriateness of the order imposing the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in this section shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 521. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subtitle; or

(2) to determine whether any person subject to this subtitle has engaged, or is about engage, in any action that constitutes or will constitute a violation of this subtitle or any order or regulation issued under this subtitle.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—For the purpose of any investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records or documents that are relevant to the inquiry. The attendance of witnesses and the production of records or documents may be required from any place in the United States.

(c) AID OF COURTS.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in order to require the attendance and testimony of the person or the production of records or documents. The court may issue an order requiring the person to appear before the Secretary to produce records or documents or to give testimony regarding the matter under investigation.

(d) CONTEMPT.—Any failure to obey the order of the court may be punished by the court as a contempt of the court.

(e) PROCESS.—Process in any case under this section may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

SEC. 522. SUSPENSION OR TERMINATION.

(a) MANDATORY SUSPENSION OR TERMINATION.—The Secretary shall suspend or terminate an order or a provision of an order if the Secretary finds that an order or a provision of an order obstructs or does not tend to effectuate the purpose of this subtitle, or if the Secretary determines that the order or a provision of an order is not favored by persons voting in a referendum conducted under section 518.

(b) IMPLEMENTATION OF SUSPENSION OR TERMINATION.—If, as a result of a referendum conducted under section 518, the Secretary determines that an order is not approved, the Secretary shall—

(1) not later than 180 days after making the determination, suspend or terminate, as the case may be, collection of assessments under the order; and

(2) as soon as practicable, suspend or terminate, as the case may be, activities under the order in an orderly manner.

SEC. 523. AMENDMENTS TO ORDERS.

The provisions of this subtitle applicable to an order shall be applicable to any amendment to an order, except that section 518 shall not apply to an amendment.

SEC. 524. EFFECT ON OTHER LAWS.

This subtitle shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

SEC. 525. REGULATIONS.

The Secretary may issue such regulations as may be necessary to carry out this subtitle and the power vested in the Secretary under this subtitle.

SEC. 526. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

(b) LIMITATION ON EXPENDITURES FOR ADMINISTRATIVE EXPENSES.—Funds appropriated to carry out this subtitle may not be expended for the payment of expenses incurred by a board to administer an order.

Subtitle C—Canola and Rapeseed

SEC. 531. SHORT TITLE.

This subtitle may be cited as the ''Canola and Rapeseed Research, Promotion, and Consumer Information Act''.

SEC. 532. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) canola and rapeseed products are an important and nutritious part of the human diet;

(2) the production of canola and rapeseed products plays a significant role in the economy of the United States in that—

(A) canola and rapeseed products are produced by thousands of canola and rapeseed producers and processed by numerous processing entities; and

(B) canola and rapeseed products produced in the United States are consumed by people throughout the United States and foreign countries;

(3) canola, rapeseed, and canola and rapeseed products should be readily available and marketed efficiently to ensure that consumers have an adequate supply of canola and rapeseed products at a reasonable price;

(4) the maintenance and expansion of existing markets and development of new markets for canola, rapeseed, and canola and rapeseed products are vital to the welfare of canola and rapeseed producers and processors and those persons concerned with marketing canola, rapeseed, and canola and rapeseed products, as well as to the general economy of the United States, and are necessary to ensure the ready availability and efficient marketing of canola, rapeseed, and canola and rapeseed products;

(5) there exist established State and national organizations conducting canola and rapeseed research, promotion, and consumer education programs that are valuable to the efforts of promoting the consumption of canola, rapeseed, and canola and rapeseed products;

(6) the cooperative development, financing, and implementation of a coordinated national program of canola and rapeseed research, promotion, consumer information, and industry information is necessary to maintain and expand existing markets and develop new markets for canola, rapeseed, and canola and rapeseed products; and

(7) canola, rapeseed, and canola and rapeseed products move in interstate and foreign commerce, and canola, rapeseed, and canola and rapeseed products that do not move in interstate or foreign commerce directly burden or affect interstate commerce in canola, rapeseed, and canola and rapeseed products.

(b) POLICY.—It is the policy of this subtitle to establish an orderly procedure for developing, financing through assessments on domestically produced canola and rapeseed, and implementing a program of research, promotion, consumer information, and industry information designed to strengthen the position in the marketplace of the canola and rapeseed industry, to maintain and expand existing domestic and foreign markets and uses for canola, rapeseed, and canola and rapeseed products, and to develop new markets and uses for canola, rapeseed, and canola and rapeseed products.

(c) CONSTRUCTION.—Nothing in this subtitle provides for the control of production or otherwise limits the right of individual producers to produce canola, rapeseed, or canola or rapeseed products.

SEC. 533. DEFINITIONS.

In this subtitle (unless the context otherwise requires):

(1) BOARD.—The term ''Board'' means the National Canola and Rapeseed Board established under section 535(b).

(2) CANOLA; RAPESEED.—The terms ''canola'' and ''rapeseed'' mean any brassica plant grown in the United States for the production of an oilseed, the oil of which is used for a food or nonfood use.

(3) CANOLA OR RAPESEED PRODUCT.—The term ''canola or rapeseed product'' means a product produced, in whole or in part, from canola or rapeseed.

(4) COMMERCE.—The term ''commerce'' includes interstate, foreign, and intrastate commerce.

(5) CONFLICT OF INTEREST.—The term ''conflict of interest'' means a situation in which a member of the Board has a direct or indirect financial interest in a corporation, partnership, sole proprietorship, joint venture, or other business entity dealing directly or indirectly with the Board.

(6) CONSUMER INFORMATION.—The term ''consumer information'' means information that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of canola, rapeseed, or canola or rapeseed products.

(7) DEPARTMENT.—The term ''Department'' means the Department of Agriculture.

(8) FIRST PURCHASER.—The term ''first purchaser'' means—

(A) except as provided in subparagraph (B), a person who buys or otherwise acquires canola, rapeseed, or canola or rapeseed products produced by a producer; or

(B) the Commodity Credit Corporation, in a case in which canola or rapeseed is forfeited to the Commodity Credit Corporation as collateral for a loan issued under a price support loan program administered by the Commodity Credit Corporation.

(9) INDUSTRY INFORMATION.—The term ''industry information'' means information or a

program that will lead to the development of new markets, new marketing strategies, or increased efficiency for the canola and rapeseed industry, or an activity to enhance the image of the canola or rapeseed industry.

(10) INDUSTRY MEMBER.—The term ''industry member'' means a member of the canola and rapeseed industry who represents—

(A) manufacturers of canola or rapeseed products; or

(B) persons who commercially buy or sell canola or rapeseed.

(11) MARKETING.—The term ''marketing'' means the sale or other disposition of canola, rapeseed, or canola or rapeseed products in a channel of commerce.

(12) ORDER.—The term ''order'' means an order issued under section 534.

(13) PERSON.—The term ''person'' means an individual, partnership, corporation, association, cooperative, or any other legal entity.

(14) PRODUCER.—The term ''producer'' means a person engaged in the growing of canola or rapeseed in the United States who owns, or who shares the ownership and risk of loss of, the canola or rapeseed.

(15) PROMOTION.—The term ''promotion'' means an action, including paid advertising, technical assistance, or a trade servicing activity, to enhance the image or desirability of canola, rapeseed, or canola or rapeseed products in domestic and foreign markets, or an activity designed to communicate to consumers, processors, wholesalers, retailers, government officials, or other persons information relating to the positive attributes of canola, rapeseed, or canola or rapeseed products or the benefits of use or distribution of canola, rapeseed, or canola or rapeseed products.

(16) RESEARCH.—The term ''research'' means any type of test, study, or analysis to advance the image, desirability, marketability, production, product development, quality, or functional or nutritional value of canola, rapeseed, or canola or rapeseed products, including research activity designed to identify and analyze barriers to export sales of canola or rapeseed produced in the United States.

(17) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(18) STATE.—The term ''State'' means any of the 50 States, the District of Columbia and the Commonwealth of Puerto Rico.

(19) UNITED STATES.—The term ''United States'' means collectively the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 534. ISSUANCE AND AMENDMENT OF ORDERS.

(a) IN GENERAL.—Subject to subsection (b), the Secretary shall issue 1 or more orders under this subtitle applicable to producers and first purchasers of canola, rapeseed, or canola or rapeseed products. The order shall be national in scope. Not more than 1 order shall be in effect under this subtitle at any 1 time.

(b) PROCEDURE.—

(1) PROPOSAL OR REQUEST FOR ISSUANCE.—The Secretary may propose the issuance of an order under this subtitle, or an association of canola and rapeseed producers or any other person that would be affected by an order issued pursuant to this subtitle may request the issuance of, and submit a proposal for, an order.

(2) NOTICE AND COMMENT CONCERNING PROPOSED ORDER.—Not later than 60 days after the receipt of a request and proposal for an order pursuant to paragraph (1), or whenever the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are given as provided in paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this subtitle. The order shall be issued and become effective not later than 180 days following publication of the proposed order.

(c) AMENDMENTS.—The Secretary may amend an order issued under this section.

SEC. 535. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—An order issued under this subtitle shall contain the terms and conditions specified in this section.

(b) ESTABLISHMENT AND MEMBERSHIP OF THE NATIONAL CANOLA AND RAPESEED BOARD.—

(1) IN GENERAL.—The order shall provide for the establishment of, and appointment of members to, a National Canola and Rapeseed Board to administer the order.

(2) SERVICE TO ENTIRE INDUSTRY.—The Board shall carry out programs and projects that will provide maximum benefit to the canola and rapeseed industry in all parts of the United States and only promote canola, rapeseed, or canola or rapeseed products.

(3) BOARD MEMBERSHIP.—The Board shall consist of 15 members, including—

(A) 11 members who are producers, including—

(i) 1 member from each of the 6 geographic regions comprised of States where canola or rapeseed is produced, as determined by the Secretary; and

(ii) 5 members from the geographic regions referred to in clause (i), allocated according to the production in each region; and

(B) 4 members who are industry members, including at least—

(i) 1 member who represents manufacturers of canola or rapeseed end products; and

(ii) 1 member who represents persons who commercially buy or sell canola or rapeseed.

(4) LIMITATION ON STATE RESIDENCE.—There shall be no more than 4 producer members of the Board from any 1 State.

(5) MODIFYING BOARD MEMBERSHIP.—In accordance with regulations approved by the Secretary, at least once each 3 years and not more than once each 2 years, the Board shall review the geographic distribution of canola and rapeseed production throughout the United States and, if warranted, recommend to the Secretary that the Secretary—

(A) reapportion regions in order to reflect the geographic distribution of canola and rapeseed production; and

(B) reapportion the seats on the Board to reflect the production in each region.

(6) CERTIFICATION OF ORGANIZATIONS.—

(A) IN GENERAL.—For the purposes of section 536, the eligibility of any State organization to represent producers shall be certified by the Secretary.

(B) CRITERIA.—The Secretary shall certify any State organization that the Secretary determines has a history of stability and permanency and meets at least 1 of the following criteria:

(i) MAJORITY REPRESENTATION.—The total paid membership of the organization—

(I) is comprised of at least a majority of canola or rapeseed producers; or

(II) represents at least a majority of the canola or rapeseed producers in the State.

(ii) SUBSTANTIAL NUMBER OF PRODUCERS REPRESENTED.—The organization represents a substantial number of producers that produce a substantial quantity of canola or rapeseed in the State.

(iii) PURPOSE.—The organization is a general farm or agricultural organization that has as a stated objective the promotion and development of the United States canola or rapeseed industry and the economic welfare of United States canola or rapeseed producers.

(C) REPORT.—The Secretary shall make a certification under this paragraph on the basis of a factual report submitted by the State organization.

(7) TERMS OF OFFICE.—

(A) IN GENERAL.—A member of the Board shall serve for a term of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) LIMITATION ON TERMS.—No individual may serve more than 2 consecutive 3-year terms as a member.

(C) TERMINATION OF TERMS.—Notwithstanding subparagraph (B), each member shall continue to serve until a successor is appointed by the Secretary.

(8) COMPENSATION.—A member of the Board shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in the performance of duties for and approved by the Board.

(c) POWERS AND DUTIES OF THE BOARD.—The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with the terms and conditions of the order;

(2) to issue regulations to effectuate the terms and conditions of the order;

(3) to meet, organize, and select from among members of the Board a chairperson, other officers, and committees and subcommittees, as the Board determines appropriate;

(4) to establish working committees of persons other than Board members;

(5) to employ such persons, other than Board members, as the Board considers necessary, and to determine the compensation and define the duties of the persons;

(6) to prepare and submit for the approval of the Secretary, when appropriate or necessary, a recommended rate of assessment under section 536, and a fiscal period budget of the anticipated expenses in the administration of the order, including the probable costs of all programs and projects;

(7) to develop programs and projects, subject to subsection (d);

(8) to enter into contracts or agreements, subject to subsection (e), to develop and carry out programs or projects of research, promotion, industry information, and consumer information;

(9) to carry out research, promotion, industry information, and consumer information projects, and to pay the costs of the projects with assessments collected under section 536;

(10) to keep minutes, books, and records that reflect the actions and transactions of the Board, and promptly report minutes of each Board meeting to the Secretary;

(11) to appoint and convene, from time to time, working committees comprised of producers, industry members, and the public to assist in the development of research, promotion, industry information, and consumer information programs for canola, rapeseed, and canola and rapeseed products;

(12) to invest, pending disbursement under a program or project, funds collected through assessments authorized under section 536, or funds earned from investments, only in—

(A) obligations of the United States or an agency of the United States;

(B) general obligations of a State or a political subdivision of a State;

(C) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States;

(13) to receive, investigate, and report to the Secretary complaints of violations of the order;

(14) to furnish the Secretary with such information as the Secretary may request;

(15) to recommend to the Secretary amendments to the order;

(16) to develop and recommend to the Secretary for approval such regulations as may be necessary for the development and execution of programs or projects, or as may otherwise be necessary, to carry out the order; and

(17) to provide the Secretary with advance notice of meetings.

(d) PROGRAMS AND BUDGETS.—

(1) SUBMISSION TO SECRETARY.—The order shall provide that the Board shall submit to the Secretary for approval any program or project of research, promotion, consumer information, or industry information. No program or project shall be implemented prior to approval by the Secretary.

(2) BUDGETS.—The order shall require the Board, prior to the beginning of each fiscal year, or as may be necessary after the beginning of a fiscal year, to submit to the Secretary for approval budgets of anticipated expenses and disbursements in the implementation of the order, including projected costs of research, promotion, consumer information, and industry information programs and projects.

(3) INCURRING EXPENSES.—The Board may incur such expenses for programs or projects of research, promotion, consumer information, or industry information, and other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary, including any implementation, administrative, and referendum costs incurred by the Department.

(4) PAYING EXPENSES.—The funds to cover the expenses referred to in paragraph (3) shall be paid by the Board from assessments collected under section 536 or funds borrowed pursuant to paragraph (5).

(5) AUTHORITY TO BORROW.—To meet the expenses referred to in paragraph (3), the Board shall have the authority to borrow funds, as approved by the Secretary, for capital outlays and startup costs.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—To ensure efficient use of funds, the order shall provide that the Board may enter into a contract or agreement for the implementation and carrying out of a program or project of canola, rapeseed, or canola or rapeseed products research, promotion, consumer information, or industry information, including a contract with a producer organization, and for the payment of the costs with funds received by the Board under the order.

(2) REQUIREMENTS.—A contract or agreement under paragraph (1) shall provide that—

(A) the contracting party shall develop and submit to the Board a program or project together with a budget that shall show the estimated costs to be incurred for the program or project;

(B) the program or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all transactions, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) PRODUCER ORGANIZATIONS.—The order shall provide that the Board may contract with a producer organization for any services required in addition to the services described in paragraph (1). The contract shall include provisions comparable to the provisions required by paragraph (2).

(f) BOOKS AND RECORDS OF THE BOARD.—

(1) IN GENERAL.—The order shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) AUDITS.—The Board shall cause the books and records of the Board to be audited by an independent auditor at the end of each fiscal year, and a report of the audit to be submitted to the Secretary.

(g) PROHIBITION.—

(1) IN GENERAL.—Subject to paragraph (2), the Board shall not engage in any action to, nor shall any funds received by the Board under this subtitle be used to—

(A) influence legislation or governmental action;

(B) engage in an action that would be a conflict of interest;

(C) engage in advertising that is false or misleading; or

(D) engage in promotion that would disparage other commodities.

(2) ACTION PERMITTED.—Paragraph (1) does not preclude—

(A) the development and recommendation of amendments to the order;

(B) the communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, or industry information activities under the order; or

(C) any action designed to market canola or rapeseed products directly to a foreign government or political subdivision of a foreign government.

(h) BOOKS AND RECORDS.—

(1) IN GENERAL.—The order shall require that each producer, first purchaser, or industry member shall—

(A) maintain and submit to the Board any reports considered necessary by the Secretary to ensure compliance with this subtitle; and

(B) make available during normal business hours, for inspection by employees of the Board or Secretary, such books and records as are necessary to carry out this subtitle, including such records as are necessary to verify any required reports.

(2) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as otherwise provided in this subtitle, all information obtained from books, records, or reports required to be maintained under paragraph (1) shall be kept confidential, and shall not be disclosed to the public by any person.

(B) DISCLOSURE.—Information referred to in subparagraph (A) may be disclosed to the public if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party; and

(iii) the information relates to this subtitle.

(C) MISCONDUCT.—A knowing disclosure of confidential information in violation of subparagraph (A) by an officer or employee of the Board or Department, except as required by other law or allowed under subparagraph (B) or (D), shall be considered a violation of this subtitle.

(D) GENERAL STATEMENTS.—Nothing in this paragraph prohibits—

(i) the issuance of general statements based on the reports of a number of persons subject to an order or statistical data collected from the reports, if the statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of a person violating the order, together with a statement of the particular provisions of the order violated by the person.

(3) AVAILABILITY OF INFORMATION FOR LAW ENFORCEMENT.—Information obtained under this subtitle may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(4) PENALTY.—Any person knowingly violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Board or the Department, shall be removed from office or terminated from employment, as applicable.

(5) WITHHOLDING OF INFORMATION.—Nothing in this subtitle authorizes the withholding of information from Congress.

(i) USE OF ASSESSMENTS.—The order shall provide that the assessments collected under section 536 shall be used for payment of the expenses in implementing and administering this subtitle, with provision for a reasonable reserve, and to cover administrative costs incurred by the Secretary in implementing and administering this subtitle.

(j) OTHER TERMS AND CONDITIONS.—The order shall contain such other terms and conditions, not inconsistent with this subtitle, as are determined necessary by the Secretary to effectuate this subtitle.

SEC. 536. ASSESSMENTS.

(a) IN GENERAL.—

(1) FIRST PURCHASERS.—During the effective period of an order issued pursuant to this subtitle, assessments shall be—

(A) levied on all canola or rapeseed produced in the United States and marketed; and

(B) deducted from the payment made to a producer for all canola or rapeseed sold to a first purchaser.

(2) DIRECT PROCESSING.—The order shall provide that any person processing canola or rapeseed of that person's own production and marketing the canola or rapeseed, or canola or rapeseed products, shall remit to the Board or a State organization certified to represent producers under section 535(b)(6), in the manner prescribed by the order, an assessment established at a rate equivalent to the rate provided for under subsection (d).

(b) LIMITATION ON ASSESSMENTS.—No more than 1 assessment may be assessed under subsection (a) on any canola or rapeseed produced (as remitted by a first purchaser).

(c) REMITTING OF ASSESSMENTS.—

(1) IN GENERAL.—Assessments required under subsection (a) shall be remitted to the Board by a first purchaser. The Board shall use State organizations certified to represent producers under section 535(b)(6) to collect the assessments. If an appropriate certified State organization does not exist to collect an assessment, the assessment shall be collected by the Board. There shall be only 1 certified State organization in each State.

(2) TIMES TO REMIT ASSESSMENT.—Each first purchaser shall remit the assessment to the Board as provided for in the order.

(d) ASSESSMENT RATE.—

(1) INITIAL RATE.—The initial assessment rate shall be 4 cents per hundredweight of canola or rapeseed produced and marketed.

(2) INCREASE.—The assessment rate may be increased on recommendation by the Board to a rate not exceeding 10 cents per hundredweight of canola or rapeseed produced and marketed in a State, unless—

(A) after the initial referendum is held under section 537(a), the Board recommends

an increase above 10 cents per hundredweight; and

(B) the increase is approved in a referendum under section 537(b).

(3) CREDIT.—A producer who demonstrates to the Board that the producer is participating in a program of a State organization certified to represent producers under section 535(b)(6) shall receive credit, in determining the assessment due from the producer, for contributions to the program of up to 2 cents per hundredweight of canola or rapeseed marketed.

(e) LATE PAYMENT CHARGE.—

(1) IN GENERAL.—There shall be a late payment charge imposed on any person who fails to remit, on or before the date provided for in the order, to the Board the total amount for which the person is liable.

(2) AMOUNT OF CHARGE.—The amount of the late payment charge imposed under paragraph (1) shall be prescribed by the Board with the approval of the Secretary.

(f) REFUND OF ASSESSMENTS FROM ESCROW ACCOUNT.—

(1) ESTABLISHMENT OF ESCROW ACCOUNT.—During the period beginning on the date on which an order is first issued under section 534(b)(3) and ending on the date on which a referendum is conducted under section 537(a), the Board shall—

(A) establish and maintain an escrow account to be used for assessment refunds; and

(B) place funds in the account in accordance with paragraph (2).

(2) PLACEMENT OF FUNDS IN ACCOUNT.—The Board shall place in the account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during the period by 10 percent.

(3) RIGHT TO RECEIVE REFUND.—The Board shall refund to a producer the assessments paid by or on behalf of the producer if—

(A) the producer is required to pay the assessment;

(B) the producer does not support the program established under this subtitle; and

(C) the producer demands the refund prior to the conduct of the referendum under section 537(a).

(4) FORM OF DEMAND.—The demand shall be made in accordance with such regulations, in such form, and within such time period as prescribed by the Board.

(5) MAKING OF REFUND.—The refund shall be made on submission of proof satisfactory to the Board that the producer paid the assessment for which the refund is demanded.

(6) PRORATION.—If—

(A) the amount in the escrow account required by paragraph (1) is not sufficient to refund the total amount of assessments demanded by eligible producers; and

(B) the order is not approved pursuant to the referendum conducted under section 537(a);

the Board shall prorate the amount of the refunds among all eligible producers who demand a refund.

(7) PROGRAM APPROVED.—If the plan is approved pursuant to the referendum conducted under section 537(a), all funds in the escrow account shall be returned to the Board for use by the Board in accordance with this subtitle.

SEC. 537. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) REQUIREMENT.—During the period ending 30 months after the date on which an order is first issued under section 534(b)(3), the Secretary shall conduct a referendum among producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed for the purpose of ascertaining whether the order then in effect shall be continued.

(2) ADVANCE NOTICE.—The Secretary shall, to the extent practicable, provide broad public notice in advance of any referendum. The notice shall be provided, without advertising expenses, by means of newspapers, county newsletters, the electronic media, and press releases, through the use of notices posted in State and county Cooperative State Research, Education, and Extension Service offices and county Consolidated Farm Service Agency offices, and by other appropriate means specified in the order. The notice shall contain information on when the referendum will be held, registration and voting requirements, rules regarding absentee voting, and other pertinent information.

(3) APPROVAL OF ORDER.—The order shall be continued only if the Secretary determines that the order has been approved by not less than a majority of the producers voting in the referendum.

(4) DISAPPROVAL OF ORDER.—If continuation of the order is not approved by a majority of the producers voting in the referendum, the Secretary shall terminate collection of assessments under the order within 180 days after the referendum and shall terminate the order in an orderly manner as soon as practicable.

(b) ADDITIONAL REFERENDA.—

(1) IN GENERAL.—

(A) REQUIREMENT.—After the initial referendum on an order, the Secretary shall conduct additional referenda, as described in subparagraph (C), if requested by a representative group of producers, as described in subparagraph (B).

(B) REPRESENTATIVE GROUP OF PRODUCERS.—An additional referendum on an order shall be conducted if requested by 10 percent or more of the producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed.

(C) ELIGIBLE PRODUCERS.—Each additional referendum shall be conducted among all producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed to determine whether the producers favor the termination or suspension of the order.

(2) DISAPPROVAL OF ORDER.—If the Secretary determines, in a referendum conducted under paragraph (1), that suspension or termination of the order is favored by a majority of the producers voting in the referendum, the Secretary shall suspend or terminate, as appropriate, collection of assessments under the order within 180 days after the determination, and shall suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after the determination.

(3) OPPORTUNITY TO REQUEST ADDITIONAL REFERENDA.—

(A) IN GENERAL.—Beginning on the date that is 5 years after the conduct of a referendum under this subtitle, and every 5 years thereafter, the Secretary shall provide canola and rapeseed producers an opportunity to request an additional referendum.

(B) METHOD OF MAKING REQUEST.—

(i) IN-PERSON REQUESTS.—To carry out subparagraph (A), the Secretary shall establish a procedure under which a producer may make a request for a reconfirmation referendum in person at a county Cooperative State Research, Education, and Extension Service office or a county Consolidated Farm Service Agency office during a period established by the Secretary, or as provided in clause (ii).

(ii) MAIL-IN REQUESTS.—In lieu of making a request in person, a producer may make a request by mail. To facilitate the submission of requests by mail, the Secretary may make mail-in request forms available to producers.

(C) NOTIFICATIONS.—The Secretary shall publish a notice in the Federal Register, and the Board shall provide written notification to producers, not later than 60 days prior to the end of the period established under subparagraph (B)(i) for an in-person request, of the opportunity of producers to request an additional referendum. The notification shall explain the right of producers to an additional referendum, the procedure for a referendum, the purpose of a referendum, and the date and method by which producers may act to request an additional referendum under this paragraph. The Secretary shall take such other action as the Secretary determines is necessary to ensure that producers are made aware of the opportunity to request an additional referendum.

(D) ACTION BY SECRETARY.—As soon as practicable following the submission of a request for an additional referendum, the Secretary shall determine whether a sufficient number of producers have requested the referendum, and take such steps as are necessary to conduct the referendum, as required under paragraph (1).

(E) TIME LIMIT.—An additional referendum requested under the procedures provided in this paragraph shall be conducted not later than 1 year after the Secretary determines that a representative group of producers, as described in paragraph (1)(B), have requested the conduct of the referendum.

(c) PROCEDURES.—

(1) REIMBURSEMENT OF SECRETARY.—The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of an activity required under this section.

(2) DATE.—Each referendum shall be conducted for a reasonable period of time not to exceed 3 days, established by the Secretary, under a procedure under which producers intending to vote in the referendum shall certify that the producers were engaged in the production of canola, rapeseed, or canola or rapeseed products during the representative period and, at the same time, shall be provided an opportunity to vote in the referendum.

(3) PLACE.—Referenda under this section shall be conducted at locations determined by the Secretary. On request, absentee mail ballots shall be furnished by the Secretary in a manner prescribed by the Secretary.

SEC. 538. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this subtitle may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary.

(3) RULING.—After a hearing under paragraph (2), the Secretary shall issue a ruling on the petition that is the subject of the hearing, which shall be final if the ruling is in accordance with applicable law.

(4) LIMITATION ON PETITION.—Any petition filed under this subtitle challenging an order, or any obligation imposed in connection with an order, shall be filed not later than 2 years after the effective date of the order or imposition of the obligation.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which the person who is a petitioner under subsection (a) resides or carries on business

shall have jurisdiction to review a ruling on the petition, if a complaint is filed by the person not later than 20 days after the date of the entry of a ruling by the Secretary under subsection (a)(3).

(2) PROCESS.—Service of process in a proceeding under paragraph (1) shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMANDS.—If the court determines, under paragraph (1), that a ruling issued under subsection (a)(3) is not in accordance with applicable law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the Attorney General or the Secretary from taking any action under section 539.

SEC. 539. ENFORCEMENT.

(a) JURISDICTION.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, an order or regulation made or issued under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be commenced under this section shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General a violation of this subtitle if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by providing a suitable written notice or warning to the person committing the violation or by administrative action under subsection (c).

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—

(A) IN GENERAL.—Any person who willfully violates any provision of an order or regulation issued by the Secretary under this subtitle, or who fails or refuses to pay, collect, or remit an assessment or fee required of the person under an order or regulation, may be assessed—

(i) a civil penalty by the Secretary of not more than $1,000 for each violation; and

(ii) in the case of a willful failure to pay, collect, or remit an assessment as required by an order or regulation, an additional penalty equal to the amount of the assessment.

(B) SEPARATE OFFENSE.—Each violation under subparagraph (A) shall be a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing a violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed, or cease-and-desist order issued, by the Secretary under this subsection unless the person against whom the penalty is assessed or the cease-and-desist order is issued is given notice and opportunity for a hearing before the Secretary with respect to the violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order under this subsection shall be final and conclusive unless the affected person files an appeal of the order in the appropriate district court of the United States in accordance with subsection (d).

(d) REVIEW BY DISTRICT COURT.—

(1) COMMENCEMENT OF ACTION.—Any person who has been determined to be in violation of this subtitle, or against whom a civil penalty has been assessed or a cease-and-desist order issued under subsection (c), may obtain review of the penalty or cease-and-desist order by—

(A) filing, within the 30-day period beginning on the date the penalty is assessed or cease-and-desist order issued, a notice of appeal in—

(i) the district court of the United States for the district in which the person resides or carries on business; or

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

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

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

(3) STANDARD OF REVIEW.—A finding of the Secretary under this section shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY CEASE-AND-DESIST ORDERS.—Any person who fails to obey a cease-and-desist order issued under this section after the cease-and-desist order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than $5,000 for each offense. Each day during which the failure continues shall be considered as a separate violation of the cease-and-desist order.

(f) FAILURE TO PAY PENALTIES.—If a person fails to pay an assessment of a civil penalty under this section after the assessment has become a final and unappealable order, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In an action for recovery, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in this subtitle shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 540. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subtitle; and

(2) to determine whether any person has engaged or is engaging in an act that constitutes a violation of this subtitle, or an order, rule, or regulation issued under this subtitle.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—

(1) IN GENERAL.—For the purpose of an investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, take evidence, and issue subpoenas to require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 538 or 539, the presiding officer is authorized to administer oaths and affirmations, subpoena and compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

(c) AID OF COURTS.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring the person to comply with the subpoena.

(d) CONTEMPT.—A failure to obey an order of the court under this section may be punished by the court as contempt of the court.

(e) PROCESS.—Process may be served on a person in the judicial district in which the person resides or carries on business or wherever the person may be found.

(f) HEARING SITE.—The site of a hearing held under section 538 or 539 shall be in the judicial district where the person affected by the hearing resides or has a principal place of business.

SEC. 541. SUSPENSION OR TERMINATION.

The Secretary shall, whenever the Secretary finds that an order or a provision of an order obstructs or does not tend to effectuate the declared policy of this subtitle, suspend or terminate the operation of the order or provision. The suspension or termination of an order shall not be considered an order within the meaning of this subtitle.

SEC. 542. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

SEC. 543. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this subtitle.

(b) ADMINISTRATIVE EXPENSES.—Funds appropriated under subsection (a) shall not be available for payment of the expenses or expenditures of the Board in administering a provision of an order issued under this subtitle.

Subtitle D—Kiwifruit

SEC. 551. SHORT TITLE.

This subtitle may be cited as the ''National Kiwifruit Research, Promotion, and Consumer Information Act''.

SEC. 552. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) domestically produced kiwifruit are grown by many individual producers;

(2) virtually all domestically produced kiwifruit are grown in the State of California, although there is potential for production in many other areas of the United States;

(3) kiwifruit move in interstate and foreign commerce, and kiwifruit that do not move in channels of commerce directly burden or affect interstate commerce;

(4) in recent years, large quantities of kiwifruit have been imported into the United States;

(5) the maintenance and expansion of existing domestic and foreign markets for kiwifruit, and the development of additional and improved markets for kiwifruit, are vital to the welfare of kiwifruit producers and other persons concerned with producing, marketing, and processing kiwifruit;

(6) a coordinated program of research, promotion, and consumer information regarding kiwifruit is necessary for the maintenance and development of the markets; and

(7) kiwifruit producers, handlers, and importers are unable to implement and finance such a program without cooperative action.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to authorize the establishment of an orderly procedure for the development and financing (through an assessment) of an effective and coordinated program of research, promotion, and consumer information regarding kiwifruit;

(2) to use the program to strengthen the position of the kiwifruit industry in domestic and foreign markets and maintain, develop, and expand markets for kiwifruit; and

(3) to treat domestically produced kiwifruit and imported kiwifruit equitably.

SEC. 553. DEFINITIONS.

In this subtitle (unless the context otherwise requires):

(1) BOARD.—The term ''Board'' means the National Kiwifruit Board established under section 555.

(2) CONSUMER INFORMATION.—The term ''consumer information'' means any action taken to provide information to, and broaden the understanding of, the general public regarding the consumption, use, nutritional attributes, and care of kiwifruit.

(3) EXPORTER.—The term ''exporter'' means any person from outside the United States who exports kiwifruit into the United States.

(4) HANDLER.—The term ''handler'' means any person, excluding a common carrier, engaged in the business of buying and selling, packing, marketing, or distributing kiwifruit as specified in the order.

(5) IMPORTER.—The term ''importer'' means any person who imports kiwifruit into the United States.

(6) KIWIFRUIT.—The term ''kiwifruit'' means all varieties of fresh kiwifruit grown in or imported into the United States.

(7) MARKETING.—The term ''marketing'' means the sale or other disposition of kiwifruit into interstate, foreign, or intrastate commerce by buying, marketing, distribution, or otherwise placing kiwifruit into commerce.

(8) ORDER.—The term ''order'' means a kiwifruit research, promotion, and consumer information order issued by the Secretary under section 554.

(9) PERSON.—The term ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or other legal entity.

(10) PROCESSING.—The term ''processing'' means canning, fermenting, distilling, extracting, preserving, grinding, crushing, or in any manner changing the form of kiwifruit for the purpose of preparing the kiwifruit for market or marketing the kiwifruit.

(11) PRODUCER.—The term ''producer'' means any person who grows kiwifruit in the United States for sale in commerce.

(12) PROMOTION.—The term ''promotion'' means any action taken under this subtitle (including paid advertising) to present a favorable image of kiwifruit to the general public for the purpose of improving the competitive position of kiwifruit and stimulating the sale of kiwifruit.

(13) RESEARCH.—The term ''research'' means any type of research relating to the use, nutritional value, and marketing of kiwifruit conducted for the purpose of advancing the image, desirability, marketability, or quality of kiwifruit.

(14) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(15) UNITED STATES.—The term ''United States'' means the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 554. ISSUANCE OF ORDERS.

(a) ISSUANCE.—To effectuate the purposes of this subtitle specified in section 552(b), the Secretary shall issue an order applicable to producers, handlers, and importers of kiwifruit. Any such order shall be national in scope. Not more than 1 order shall be in effect under this subtitle at any 1 time.

(b) PROCEDURE.—

(1) PROPOSAL FOR ISSUANCE OF ORDER.—Any person that will be affected by this subtitle may request the issuance of, and submit a proposal for, an order under this subtitle.

(2) PROPOSED ORDER.—Not later than 90 days after the receipt of a request and proposal for an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are provided under paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with this subtitle.

(c) AMENDMENTS.—The Secretary may amend any order issued under this section. The provisions of this subtitle applicable to an order shall be applicable to an amendment to an order.

SEC. 555. NATIONAL KIWIFRUIT BOARD.

(a) MEMBERSHIP.—An order issued by the Secretary under section 554 shall provide for the establishment of a National Kiwifruit Board that consists of the following 11 members:

(1) 6 members who are producers (or representatives of producers) and who are not exempt from an assessment under section 556(b).

(2) 4 members who are importers (or representatives of importers) and who are not exempt from an assessment under section 556(b) or are exporters (or representatives of exporters).

(3) 1 member appointed from the general public.

(b) ADJUSTMENT OF MEMBERSHIP.—

(1) IN GENERAL.—Subject to the 11-member limit and to paragraph (2), the Secretary may adjust membership on the Board to accommodate changes in production and import levels of kiwifruit.

(2) NUMBER OF PRODUCER MEMBERS.—Producers shall comprise not less than 51 percent of the membership of the Board.

(c) APPOINTMENT AND NOMINATION.—

(1) APPOINTMENT.—The Secretary shall appoint the members of the Board from nominations submitted in accordance with this subsection.

(2) PRODUCERS.—The members referred to in subsection (a)(1) shall be appointed from individuals nominated by producers.

(3) IMPORTERS AND EXPORTERS.—The members referred to in subsection (a)(2) shall be appointed from individuals nominated by importers or exporters.

(4) PUBLIC REPRESENTATIVE.—The public representative shall be appointed from nominations submitted by other members of the Board.

(5) FAILURE TO NOMINATE.—If producers, importers, and exporters fail to nominate individuals for appointment, the Secretary may appoint members and alternates on a basis provided for in the order. If the Board fails to nominate a public representative, the member may be appointed by the Secretary without a nomination.

(d) ALTERNATES.—The Secretary shall appoint an alternate for each member of the Board. An alternate shall—

(1) be appointed in the same manner as the member for whom the individual is an alternate; and

(2) serve on the Board if the member is absent from a meeting or is disqualified under subsection (f).

(e) TERMS.—A member of the Board shall be appointed for a term of 3 years. No member may serve more than 2 consecutive 3-year terms, except that of the members first appointed—

(1) 5 members shall be appointed for a term of 2 years; and

(2) 6 members shall be appointed for a term of 3 years.

(f) DISQUALIFICATION.—If a member or alternate of the Board who was appointed as a producer, importer, exporter, or public representative member ceases to belong to the group for which the member was appointed, the member or alternate shall be disqualified from serving on the Board.

(g) COMPENSATION.—A member or alternate of the Board shall serve without pay.

(h) GENERAL POWERS AND DUTIES.—The Board shall—

(1) administer an order issued by the Secretary under section 554, and an amendment to the order, in accordance with the order and amendment and this subtitle;

(2) prescribe rules and regulations to carry out the order;

(3) meet, organize, and select from among members of the Board a chairperson, other officers, and committees and subcommittees, as the Board determines appropriate;

(4) receive, investigate, and report to the Secretary accounts of violations of the order;

(5) make recommendations to the Secretary with respect to an amendment that should be made to the order; and

(6) employ or contract with a manager and staff to assist in administering the order, except that, to reduce administrative costs and increase efficiency, the Board shall seek, to the extent practicable, to employ or contract with personnel who are already associated with organizations involved in promoting kiwifruit that are chartered by a State, the District of Columbia, or the Commonwealth of Puerto Rico.

SEC. 556. REQUIRED TERMS IN ORDER.

(a) BUDGETS AND PLANS.—

(1) IN GENERAL.—An order issued under section 554 shall provide for periodic budgets and plans in accordance with this subsection.

(2) BUDGETS.—The Board shall prepare and submit to the Secretary a budget prior to the beginning of the fiscal year of the anticipated expenses and disbursements of the Board in the administration of the order, including probable costs of research, promotion, and consumer information. A budget shall become effective on a ⅔-vote of a quorum of the Board and approval by the Secretary.

(3) PLANS.—Each budget shall include a plan for research, promotion, and consumer information regarding kiwifruit. A plan under this paragraph shall become effective on approval by the Secretary. The Board may enter into contracts and agreements, on approval by the Secretary, for—

(A) the development and carrying out of the plan; and

(B) the payment of the cost of the plan, with funds collected pursuant to this subtitle.

(b) ASSESSMENTS.—

(1) IN GENERAL.—The order shall provide for the imposition and collection of assessments with regard to the production and importation of kiwifruit in accordance with this subsection.

(2) RATE.—The assessment rate shall be the rate that is recommended by a ⅔-vote of a quorum of the Board and approved by the Secretary, except that the rate shall not exceed $0.10 per 7-pound tray of kiwifruit or an equivalent rate.

(3) COLLECTION BY FIRST HANDLERS.—Except as provided in paragraph (5), the first handler of kiwifruit shall—

(A) be responsible for the collection from the producer, and payment to the Board, of assessments required under this subsection; and

(B) maintain a separate record of the kiwifruit of each producer whose kiwifruit are so handled, including the kiwifruit owned by the handler.

(4) IMPORTERS.—The assessment on imported kiwifruit shall be paid by the importer to the United States Customs Service

at the time of entry into the United States and shall be remitted to the Board.

(5) EXEMPTION FROM ASSESSMENT.—The following persons or activities are exempt from an assessment under this subsection:

(A) A producer who produces less than 500 pounds of kiwifruit per year.

(B) An importer who imports less than 10,000 pounds of kiwifruit per year.

(C) A sale of kiwifruit made directly from the producer to a consumer for a purpose other than resale.

(D) The production or importation of kiwifruit for processing.

(6) CLAIM OF EXEMPTION.—To claim an exemption under paragraph (5) for a particular year, a person shall—

(A) submit an application to the Board stating the basis for the exemption and certifying that the quantity of kiwifruit produced, imported, or sold by the person will not exceed any poundage limitation required for the exemption in the year; or

(B) be on a list of approved processors developed by the Board.

(c) USE OF ASSESSMENTS.—

(1) AUTHORIZED USES.—The order shall provide that funds paid to the Board as assessments under subsection (b) may be used by the Board—

(A) to pay for research, promotion, and consumer information described in the budget of the Board under subsection (a) and for other expenses incurred by the Board in the administration of an order;

(B) to pay such other expenses for the administration, maintenance, and functioning of the Board (including any enforcement efforts for the collection of assessments) as may be authorized by the Secretary, including interest and penalties for late payments; and

(C) to fund a reserve established under section 557(d).

(2) REQUIRED USES.—The order shall provide that funds paid to the Board as assessments under subsection (b) shall be used by the Board—

(A) to pay the expenses incurred by the Secretary, including salaries and expenses of Federal Government employees, in implementing and administering the order; and

(B) to reimburse the Secretary for any expenses incurred by the Secretary in conducting referenda under this subtitle.

(3) LIMITATION ON USE OF ASSESSMENTS.—Except for the first year of operation of the Board, expenses for the administration, maintenance, and functioning of the Board may not exceed 30 percent of the budget for a year.

(d) FALSE CLAIMS.—The order shall provide that any promotion funded with assessments collected under subsection (b) may not make—

(1) any false claims on behalf of kiwifruit; and

(2) any false statements with respect to the attributes or use of any product that competes with kiwifruit for sale in commerce.

(e) PROHIBITION ON USE OF FUNDS.—The order shall provide that funds collected by the Board under this subtitle through assessments may not, in any manner, be used for the purpose of influencing legislation or governmental policy or action, except for making recommendations to the Secretary as provided for under this subtitle.

(f) BOOKS, RECORDS, AND REPORTS.—

(1) BOARD.—The order shall require the Board—

(A) to maintain books and records with respect to the receipt and disbursement of funds received by the Board;

(B) to submit to the Secretary from time to time such reports as the Secretary may require for appropriate accounting; and

(C) to submit to the Secretary at the end of each fiscal year a complete audit report by an independent auditor regarding the activities of the Board during the fiscal year.

(2) OTHERS.—To make information and data available to the Board and the Secretary that is appropriate or necessary for the effectuation, administration, or enforcement of this subtitle (or any order or regulation issued under this subtitle), the order shall require handlers and importers who are responsible for the collection, payment, or remittance of assessments under subsection (b)—

(A) to maintain and make available for inspection by the employees and agents of the Board and the Secretary such books and records as may be required by the order; and

(B) to file, at the times and in the manner and content prescribed by the order, reports regarding the collection, payment, or remittance of the assessments.

(g) CONFIDENTIALITY.—

(1) IN GENERAL.—The order shall require that all information obtained pursuant to subsection (f)(2) be kept confidential by all officers, employees, and agents of the Department of Agriculture and of the Board. Only such information as the Secretary considers relevant shall be disclosed to the public and only in a suit or administrative hearing, brought at the request of the Secretary or to which the Secretary or any officer of the United States is a party, involving the order with respect to which the information was furnished or acquired.

(2) LIMITATIONS.—Nothing in this subsection prohibits—

(A) the issuance of general statements based on the reports of a number of handlers and importers subject to an order, if the statements do not identify the information furnished by any person; or

(B) the publication, by direction of the Secretary, of the name of any person violating an order issued under section 554(a), together with a statement of the particular provisions of the order violated by the person.

(3) PENALTY.—Any person who willfully violates this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and, if the person is a member, officer, or agent of the board or an employee of the Department of Agriculture, shall be removed from office.

(h) WITHHOLDING OF INFORMATION.—Nothing in this subtitle authorizes the withholding of information from Congress.

SEC. 557. PERMISSIVE TERMS IN ORDER.

(a) PERMISSIVE TERMS.—On the recommendation of the Board and with the approval of the Secretary, an order issued under section 554 may include the terms and conditions specified in this section and such additional terms and conditions as the Secretary considers necessary to effectuate the other provisions of the order and are incidental to, and not inconsistent with, this subtitle.

(b) ALTERNATIVE PAYMENT AND REPORTING SCHEDULES.—The order may authorize the Board to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures.

(c) WORKING GROUPS.—The order may authorize the Board to convene working groups drawn from producers, handlers, importers, exporters, or the general public and utilize the expertise of the groups to assist in the development of research and marketing programs for kiwifruit.

(d) RESERVE FUNDS.—The order may authorize the Board to accumulate reserve funds from assessments collected pursuant to section 556(b) to permit an effective and continuous coordinated program of research, promotion, and consumer information in years in which production and assessment income may be reduced, except that any reserve fund may not exceed the amount budgeted for operation of this subtitle for 1 year.

(e) PROMOTION ACTIVITIES OUTSIDE UNITED STATES.—The order may authorize the Board to use, with the approval of the Secretary, funds collected under section 556(b) and funds from other sources for the development and expansion of sales in foreign markets of kiwifruit produced in the United States.

SEC. 558. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—A person submitting a petition under paragraph (1) shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After the hearing, the Secretary shall issue a ruling on the petition which shall be final if the petition is in accordance with law.

(4) LIMITATION ON PETITION.—Any petition filed under this subtitle challenging an order, or any obligation imposed in connection with an order, shall be filed not later than 2 years after the effective date of the order or imposition of the obligation.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which the person who is a petitioner under subsection (a) resides or carries on business is vested with jurisdiction to review the ruling on the petition of the person, if a complaint for that purpose is filed not later than 20 days after the date of the entry of a ruling by the Secretary under subsection (a).

(2) PROCESS.—Service of process in the proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMANDS.—If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(4) ENFORCEMENT.—The pendency of a proceeding instituted pursuant to subsection (a) shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief pursuant to section 559.

SEC. 559. ENFORCEMENT.

(a) JURISDICTION.—A district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued by the Secretary under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this subtitle, or any order or regulation issued under this subtitle, if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by administrative action under subsection (c) or suitable written notice or warning to the person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who willfully violates any provision of any order or regulation issued by the Secretary under

this subtitle, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to or in lieu of the civil penalty, the Secretary may issue an order requiring the person to cease and desist from continuing the violation.

(3) NOTICE AND HEARING.—No order assessing a civil penalty or cease-and-desist order may be issued by the Secretary under this subsection unless the Secretary gives the person against whom the order is issued notice and opportunity for a hearing on the record before the Secretary with respect to the violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the person against whom the order is issued files an appeal of the order in the appropriate district court of the United States, in accordance with subsection (d).

(d) REVIEW BY UNITED STATES DISTRICT COURT.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) may obtain review of the penalty or cease-and-desist order in the district court of the United States for the district in which the person resides or carries on business, or the United States District Court for the District of Columbia, by—

(A) filing a notice of appeal in the court not later than 30 days after the date on which the penalty is assessed or cease-and-desist order issued; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in the court a certified copy of the record on which the Secretary found that the person committed the violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY CEASE-AND-DESIST ORDERS.—Any person who fails to obey a cease-and-desist order issued by the Secretary after the cease-and-desist order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than $500 for each offense. Each day during which the failure continues shall be considered a separate violation of the cease-and-desist order.

(f) FAILURE TO PAY PENALTIES.—If a person fails to pay an assessment of a civil penalty after the assessment has become a final and unappealable order issued by the Secretary, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In an action for recovery, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

SEC. 560. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) IN GENERAL.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective carrying out of the responsibilities of the Secretary under this subtitle; or

(2) to determine whether a person subject to this subtitle has engaged or is engaging in any act that constitutes a violation of this subtitle, or any order, rule, or regulation issued under this subtitle.

(b) POWER TO SUBPOENA.—

(1) INVESTIGATIONS.—For the purpose of an investigation made under subsection (a), the Secretary may administer oaths and affirmations and may issue subpoenas to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 558 or 559, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—In the case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring the person to comply with the subpoena.

(d) CONTEMPT.—Any failure to obey the order of the court may be punished by the court as a contempt of the court.

(e) PROCESS.—Process in any such case may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

(f) HEARING SITE.—The site of any hearing held under section 558 or 559 shall be in the judicial district where the person affected by the hearing resides or has a principal place of business.

SEC. 561. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) REFERENDUM REQUIRED.—During the 60-day period immediately preceding the proposed effective date of an order issued under section 554, the Secretary shall conduct a referendum among kiwifruit producers and importers who will be subject to assessments under the order, to ascertain whether producers and importers approve the implementation of the order.

(2) APPROVAL OF ORDER.—The order shall become effective, as provided in section 554, if the Secretary determines that—

(A) the order has been approved by a majority of the producers and importers voting in the referendum; and

(B) the producers and importers favoring approval produce and import more than 50 percent of the total volume of kiwifruit produced and imported by persons voting in the referendum.

(b) SUBSEQUENT REFERENDA.—The Secretary may periodically conduct a referendum to determine if kiwifruit producers and importers favor the continuation, termination, or suspension of any order issued under section 554 that is in effect at the time of the referendum.

(c) REQUIRED REFERENDA.—The Secretary shall hold a referendum under subsection (b)—

(1) at the end of the 6-year period beginning on the effective date of the order and at the end of each subsequent 6-year period;

(2) at the request of the Board; or

(3) if not less than 30 percent of the kiwifruit producers and importers subject to assessments under the order submit a petition requesting the referendum.

(d) VOTE.—On completion of a referendum under subsection (b), the Secretary shall suspend or terminate the order that was subject to the referendum at the end of the marketing year if—

(1) the suspension or termination of the order is favored by not less than a majority of the producers and importers voting in the referendum; and

(2) the producers and importers produce and import more than 50 percent of the total volume of kiwifruit produced and imported by persons voting in the referendum.

(e) CONFIDENTIALITY.—The ballots and other information or reports that reveal, or tend to reveal, the vote of any person under this subtitle and the voting list shall be held strictly confidential and shall not be disclosed.

SEC. 562. SUSPENSION OR TERMINATION.

(a) IN GENERAL.—If the Secretary finds that an order issued under section 554, or a provision of the order, obstructs or does not tend to effectuate the purposes of this subtitle, the Secretary shall suspend or terminate the operation of the order or provision.

(b) LIMITATION.—The suspension or termination of any order, or any provision of an order, shall not be considered an order under this subtitle.

SEC. 563. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

SEC. 564. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this subtitle.

Subtitle E—Popcorn

SEC. 571. SHORT TITLE.

This subtitle may be cited as the ''Popcorn Promotion, Research, and Consumer Information Act''.

SEC. 572. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) popcorn is an important food that is a valuable part of the human diet;

(2) the production and processing of popcorn plays a significant role in the economy of the United States in that popcorn is processed by several popcorn processors, distributed through wholesale and retail outlets, and consumed by millions of people throughout the United States and foreign countries;

(3) popcorn must be of high quality, readily available, handled properly, and marketed efficiently to ensure that the benefits of popcorn are available to the people of the United States;

(4) the maintenance and expansion of existing markets and uses and the development of new markets and uses for popcorn are vital to the welfare of processors and persons concerned with marketing, using, and producing popcorn for the market, as well as to the agricultural economy of the United States;

(5) the cooperative development, financing, and implementation of a coordinated program of popcorn promotion, research, consumer information, and industry information is necessary to maintain and expand markets for popcorn; and

(6) popcorn moves in interstate and foreign commerce, and popcorn that does not move in those channels of commerce directly burdens or affects interstate commerce in popcorn.

(b) POLICY.—It is the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this subtitle, of an orderly procedure for developing, financing (through adequate assessments on unpopped popcorn processed domestically), and carrying out an effective, continuous, and co-

ordinated program of promotion, research, consumer information, and industry information designed to—

(1) strengthen the position of the popcorn industry in the marketplace; and

(2) maintain and expand domestic and foreign markets and uses for popcorn.

(c) PURPOSES.—The purposes of this subtitle are to—

(1) maintain and expand the markets for all popcorn products in a manner that—

(A) is not designed to maintain or expand any individual share of a producer or processor of the market;

(B) does not compete with or replace individual advertising or promotion efforts designed to promote individual brand name or trade name popcorn products; and

(C) authorizes and funds programs that result in government speech promoting government objectives; and

(2) establish a nationally coordinated program for popcorn promotion, research, consumer information, and industry information.

(d) STATUTORY CONSTRUCTION.—This subtitle treats processors equitably. Nothing in this subtitle—

(1) provides for the imposition of a trade barrier to the entry into the United States of imported popcorn for the domestic market; or

(2) provides for the control of production or otherwise limits the right of any individual processor to produce popcorn.

SEC. 573. DEFINITIONS.

In this subtitle (unless the context otherwise requires):

(1) BOARD.—The term ''Board'' means the Popcorn Board established under section 575(b).

(2) COMMERCE.—The term ''commerce'' means interstate, foreign, or intrastate commerce.

(3) CONSUMER INFORMATION.—The term ''consumer information'' means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of popcorn.

(4) DEPARTMENT.—The term ''Department'' means the Department of Agriculture.

(5) INDUSTRY INFORMATION.—The term ''industry information'' means information or a program that will lead to the development of—

(A) new markets, new marketing strategies, or increased efficiency for the popcorn industry; or

(B) activities to enhance the image of the popcorn industry.

(6) MARKETING.—The term ''marketing'' means the sale or other disposition of unpopped popcorn for human consumption in a channel of commerce, but does not include a sale or disposition to or between processors.

(7) ORDER.—The term ''order'' means an order issued under section 574.

(8) PERSON.—The term ''person'' means an individual, group of individuals, partnership, corporation, association, or cooperative, or any other legal entity.

(9) POPCORN.—The term ''popcorn'' means unpopped popcorn (Zea Mays L) that is—

(A) commercially grown;

(B) processed in the United States by shelling, cleaning, or drying; and

(C) introduced into a channel of commerce.

(10) PROCESS.—The term ''process'' means to shell, clean, dry, and prepare popcorn for the market, but does not include packaging popcorn for the market without also engaging in another activity described in this paragraph.

(11) PROCESSOR.—The term ''processor'' means a person engaged in the preparation of unpopped popcorn for the market who owns or shares the ownership and risk of loss of the popcorn and who processes and distributes over 4,000,000 pounds of popcorn in the market per year.

(12) PROMOTION.—The term ''promotion'' means an action, including paid advertising, to enhance the image or desirability of popcorn.

(13) RESEARCH.—The term ''research'' means any type of study to advance the image, desirability, marketability, production, product development, quality, or nutritional value of popcorn.

(14) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(15) STATE.—The term ''State'' means each of the 50 States and the District of Columbia.

(16) UNITED STATES.—The term ''United States'' means all of the States.

SEC. 574. ISSUANCE OF ORDERS.

(a) IN GENERAL.—To effectuate the policy described in section 572(b), the Secretary, subject to subsection (b), shall issue 1 or more orders applicable to processors. An order shall be applicable to all popcorn production and marketing areas in the United States. Not more than 1 order shall be in effect under this subtitle at any 1 time.

(b) PROCEDURE.—

(1) PROPOSAL OR REQUEST FOR ISSUANCE.—The Secretary may propose the issuance of an order, or an association of processors or any other person that would be affected by an order may request the issuance of, and submit a proposal for, an order.

(2) NOTICE AND COMMENT CONCERNING PROPOSED ORDER.—Not later than 60 days after the receipt of a request and proposal for an order under paragraph (1), or at such time as the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment under paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order conforms to this subtitle. The order shall be issued and become effective not later than 150 days after the date of publication of the proposed order.

(c) AMENDMENTS.—The Secretary, as appropriate, may amend an order. The provisions of this subtitle applicable to an order shall be applicable to any amendment to an order, except that an amendment to an order may not require a referendum to become effective.

SEC. 575. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—An order shall contain the terms and conditions specified in this section.

(b) ESTABLISHMENT AND MEMBERSHIP OF POPCORN BOARD.—

(1) IN GENERAL.—The order shall provide for the establishment of, and appointment of members to, a Popcorn Board that shall consist of not fewer than 4 members and not more than 9 members.

(2) NOMINATIONS.—The members of the Board shall be processors appointed by the Secretary from nominations submitted by processors in a manner authorized by the Secretary, subject to paragraph (3). Not more than 1 member may be appointed to the Board from nominations submitted by any 1 processor.

(3) GEOGRAPHICAL DIVERSITY.—In making appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of popcorn production throughout the United States.

(4) TERMS.—The term of appointment of each member of the Board shall be 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 2, 3, and 4 years, as determined by the Secretary.

(5) COMPENSATION AND EXPENSES.—A member of the Board shall serve without compensation, but shall be reimbursed for the expenses of the member incurred in the performance of duties for the Board.

(c) POWERS AND DUTIES OF BOARD.—The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with the terms and provisions of the order;

(2) to issue regulations to effectuate the terms and provisions of the order;

(3) to appoint members of the Board to serve on an executive committee;

(4) to propose, receive, evaluate, and approve budgets, plans, and projects of promotion, research, consumer information, and industry information, and to contract with appropriate persons to implement the plans or projects;

(5) to accept and receive voluntary contributions, gifts, and market promotion or similar funds;

(6) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under subsection (f), only in—

(A) obligations of the United States or an agency of the United States;

(B) general obligations of a State or a political subdivision of a State;

(C) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States;

(7) to receive, investigate, and report to the Secretary complaints of violations of the order; and

(8) to recommend to the Secretary amendments to the order.

(d) PLANS AND BUDGETS.—

(1) IN GENERAL.—The order shall provide that the Board shall submit to the Secretary for approval any plan or project of promotion, research, consumer information, or industry information.

(2) BUDGETS.—The order shall require the Board to submit to the Secretary for approval budgets on a fiscal year basis of the anticipated expenses and disbursements of the Board in the implementation of the order, including projected costs of plans and projects of promotion, research, consumer information, and industry information.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—The order shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of plans or projects of promotion, research, consumer information, or industry information, including contracts with a processor organization, and for the payment of the cost of the plans or projects with funds collected by the Board under the order.

(2) REQUIREMENTS.—A contract or agreement under paragraph (1) shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project, together with a budget that shows the estimated costs to be incurred for the plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of each transaction of the party, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) PROCESSOR ORGANIZATIONS.—The order shall provide that the Board may contract with processor organizations for any services required in addition to the services described in paragraph (1). The contract shall include

provisions comparable to the provisions required by paragraph (2).

(f) ASSESSMENTS.—

(1) PROCESSORS.—The order shall provide that each processor marketing popcorn in the United States or for export shall, in the manner prescribed in the order, pay assessments and remit the assessments to the Board.

(2) DIRECT MARKETERS.—A processor that markets popcorn produced by the processor directly to consumers shall pay and remit the assessments on the popcorn directly to the Board in the manner prescribed in the order.

(3) RATE.—

(A) IN GENERAL.—The rate of assessment prescribed in the order shall be a rate established by the Board but not more than $.08 per hundredweight of popcorn.

(B) ADJUSTMENT OF RATE.—The order shall provide that the Board, with the approval of the Secretary, may raise or lower the rate of assessment annually up to a maximum of $.08 per hundredweight of popcorn.

(4) USE OF ASSESSMENTS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and subsection (c)(5), the order shall provide that the assessments collected shall be used by the Board—

(i) to pay expenses incurred in implementing and administering the order, with provision for a reasonable reserve; and

(ii) to cover such administrative costs as are incurred by the Secretary, except that the administrative costs incurred by the Secretary (other than any legal expenses incurred to defend and enforce the order) that may be reimbursed by the Board may not exceed 15 percent of the projected annual revenues of the Board.

(B) EXPENDITURES BASED ON SOURCE OF ASSESSMENTS.—In implementing plans and projects of promotion, research, consumer information, and industry information, the Board shall expend funds on—

(i) plans and projects for popcorn marketed in the United States or Canada in proportion to the amount of assessments collected on domestically marketed popcorn; and

(ii) plans and projects for exported popcorn in proportion to the amount of assessments collected on exported popcorn.

(C) NOTIFICATION.—If the administrative costs incurred by the Secretary that are reimbursed by the Board exceed 10 percent of the projected annual revenues of the Board, the Secretary shall notify as soon as practicable the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(g) PROHIBITION ON USE OF FUNDS.—The order shall prohibit any funds collected by the Board under the order from being used to influence government action or policy, other than the use of funds by the Board for the development and recommendation to the Secretary of amendments to the order.

(h) BOOKS AND RECORDS OF THE BOARD.—The order shall require the Board to—

(1) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(2) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(3) account for the receipt and disbursement of all funds entrusted to the Board.

(i) BOOKS AND RECORDS OF PROCESSORS.—

(1) MAINTENANCE AND REPORTING OF INFORMATION.—The order shall require that each processor of popcorn for the market shall—

(A) maintain, and make available for inspection, such books and records as are required by the order; and

(B) file reports at such time, in such manner, and having such content as is prescribed in the order.

(2) USE OF INFORMATION.—The Secretary shall authorize the use of information regarding processors that may be accumulated under a law or regulation other than this subtitle or a regulation issued under this subtitle. The information shall be made available to the Secretary as appropriate for the administration or enforcement of this subtitle, the order, or any regulation issued under this subtitle.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), all information obtained by the Secretary under paragraphs (1) and (2) shall be kept confidential by all officers, employees, and agents of the Board and the Department.

(B) DISCLOSURE BY SECRETARY.—Information referred to in subparagraph (A) may be disclosed if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party; and

(iii) the information relates to the order.

(C) DISCLOSURE TO OTHER AGENCY OF FEDERAL GOVERNMENT.—

(i) IN GENERAL.—No information obtained under the authority of this subtitle may be made available to another agency or officer of the Federal Government for any purpose other than the implementation of this subtitle and any investigatory or enforcement activity necessary for the implementation of this subtitle.

(ii) PENALTY.—A person who knowingly violates this subparagraph shall, on conviction, be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer, employee, or agent of the Board or the Department, shall be removed from office or terminated from employment, as applicable.

(D) GENERAL STATEMENTS.—Nothing in this paragraph prohibits—

(i) the issuance of general statements based on the reports of a number of persons subject to an order or statistical data collected from the reports, if the statements do not identify the information provided by any person; or

(ii) the publication, by direction of the Secretary, of the name of a person violating the order, together with a statement of the particular provisions of the order violated by the person.

(j) OTHER TERMS AND CONDITIONS.—The order shall contain such other terms and conditions, consistent with this subtitle, as are necessary to effectuate this subtitle, including regulations relating to the assessment of late payment charges.

SEC. 576. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) IN GENERAL.—Within the 60-day period immediately preceding the effective date of an order, as provided in section 574(b)(3), the Secretary shall conduct a referendum among processors who, during a representative period as determined by the Secretary, have been engaged in processing, for the purpose of ascertaining whether the order shall go into effect.

(2) APPROVAL OF ORDER.—The order shall become effective, as provided in section 574(b), only if the Secretary determines that the order has been approved by not less than a majority of the processors voting in the referendum and if the majority processed more than 50 percent of the popcorn certified as having been processed, during the representative period, by the processors voting.

(b) ADDITIONAL REFERENDA.—

(1) IN GENERAL.—Not earlier than 3 years after the effective date of an order approved under subsection (a), on the request of the Board or a representative group of processors, as described in paragraph (2), the Secretary may conduct additional referenda to determine whether processors favor the suspension or termination of the order.

(2) REPRESENTATIVE GROUP OF PROCESSORS.—An additional referendum on an order shall be conducted if the referendum is requested by 30 percent or more of the number of processors who, during a representative period as determined by the Secretary, have been engaged in processing.

(3) DISAPPROVAL OF ORDER.—If the Secretary determines, in a referendum conducted under paragraph (1), that suspension or termination of the order is favored by at least ⅔ of the processors voting in the referendum, the Secretary shall—

(A) suspend or terminate, as appropriate, collection of assessments under the order not later than 180 days after the date of determination; and

(B) suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after the date of determination.

(c) COSTS OF REFERENDUM.—The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any referendum under this section.

(d) METHOD OF CONDUCTING REFERENDUM.—Subject to this section, a referendum conducted under this section shall be conducted in such manner as is determined by the Secretary.

(e) CONFIDENTIALITY OF BALLOTS AND OTHER INFORMATION.—

(1) IN GENERAL.—The ballots and other information or reports that reveal or tend to reveal the vote of any processor, or any business operation of a processor, shall be considered to be strictly confidential and shall not be disclosed.

(2) PENALTY FOR VIOLATIONS.—An officer or employee of the Department who knowingly violates paragraph (1) shall be subject to the penalties described in section 575(i)(3)(C)(ii).

SEC. 577. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or obligation or an exemption from the order or obligation.

(2) STATUTE OF LIMITATIONS.—A petition under paragraph (1) concerning an obligation may be filed not later than 2 years after the date of imposition of the obligation.

(3) HEARINGS.—The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary.

(4) RULING.—After a hearing under paragraph (3), the Secretary shall issue a ruling on the petition that is the subject of the hearing, which shall be final if the ruling is in accordance with applicable law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which a person who is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review a ruling on the petition, if the person files a complaint not later than 20 days after the date of issuance of the ruling under subsection (a)(4).

(2) PROCESS.—Service of process in a proceeding under paragraph (1) may be made on the Secretary by delivering a copy of the complaint to the Secretary.

(3) REMANDS.—If the court determines, under paragraph (1), that a ruling issued under subsection (a)(4) is not in accordance with applicable law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(c) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) may not impede, hinder, or delay the Secretary or the Attorney General from taking action under section 578.

SEC. 578. ENFORCEMENT.

(a) IN GENERAL.—The Secretary may issue an enforcement order to restrain or prevent any person from violating an order or regulation issued under this subtitle and may assess a civil penalty of not more than $1,000 for each violation of the enforcement order, after an opportunity for an administrative hearing, if the Secretary determines that the administration and enforcement of the order and this subtitle would be adequately served by such a procedure.

(b) JURISDICTION.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, an order or regulation issued under this subtitle.

(c) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action.

SEC. 579. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subtitle; and

(2) to determine whether any person subject to this subtitle has engaged, or is about to engage, in an act that constitutes or will constitute a violation of this subtitle or of an order or regulation issued under this subtitle.

(b) OATHS, AFFIRMATIONS, AND SUBPOENAS.—For the purpose of an investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

(c) AID OF COURTS.—

(1) REQUEST.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may request the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in requiring the attendance and testimony of the person and the production of records.

(2) ENFORCEMENT ORDER OF THE COURT.—The court may issue an enforcement order requiring the person to appear before the Secretary to produce records or to give testimony concerning the matter under investigation.

(3) CONTEMPT.—A failure to obey an enforcement order of the court under paragraph (2) may be punished by the court as a contempt of the court.

(4) PROCESS.—Process in a case under this subsection may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

SEC. 580. RELATION TO OTHER PROGRAMS.

Nothing in this subtitle preempts or supersedes any other program relating to popcorn promotion organized and operated under the laws of the United States or any State.

SEC. 581. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

SEC. 582. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle. Amounts made available under this section or otherwise made available to the Department, and amounts made available under any other marketing or promotion order, may not be used to pay any administrative expense of the Board.

Subtitle F—Miscellaneous

SEC. 591. MAINTENANCE OF RECORDS FOR HONEY PROMOTION PROGRAM.

Section 9(f) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4608(f)) is amended by inserting ''producers,'' after ''importers,''.

TITLE VI—CREDIT

Subtitle A—Farm Ownership Loans

SEC. 601. LIMITATION ON DIRECT FARM OWNERSHIP LOANS.

Section 302 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922) is amended by striking subsection (b) and inserting the following:

''(b) DIRECT LOANS.—

''(1) IN GENERAL.—Subject to paragraph (3), the Secretary may make a direct loan under this subtitle only to a farmer or rancher who has operated a farm or ranch for not less than 3 years and—

''(A) is a qualified beginning farmer or rancher;

''(B) has not received a previous direct farm ownership loan made under this subtitle; or

''(C) has not received a direct farm ownership loan under this subtitle more than 10 years before the date the new loan would be made.

''(2) YOUTH LOANS.—The operation of an enterprise by a youth under section 311(b) shall not be considered the operation of a farm or ranch for purposes of paragraph (1).

''(3) TRANSITION RULE.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Secretary may make a direct loan under this subtitle to a farmer or rancher who has a direct loan outstanding under this subtitle on the date of enactment of this paragraph.

''(B) LESS THAN 5 YEARS.—If, as of the date of enactment of this paragraph, a farmer or rancher has had a direct loan outstanding under this subtitle for less than 5 years, the Secretary shall not make a loan to the farmer or rancher under subparagraph (A) after the date that is 10 years after the date of enactment of this paragraph.

''(C) 5 YEARS OR MORE.—If, as of the date of enactment of this paragraph, a farmer or rancher has had a direct loan outstanding under this subtitle for 5 years or more, the Secretary shall not make a loan to the farmer or rancher under subparagraph (A) after the date that is 5 years after the date of enactment of this paragraph.''.

SEC. 602. PURPOSES OF LOANS.

(a) IN GENERAL.—Section 303 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1923) is amended to read as follows:

''SEC. 303. PURPOSES OF LOANS.

''(a) ALLOWED PURPOSES.—

''(1) DIRECT LOANS.—A farmer or rancher may use a direct loan made under this subtitle only for—

''(A) acquiring or enlarging a farm or ranch;

''(B) making capital improvements to a farm or ranch;

''(C) paying loan closing costs related to acquiring, enlarging, or improving a farm or ranch; or

''(D) paying for activities to promote soil and water conservation and protection described in section 304 on a farm or ranch.

''(2) GUARANTEED LOANS.—A farmer or rancher may use a loan guaranteed under this subtitle only for—

''(A) acquiring or enlarging a farm or ranch;

''(B) making capital improvements to a farm or ranch;

''(C) paying loan closing costs related to acquiring, enlarging, or improving a farm or ranch;

''(D) paying for activities to promote soil and water conservation and protection described in section 304 on a farm or ranch; or

''(E) refinancing indebtedness.

''(b) PREFERENCES.—In making or guaranteeing a loan under this subtitle for purchase of a farm or ranch, the Secretary shall give preference to a person who—

''(1) has a dependent family;

''(2) to the extent practicable, is able to make an initial down payment on the farm or ranch; or

''(3) is an owner of livestock or farm or ranch equipment that is necessary to successfully carry out farming or ranching operations.

''(c) HAZARD INSURANCE REQUIREMENT.—

''(1) IN GENERAL.—After the Secretary makes the determination required by paragraph (2), the Secretary may not make a loan to a farmer or rancher under this subtitle unless the farmer or rancher has, or agrees to obtain, hazard insurance on any real property to be acquired or improved with the loan.

''(2) DETERMINATION.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall determine the appropriate level of insurance to be required under paragraph (1).''.

(b) TRANSITIONAL PROVISION.—Section 303(c)(1) of the Consolidated Farm and Rural Development Act shall not apply until the Secretary of Agriculture makes the determination required by section 303(c)(2) of the Act.

SEC. 603. SOIL AND WATER CONSERVATION AND PROTECTION.

Section 304 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924) is amended—

(1) by striking subsections (b) and (c);

(2) by striking ''SEC. 304. (a)(1) Loans'' and inserting the following:

''SEC. 304. SOIL AND WATER CONSERVATION AND PROTECTION.

''(a) IN GENERAL.—Loans'';

(3) by striking ''(2) In making or insuring'' and inserting the following:

''(b) PRIORITY.—In making or guaranteeing'';

(4) by striking ''(3) The Secretary'' and inserting the following:

''(c) LOAN MAXIMUM.—The Secretary'';

(5) by redesignating subparagraphs (A) through (F) of subsection (a) (as amended by paragraph (2)) as paragraphs (1) through (6), respectively; and

(6) by redesignating subparagraphs (A) and (B) of subsection (c) (as amended by paragraph (4)) as paragraphs (1) and (2), respectively.

SEC. 604. INTEREST RATE REQUIREMENTS.

Section 307(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)) is amended—

(1) in subparagraph (B), by inserting ''subparagraph (D) and in'' after ''Except as provided in''; and

(2) by adding at the end the following:

''(D) JOINT FINANCING ARRANGEMENT.—If a direct farm ownership loan is made under

this subtitle as part of a joint financing arrangement and the amount of the direct farm ownership loan does not exceed 50 percent of the total principal amount financed under the arrangement, the interest rate on the direct farm ownership loan shall be at least 4 percent annually.''.

SEC. 605. INSURANCE OF LOANS.

Section 308 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1928) is amended to read as follows:

''SEC. 308. FULL FAITH AND CREDIT.

''(a) IN GENERAL.—A contract of insurance or guarantee executed by the Secretary under this title shall be an obligation supported by the full faith and credit of the United States.

''(b) CONTESTABILITY.—A contract of insurance or guarantee executed by the Secretary under this title shall be incontestable except for fraud or misrepresentation that the lender or any holder—

''(1) has actual knowledge of at the time the contract or guarantee is executed; or

''(2) participates in or condones.''.

SEC. 606. LOANS GUARANTEED.

Section 309(h) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(h)) is amended by adding at the end the following:

''(4) MAXIMUM GUARANTEE OF 90 PERCENT.—Except as provided in paragraphs (5) and (6), a loan guarantee under this title shall be for not more than 90 percent of the principal and interest due on the loan.

''(5) REFINANCED LOANS GUARANTEED AT 95 PERCENT.—The Secretary shall guarantee 95 percent of—

''(A) in the case of a loan that solely refinances a direct loan made under this title, the principal and interest due on the loan on the date of the refinancing; or

''(B) in the case of a loan that is used for multiple purposes, the portion of the loan that refinances the principal and interest due on a direct loan made under this title that is outstanding on the date the loan is guaranteed.

''(6) BEGINNING FARMER LOANS GUARANTEED UP TO 95 PERCENT.—The Secretary may guarantee not more than 95 percent of—

''(A) a farm ownership loan for acquiring a farm or ranch to a borrower who is participating in the down payment loan program under section 310E; or

''(B) an operating loan to a borrower who is participating in the down payment loan program under section 310E that is made during the period that the borrower has a direct loan outstanding under this subtitle for acquiring a farm or ranch.''.

Subtitle B—Operating Loans

SEC. 611. LIMITATION ON DIRECT OPERATING LOANS.

(a) IN GENERAL.—Section 311 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941) is amended by striking subsection (c) and inserting the following:

''(c) DIRECT LOANS.—

''(1) IN GENERAL.—Subject to paragraph (3), the Secretary may make a direct loan under this subtitle only to a farmer or rancher who—

''(A) is a qualified beginning farmer or rancher who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 5 years;

''(B) has not received a previous direct operating loan made under this subtitle; or

''(C) has received a previous direct operating loan made under this subtitle during 6 or fewer years.

''(2) YOUTH LOANS.—In this subsection, the term 'direct operating loan' shall not include a loan made to a youth under subsection (b).

''(3) TRANSITION RULE.—If, as of the date of enactment of this paragraph, a farmer or rancher has received a direct operating loan under this subtitle during each of 4 or more previous years, the borrower shall be eligible to receive a direct operating loan under this subtitle during 3 additional years after the date of enactment of this paragraph.''.

(b) YOUTH ENTERPRISES NOT FARMING OR RANCHING.—Section 311(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941(b)) is amended by adding at the end the following:

''(4) YOUTH ENTERPRISES NOT FARMING OR RANCHING.—The operation of an enterprise by a youth under this subsection shall not be considered the operation of a farm or ranch under this title.''.

SEC. 612. PURPOSES OF OPERATING LOANS.

(a) IN GENERAL.—Section 312 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1942) is amended to read as follows:

''SEC. 312. PURPOSES OF LOANS.

''(a) IN GENERAL.—A direct loan may be made under this subtitle only for—

''(1) paying the costs incident to reorganizing a farm or ranch for more profitable operation;

''(2) purchasing livestock, poultry, or farm or ranch equipment;

''(3) purchasing feed, seed, fertilizer, insecticide, or farm or ranch supplies, or to meet other essential farm or ranch operating expenses, including cash rent;

''(4) financing land or water development, use, or conservation;

''(5) paying loan closing costs;

''(6) assisting a farmer or rancher in changing the equipment, facilities, or methods of operation of a farm or ranch to comply with a standard promulgated under section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) or a standard adopted by a State under a plan approved under section 18 of the Act (29 U.S.C. 667), if the Secretary determines that without assistance under this paragraph the farmer or rancher is likely to suffer substantial economic injury in complying with the standard;

''(7) training a limited-resource borrower receiving a loan under section 310D in maintaining records of farming and ranching operations;

''(8) training a borrower under section 359;

''(9) refinancing the indebtedness of a borrower, if the borrower—

''(A) has refinanced a loan under this subtitle not more than 4 times previously; and

''(B)(i) is a direct loan borrower under this title at the time of the refinancing and has suffered a qualifying loss because of a natural disaster declared by the Secretary under this title or a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

''(ii) is refinancing a debt obtained from a creditor other than the Secretary; or

''(10) providing other farm, ranch, or home needs, including family subsistence.

''(b) GUARANTEED LOANS.—A loan may be guaranteed under this subtitle only for—

''(1) paying the costs incident to reorganizing a farm or ranch for more profitable operation;

''(2) purchasing livestock, poultry, or farm or ranch equipment;

''(3) purchasing feed, seed, fertilizer, insecticide, or farm or ranch supplies, or to meet other essential farm or ranch operating expenses, including cash rent;

''(4) financing land or water development, use, or conservation;

''(5) refinancing indebtedness;

''(6) paying loan closing costs;

''(7) assisting a farmer or rancher in changing the equipment, facilities, or methods of operation of a farm or ranch to comply with a standard promulgated under section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) or a standard adopted by a State under a plan approved under section 18 of the Act (29 U.S.C. 667), if the Secretary determines that without assistance under this paragraph the farmer or rancher is likely to suffer substantial economic injury due to compliance with the standard;

''(8) training a borrower under section 359; or

''(9) providing other farm, ranch, or home needs, including family subsistence.

''(c) HAZARD INSURANCE REQUIREMENT.—

''(1) IN GENERAL.—After the Secretary makes the determination required by paragraph (2), the Secretary may not make a loan to a farmer or rancher under this subtitle unless the farmer or rancher has, or agrees to obtain, hazard insurance on the property to be acquired with the loan.

''(2) DETERMINATION.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall determine the appropriate level of insurance to be required by paragraph (1).

''(d) PRIVATE RESERVE.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may reserve a portion of any loan made under this subtitle to be placed in an unsupervised bank account that may be used at the discretion of the borrower for the basic family needs of the borrower and the immediate family of the borrower.

''(2) LIMIT ON SIZE OF THE RESERVE.—The size of the reserve shall not exceed the least of—

''(A) 10 percent of the loan;

''(B) $5,000; or

''(C) the amount needed to provide for the basic family needs of the borrower and the borrower's immediate family for 3 calendar months.''.

(b) TRANSITIONAL PROVISION.—Section 312(c)(1) of the Consolidated Farm and Rural Development Act shall not apply until the Secretary of Agriculture makes the determination required by section 312(c)(2) of the Act.

SEC. 613. PARTICIPATION IN LOANS.

Section 315 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1945) is repealed.

SEC. 614. LINE-OF-CREDIT LOANS.

Section 316 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946) is amended by adding at the end the following:

''(c) LINE-OF-CREDIT LOANS.—

''(1) IN GENERAL.—A loan made or guaranteed by the Secretary under this subtitle may be in the form of a line-of-credit loan.

''(2) TERM.—A line-of-credit loan under paragraph (1) shall terminate not later than 5 years after the date that the loan is made or guaranteed.

''(3) ELIGIBILITY.—For purposes of determining eligibility for a farm operating loan under this subtitle, each year during which a farmer or rancher takes an advance or draws on a line-of-credit loan the farmer or rancher shall be considered to have received an operating loan for 1 year.

''(4) TERMINATION OF DELINQUENT LOANS.—If a borrower does not pay an installment on a line-of-credit loan on schedule, the borrower may not take an advance or draw on the line-of-credit, unless the Secretary determines that—

''(A) the borrower's failure to pay on schedule was due to unusual conditions that the borrower could not control; and

''(B) the borrower will reduce the line-of-credit balance to the scheduled level at the end of—

''(i) the production cycle; or

''(ii) the marketing of the borrower's agricultural products.

''(5) AGRICULTURAL COMMODITIES.—A line-of-credit loan may be used to finance the

production or marketing of an agricultural commodity that—

''(A) is eligible for a price support program of the Department of Agriculture; or

''(B) was eligible for a price support program of the Department of Agriculture on the day before the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996.''.

SEC. 615. INSURANCE OF OPERATING LOANS.

Section 317 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1947) is repealed.

SEC. 616. SPECIAL ASSISTANCE FOR BEGINNING FARMERS AND RANCHERS.

(a) IN GENERAL.—Section 318 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1948) is repealed.

(b) CONFORMING AMENDMENT.—Section 310F of the Consolidated Farm and Rural Development Act (7 U.S.C. 1936) is repealed.

SEC. 617. LIMITATION ON PERIOD FOR WHICH BORROWERS ARE ELIGIBLE FOR GUARANTEED ASSISTANCE.

Section 319 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1949) is amended by striking subsection (b) and inserting the following:

''(b) LIMITATION ON PERIOD BORROWERS ARE ELIGIBLE FOR GUARANTEED ASSISTANCE.—

''(1) GENERAL RULE.—Subject to paragraph (2), the Secretary shall not guarantee a loan under this subtitle for a borrower for any year after the 15th year that a loan is made to, or a guarantee is provided with respect to, the borrower under this subtitle.

''(2) TRANSITION RULE.—If, as of October 28, 1992, a farmer or rancher has received a direct or guaranteed operating loan under this subtitle during each of 10 or more previous years, the borrower shall be eligible to receive a guaranteed operating loan under this subtitle during 5 additional years after October 28, 1992.''.

Subtitle C—Emergency Loans

SEC. 621. HAZARD INSURANCE REQUIREMENT.

(a) IN GENERAL.—Section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) is amended by striking subsection (b) and inserting the following:

''(b) HAZARD INSURANCE REQUIREMENT.—

''(1) IN GENERAL.—After the Secretary makes the determination required by paragraph (2), the Secretary may not make a loan to a farmer or rancher under this subtitle to cover a property loss unless the farmer or rancher had hazard insurance that insured the property at the time of the loss.

''(2) DETERMINATION.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall determine the appropriate level of insurance to be required under paragraph (1).''.

(b) TRANSITIONAL PROVISION.—Section 321(b)(1) of the Consolidated Farm and Rural Development Act shall not apply until the Secretary of Agriculture makes the determination required by section 321(b)(2) of the Act.

SEC. 622. NARROWING OF AUTHORITY TO WAIVE APPLICATION OF THE CREDIT ELSEWHERE TEST.

The second proviso of section 322(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1962(b)) is amended by striking ''$300,000 or less'' and inserting ''$100,000 or less''.

SEC. 623. LINKING OF EMERGENCY LOANS FOR CROP OR LIVESTOCK CHANGES TO NATURAL DISASTERS.

Section 323 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1963) is amended by inserting ''that are necessitated by a natural disaster, major disaster, or emergency and that are'' after ''livestock changes''.

SEC. 624. MAXIMUM EMERGENCY LOAN INDEBTEDNESS.

Section 324 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964) is amended by striking ''SEC. 324. (a) No loan'' and all that follows through the end of subsection (a) and inserting the following:

''SEC. 324. TERMS OF LOANS.

''(a) MAXIMUM AMOUNT OF LOAN.—The Secretary may not make a loan under this subtitle to a borrower who has suffered a loss in an amount that—

''(1) exceeds the actual loss caused by a disaster; or

''(2) would cause the total indebtedness of the borrower under this subtitle to exceed $500,000.''.

SEC. 625. ESTABLISHMENT OF DATE FOR EMERGENCY LOAN ASSET VALUATION.

The last sentence of section 324(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964(d)) is amended by striking ''value the assets'' and all that follows through the period and inserting ''establish the value of the assets as of the day before the occurrence of the natural disaster, major disaster, or emergency that is the basis for a request for assistance under this subtitle or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).''.

SEC. 626. INSURANCE OF EMERGENCY LOANS.

Section 328 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1968) is repealed.

Subtitle D—Administrative Provisions

SEC. 631. TEMPORARY AUTHORITY TO ENTER INTO CONTRACTS.

Section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) is amended by adding at the end the following:

''(d) TEMPORARY AUTHORITY TO ENTER INTO CONTRACTS.—

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

''(A) ELIGIBLE FINANCIAL INSTITUTION.—The term 'eligible financial institution' means a financial institution with substantial experience in farm, ranch, or aquaculture lending that is regulated by the Comptroller of the Currency, the Farm Credit Administration, or a similar regulatory body.

''(B) PILOT PROJECT.—The term 'pilot project' includes services related to borrower loan documentation, financial information, credit history, and appraisals of real estate and chattel.

''(2) AUTHORITY.—The Secretary may enter into a contract with an eligible financial institution for servicing a farmer program loan under this title, including 1 or more pilot projects.

''(3) REPORT.—Not later than September 30, 1997, and September 30 of each year thereafter, the Secretary shall report to Congress on—

''(A) the Secretary's experience in using contracts under paragraph (2); and

''(B) recommendations for legislation related to this subsection, if any.

''(4) SAVINGS CLAUSE.—Nothing in this subsection shall limit the authority of the Secretary or an eligible financial institution to contract for any services under this Act or any other law.

''(5) SUNSET PROVISION.—This subsection shall be effective until September 30, 2002.''.

SEC. 632. USE OF COLLECTION AGENCIES.

Section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) (as amended by section 631) is amended by adding at the end the following:

''(e) PRIVATE COLLECTION AGENCY.—The Secretary may use a private collection agency to collect a claim or obligation described in subsection (b)(5).''.

SEC. 633. NOTICE OF LOAN SERVICE PROGRAMS.

Section 331D(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981d(a)) is amended by striking ''180 days delinquent in'' and inserting ''90 days past due on''.

SEC. 634. CLARIFICATION OF WRITTEN STATEMENT REQUIRED OF BORROWERS.

Section 333(1)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983(1)(B)) is amended by striking ''a written statement showing the applicant's net worth'' and inserting ''an appropriate written financial statement''.

SEC. 635. ANNUAL REVIEW OF THE CREDIT HISTORY, BUSINESS OPERATION, AND CONTINUED ELIGIBILITY OF A BORROWER.

(a) IN GENERAL.—Section 333 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) except with respect to a loan under section 306, 310B, or 314, the county or area committee established under section 8(b)(5)(B) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)(B)) to certify in writing—

''(A) that an annual review of the credit history and business operation of the borrower has been conducted; and

''(B) that a review of the continued eligibility of the borrower for the loan has been conducted;''.

(b) CONFORMING AMENDMENT.—The third sentence of section 310B(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)) is amended by striking ''(3) of'' and inserting ''(4) of''.

SEC. 636. EXTENSION OF VETERANS PREFERENCE.

Section 333 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983) (as amended by section 635(a)) is amended by striking paragraph (5) and inserting the following:

''(5) the application of a person who is a veteran of any war, as defined in section 101(12) of title 38, United States Code, for a loan under subtitle A or B to be given preference over a similar application from a person who is not a veteran of any war, if the applications are on file in a county or area office at the same time.''.

SEC. 637. VERIFICATION OF THE CREDIT ELSEWHERE TEST.

Section 333A(f)(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a(f)(4)) is amended—

(1) by striking ''(4) With'' and all that follows through ''seasoned'' and inserting the following:

''(4) VERIFICATION.—

''(A) IN GENERAL.—The Secretary shall provide a prospectus of a seasoned''; and

(2) by striking ''If the Secretary'' and inserting the following:

''(B) NOTIFICATION.—The Secretary shall notify each borrower of a loan that a prospectus has been provided to a lender under subparagraph (A).

''(C) CREDIT EXTENDED.—If the Secretary''.

SEC. 638. SALE OF PROPERTY.

Section 335 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985) is amended—

(1) in subsection (b), by striking ''subsection (e)'' and inserting ''subsections (c) and (e)'';

(2) by striking subsection (c) and inserting the following:

''(c) SALE OF PROPERTY.—

''(1) IN GENERAL.—Subject to this subsection and subsection (e)(1)(A), the Secretary shall offer to sell real property that is acquired by the Secretary under this title using the following order and method of sale:

''(A) ADVERTISEMENT.—Not later than 15 days after acquiring real property, the Secretary shall publicly advertise the property for sale.

''(B) BEGINNING FARMER OR RANCHER.—

''(i) IN GENERAL.—Not later than 75 days after acquiring real property, the Secretary shall offer to sell the property to a qualified beginning farmer or rancher at current market value based on a current appraisal.

''(ii) RANDOM SELECTION.—If more than 1 qualified beginning farmer or rancher offers to purchase the property, the Secretary shall select between the qualified applicants on a random basis.

''(iii) APPEAL OF RANDOM SELECTION.—A random selection or denial by the Secretary of a beginning farmer or rancher for farm inventory property under this subparagraph shall be final and not administratively appealable.

''(C) PUBLIC SALE.—If no acceptable offer is received from a qualified beginning farmer or rancher under subparagraph (B) not later than 75 days after acquiring the real property, the Secretary shall, not later than 30 days after the 75-day period, sell the property after public notice at a public sale, and, if no acceptable bid is received, by negotiated sale, at the best price obtainable.

''(2) TRANSITIONAL RULES.—

''(A) PREVIOUS LEASE.—In the case of real property acquired prior to the date of enactment of this subparagraph that the Secretary leased prior to the date of enactment of this subparagraph, not later than 60 days after the lease expires, the Secretary shall offer to sell the property in accordance with paragraph (1).

''(B) PREVIOUSLY IN INVENTORY.—In the case of real property acquired prior to the date of enactment of this subparagraph that the Secretary has not leased, not later than 60 days after the date of enactment of this subparagraph, the Secretary shall offer to sell the property in accordance with paragraph (1).

''(3) INTEREST.—

''(A) IN GENERAL.—Subject to subparagraph (B), any conveyance of real property under this subsection shall include all of the interest of the United States in the property, including mineral rights.

''(B) CONSERVATION.—The Secretary may for conservation purposes grant or sell an easement, restriction, development right, or similar legal right to real property to a State, a political subdivision of a State, or a private nonprofit organization separately from the underlying fee or other rights to the property owned by the United States.

''(4) OTHER LAW.—The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) shall not apply to any exercise of authority under this title.

''(5) LEASE OF PROPERTY.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may not lease any real property acquired under this title.

''(B) EXCEPTION.—

''(i) BEGINNING FARMER OR RANCHER.—The Secretary may lease or contract to sell to a beginning farmer or rancher a farm or ranch acquired by the Secretary under this title if the beginning farmer or rancher qualifies for a credit sale or direct farm ownership loan under subtitle A but credit sale authority for loans or direct farm ownership loan funds, respectively, are not available.

''(ii) TERM.—The term of a lease or contract to sell to a beginning farmer or rancher under clause (i) shall be until the earlier of—

''(I) the date that is 18 months after the date of the lease or sale; or

''(II) the date that direct farm ownership loan funds or credit sale authority for loans becomes available to the beginning farmer or rancher.

''(iii) INCOME-PRODUCING CAPABILITY.—In determining the rental rate on real property leased under this subparagraph, the Secretary shall consider the income-producing capability of the property during the term that the property is leased.

''(6) EXPEDITED DETERMINATION.—

''(A) IN GENERAL.—On the request of an applicant, not later than 30 days after denial of the applicant's application, the appropriate State director shall provide an expedited review and determination of whether the applicant is a beginning farmer or rancher for the purpose of acquiring farm inventory property.

''(B) APPEAL.—The determination of a State Director under subparagraph (A) shall be final and not administratively appealable.

''(C) EFFECTS OF DETERMINATIONS.—

''(i) IN GENERAL.—The Secretary shall maintain statistical data on the number and results of determinations made under subparagraph (A) and the effect of the determinations on—

''(I) selling farm inventory property to beginning farmers and ranchers; and

''(II) disposing of real property in inventory.

''(ii) NOTIFICATION.—The Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate if the Secretary determines that the review process under subparagraph (A) is adversely affecting the selling of farm inventory property to beginning farmers or ranchers or the disposing of real property in inventory.''; and

(3) in subsection (e)—

(A) in paragraph (1)—

(i) by striking subparagraphs (A) through (C);

(ii) by redesignating subparagraphs (D) through (G) as subparagraphs (A) through (D), respectively;

(iii) in subparagraph (A) (as redesignated by clause (ii))—

(I) in clause (i)—

(aa) in the matter preceding subclause (I), by striking ''(G)'' and inserting ''(D)'';

(bb) by striking subclause (I) and inserting the following:

''(I) the Secretary acquires property under this title that is located within an Indian reservation; and'';

(cc) in subclause (II), by striking '', and'' at the end and inserting a semicolon; and

(dd) by striking subclause (III); and

(II) in clause (iii), by striking ''The Secretary shall'' and all that follows through ''of subparagraph (A),'' and inserting ''Not later than 90 days after acquiring the property, the Secretary shall''; and

(iv) in subparagraph (D) (as redesignated by clause (ii))—

(I) in clause (i), by striking ''(D)'' in the matter following subclause (IV) and inserting ''(A)'';

(II) in clause (iii)(I), by striking ''subparagraphs (C)(i), (C)(ii), and (D)'' and inserting ''subparagraph (A)''; and

(III) by striking clause (v) and inserting the following:

''(v) FORECLOSURE PROCEDURES.—

''(I) NOTICE TO BORROWER.—If an Indian borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), not less than 30 days before a foreclosure sale of the property, the Secretary shall provide the Indian borrower-owner with the option of—

''(aa) requiring the Secretary to assign the loan and security instruments to the Secretary of the Interior, if the Secretary of the Interior agrees to an assignment releasing the Secretary of Agriculture from all further responsibility for collection of any amounts with regard to the loan secured by the real property; or

''(bb) requiring the Secretary to assign the loan and security instruments to the tribe having jurisdiction over the reservation in which the real property is located, if the tribe agrees to the assignment.

''(II) NOTICE TO TRIBE.—If an Indian borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), not less than 30 days before a foreclosure sale of the property, the Secretary shall provide written notice to the Indian tribe that has jurisdiction over the reservation in which the real property is located of—

''(aa) the sale;

''(bb) the fair market value of the property; and

''(cc) the requirements of this subparagraph.

''(III) ASSUMED LOANS.—If an Indian tribe assumes a loan under subclause (I)—

''(aa) the Secretary shall not foreclose the loan because of any default that occurred prior to the date of the assumption;

''(bb) the loan shall be for the lesser of the outstanding principal and interest of the loan or the fair market value of the property; and

''(cc) the loan shall be treated as though the loan was made under Public Law 91–229 (25 U.S.C. 488 et seq.).'';

(B) by striking paragraph (3);

(C) in paragraph (4)—

(i) by striking subparagraph (B);

(ii) in subparagraph (A)—

(I) in clause (i), by striking ''(i)''; and

(II) by redesignating clause (ii) as subparagraph (B); and

(iii) in subparagraph (B) (as redesignated by clause (ii)(II)), by striking ''clause (i)'' and inserting ''subparagraph (A)'';

(D) by striking paragraphs (5), (6), and (9); and

(E) by redesignating paragraphs (4), (7), (8), and (10) as paragraphs (3), (4), (5), and (6), respectively.

SEC. 639. EASEMENTS ON INVENTORIED PROPERTY.

Section 335(g) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''(g)(1) Subject to paragraphs (2) through (5)'' and inserting the following:

''(g) EASEMENTS ON INVENTORIED PROPERTY.—

''(1) IN GENERAL.—Subject to paragraph (2)''; and

(B) by striking '', as determined'' and all that follows through ''3801 et seq.)'';

(2) by striking paragraph (2) and inserting the following:

''(2) LIMITATION.—The Secretary shall not establish a wetland conservation easement on an inventoried property that—

''(A) was cropland on the date the property entered the inventory of the Secretary; or

''(B) was used for farming at any time during the period beginning on the date 5 years before the property entered the inventory of the Secretary and ending on the date the property entered the inventory of the Secretary.'';

(3) by striking paragraphs (3), (4), (5), and (8);

(4) by striking ''(6) The Secretary'' and inserting the following:

''(3) NOTIFICATION.—The Secretary''; and

(5) by striking ''(7) The appraised'' and inserting the following:

''(4) APPRAISED VALUE.—The appraised''.

SEC. 640. DEFINITIONS.

Section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)) is amended—

(1) in paragraph (11)—

(A) in the text preceding subparagraph (A), by striking ''applicant—'' and inserting ''ap-

plicant, regardless of whether the applicant is participating in a program under section 310E—''; and

(B) in subparagraph (F)—

(i) by striking ''15 percent'' and inserting ''25 percent''; and

(ii) by inserting before the semicolon at the end the following: '', except that this subparagraph shall not apply to a loan made or guaranteed under subtitle B''; and

(2) by adding at the end the following:

''(12) DEBT FORGIVENESS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'debt forgiveness' means reducing or terminating a farmer program loan made or guaranteed under this title, in a manner that results in a loss to the Secretary, through—

''(i) writing down or writing off a loan under section 353;

''(ii) compromising, adjusting, reducing, or charging-off a debt or claim under section 331;

''(iii) paying a loss on a guaranteed loan under section 357; or

''(iv) discharging a debt as a result of bankruptcy.

''(B) LOAN RESTRUCTURING.—The term 'debt forgiveness' does not include consolidation, rescheduling, reamortization, or deferral.''.

SEC. 641. AUTHORIZATION FOR LOANS.

Section 346 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994) is amended—

(1) in the second sentence of subsection (a), by striking ''with or without'' and all that follows through ''administration''; and

(2) by striking subsection (b) and inserting the following:

''(b) AUTHORIZATION FOR LOANS.—

''(1) IN GENERAL.—The Secretary may make or guarantee loans under subtitles A and B from the Agricultural Credit Insurance Fund provided for in section 309 in not more than the following amounts:

''(A) FISCAL YEAR 1996.—For fiscal year 1996, $3,085,000,000, of which—

''(i) $585,000,000 shall be for direct loans, of which—

''(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

''(II) $500,000,000 shall be for operating loans under subtitle B; and

''(ii) $2,500,000,000 shall be for guaranteed loans, of which—

''(I) $600,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

''(II) $1,900,000,000 shall be for guarantees of operating loans under subtitle B.

''(B) FISCAL YEAR 1997.—For fiscal year 1997, $3,165,000,000, of which—

''(i) $585,000,000 shall be for direct loans, of which—

''(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

''(II) $500,000,000 shall be for operating loans under subtitle B; and

''(ii) $2,580,000,000 shall be for guaranteed loans, of which—

''(I) $630,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

''(II) $1,950,000,000 shall be for guarantees of operating loans under subtitle B.

''(C) FISCAL YEAR 1998.—For fiscal year 1998, $3,245,000,000, of which—

''(i) $585,000,000 shall be for direct loans, of which—

''(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

''(II) $500,000,000 shall be for operating loans under subtitle B; and

''(ii) $2,660,000,000 shall be for guaranteed loans, of which—

''(I) $660,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

''(II) $2,000,000,000 shall be for guarantees of operating loans under subtitle B.

''(D) FISCAL YEAR 1999.—For fiscal year 1999, $3,325,000,000, of which—

''(i) $585,000,000 shall be for direct loans, of which—

''(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

''(II) $500,000,000 shall be for operating loans under subtitle B; and

''(ii) $2,740,000,000 shall be for guaranteed loans, of which—

''(I) $690,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

''(II) $2,050,000,000 shall be for guarantees of operating loans under subtitle B.

''(E) FISCAL YEAR 2000.—For fiscal year 2000, $3,435,000,000, of which—

''(i) $585,000,000 shall be for direct loans, of which—

''(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

''(II) $500,000,000 shall be for operating loans under subtitle B; and

''(ii) $2,850,000,000 shall be for guaranteed loans, of which—

''(I) $750,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

''(II) $2,100,000,000 shall be for guarantees of operating loans under subtitle B.

''(F) FISCAL YEAR 2001.—For fiscal year 2001, $3,435,000,000, of which—

''(i) $585,000,000 shall be for direct loans, of which—

''(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

''(II) $500,000,000 shall be for operating loans under subtitle B; and

''(ii) $2,850,000,000 shall be for guaranteed loans, of which—

''(I) $750,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

''(II) $2,100,000,000 shall be for guarantees of operating loans under subtitle B.

''(G) FISCAL YEAR 2002.—For fiscal year 2002, $3,435,000,000, of which—

''(i) $585,000,000 shall be for direct loans, of which—

''(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

''(II) $500,000,000 shall be for operating loans under subtitle B; and

''(ii) $2,850,000,000 shall be for guaranteed loans, of which—

''(I) $750,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

''(II) $2,100,000,000 shall be for guarantees of operating loans under subtitle B.

''(2) BEGINNING FARMERS AND RANCHERS.—

''(A) DIRECT LOANS.—

''(i) FARM OWNERSHIP LOANS.—

''(I) IN GENERAL.—Of the amounts made available under paragraph (1) for direct farm ownership loans, the Secretary shall reserve 70 percent for qualified beginning farmers and ranchers.

''(II) DOWN PAYMENT LOANS.—Of the amounts reserved for a fiscal year under subclause (I), the Secretary shall reserve 60 percent for the down payment loan program under section 310E until April 1 of the fiscal year.

''(ii) OPERATING LOANS.—Of the amounts made available under paragraph (1) for direct operating loans, the Secretary shall reserve for qualified beginning farmers and ranchers—

''(I) for each of fiscal years 1996 through 1998, 25 percent;

''(II) for fiscal year 1999, 30 percent; and

''(III) for each of fiscal years 2000 through 2002, 35 percent.

''(iii) FUNDS RESERVED UNTIL SEPTEMBER 1.—Except as provided in clause (i)(II), funds reserved for qualified beginning farmers or ranchers under this subparagraph for a fiscal year shall be reserved only until September 1 of the fiscal year.

''(B) GUARANTEED LOANS.—

''(i) FARM OWNERSHIP LOANS.—Of the amounts made available under paragraph (1) for guarantees of farm ownership loans, the Secretary shall reserve 25 percent for qualified beginning farmers and ranchers.

''(ii) OPERATING LOANS.—Of the amounts made available under paragraph (1) for guarantees of operating loans, the Secretary shall reserve 40 percent for qualified beginning farmers and ranchers.

''(iii) FUNDS RESERVED UNTIL APRIL 1.—Funds reserved for qualified beginning farmers or ranchers under this subparagraph for a fiscal year shall be reserved only until April 1 of the fiscal year.

''(C) RESERVED FUNDS FOR ALL QUALIFIED BEGINNING FARMERS AND RANCHERS.—If a qualified beginning farmer or rancher meets the eligibility criteria for receiving a direct or guaranteed loan under section 302, 310E, or 311, the Secretary shall make or guarantee the loan if sufficient funds reserved under this paragraph are available to make or guarantee the loan.

''(3) TRANSFER FOR DOWN PAYMENT LOANS.—

''(A) IN GENERAL.—Notwithstanding subsection (a), subject to subparagraph (B)—

''(i) beginning on August 1 of each fiscal year, the Secretary shall use available unsubsidized guaranteed farm operating loan funds to provide direct farm ownership loans approved by the Secretary to qualified beginning farmers and ranchers under the down payment loan program established under section 310E, if sufficient direct farm ownership loan funds are not otherwise available; and

''(ii) beginning on September 1 of each fiscal year, the Secretary shall use available unsubsidized guaranteed farm operating loan funds to provide direct farm ownership loans approved by the Secretary to qualified beginning farmers and ranchers, if sufficient direct farm ownership loan funds are not otherwise available.

''(B) LIMITATION.—The Secretary shall limit the transfer of funds under subparagraph (A) so that all guaranteed farm operating loans that have been approved, or will be approved, by the Secretary during the fiscal year will be made to the extent of available amounts.

''(4) TRANSFER FOR CREDIT SALES OF FARM INVENTORY PROPERTY.—

''(A) IN GENERAL.—Notwithstanding subsection (a), subject to subparagraphs (B) and (C), beginning on September 1 of each fiscal year, the Secretary may use available funds made available under subtitle C for the fiscal year to fund the credit sale of farm real estate in the inventory of the Secretary.

''(B) SUPPLEMENTAL APPROPRIATIONS.—The transfer authority provided under subparagraph (A) shall not apply to any funds made available to the Secretary for any fiscal year under an Act making supplemental appropriations.

''(C) LIMITATION.—The Secretary shall limit the transfer of funds under subparagraph (A) so that all emergency disaster loans that have been approved, or will be approved, by the Secretary during the fiscal year will be made to the extent of available amounts.''.

SEC. 642. CONTRACTS ON LOAN SECURITY PROPERTIES.

Section 349 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1997) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) CONTRACTS ON LOAN SECURITY PROPERTIES.—Subject to subsection (c), the Secretary may enter into a contract related to real property for conservation, recreation, or wildlife purposes.'';

(2) in subsection (c)—

(A) by striking ''(c) Such easement'' and all that follows through ''if—'' and inserting the following:

''(c) LIMITATIONS.—The Secretary may enter into a contract under subsection (b) if—'';

(B) in paragraph (2), by adding ''and'' at the end;

(C) in paragraph (3)—

(i) by striking subparagraph (B);

(ii) by striking ''(3)(A)(i)'' and inserting ''(3)(A)'';

(iii) by striking ''Farmers Home Administration'' and inserting ''Secretary'';

(iv) by striking ''(ii) such easement'' and inserting ''(B) such contract''; and

(v) by striking ''; or'' and inserting a period; and

(D) by striking paragraph (4);

(3) in subsection (d), by striking ''easement'' each place it appears and inserting ''contract'';

(4) in subsection (e)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''purchase any such easement from the borrower—'' and inserting ''reduce or forgive the outstanding debt of a borrower—'';

(ii) by striking ''easement'' each place it appears and inserting ''contract''; and

(iii) by striking ''Farmers Home Administration'' each place it appears and inserting ''Secretary''; and

(B) in paragraph (2)(A), by striking ''easement is acquired'' and inserting ''contract is entered into'';

(5) in subsection (f)—

(A) in paragraph (1), by striking ''acquire easements'' and inserting ''enter into contracts''; and

(B) in paragraphs (2) and (3), by striking ''easements'' each place it appears and inserting ''contracts''; and

(6) in subsection (g), by striking ''an easement acquired'' and inserting ''a contract entered into''.

SEC. 643. LIST OF CERTIFIED LENDERS AND INVENTORY PROPERTY DEMONSTRATION PROJECT.

(a) IN GENERAL.—Section 351 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1999) is amended—

(1) in subsection (f)—

(A) by striking ''Each Farmers Home Administration county supervisor'' and inserting ''The Secretary'';

(B) by striking ''approved lenders'' and inserting ''lenders''; and

(C) by striking ''the Farmers Home Administration''; and

(2) by striking subsection (h).

(b) TECHNICAL AMENDMENT.—Section 1320 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1999 note) is amended by striking ''Effective only'' and all that follows through ''1995, the'' and inserting ''The''.

SEC. 644. HOMESTEAD PROPERTY.

Section 352(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000(c)) is amended—

(1) in paragraph (1)(A), by striking ''90'' each place it appears and inserting ''30''; and

(2) in paragraph (6)—

(A) in the first sentence, by striking ''Within 30'' and all that follows through ''title,'' and insert ''Not later than the date of acquisition of the property securing a loan made under this title (or, in the case of real property in inventory on the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, not later than 5 days after the date of enactment of the Act),''; and

(B) by striking the second sentence.

SEC. 645. RESTRUCTURING.

Section 353 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001) is amended—

(1) in subsection (c)—

(A) in paragraph (3), by striking subparagraph (C) and inserting the following:

''(C) CASH FLOW MARGIN.—For the purpose of assessing under subparagraph (A) the ability of a borrower to meet debt obligations and continue farming operations, the Secretary shall assume that the borrower needs up to 110 percent of the amount indicated for payment of farm operating expenses, debt service obligations, and family living expenses.''; and

(B) by striking paragraph (6) and inserting the following:

''(6) TERMINATION OF LOAN OBLIGATIONS.—The obligations of a borrower to the Secretary under a loan shall terminate if—

''(A) the borrower satisfies the requirements of paragraphs (1) and (2) of subsection (b);

''(B) the value of the restructured loan is less than the recovery value; and

''(C) not later than 90 days after receipt of the notification described in paragraph (4)(B), the borrower pays (or obtains third-party financing to pay) the Secretary an amount equal to the current market value.'';

(2) by striking subsection (k); and

(3) by redesignating subsections (l) through (p) as subsections (k) through (o), respectively.

SEC. 646. TRANSFER OF INVENTORY LAND FOR CONSERVATION PURPOSES.

Section 354 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2002) is amended—

(1) in the matter preceding paragraph (1), by striking ''The Secretary, without reimbursement,'' and inserting the following:

''(a) IN GENERAL.—Subject to subsection (b), the Secretary'';

(2) by striking paragraph (2) and inserting the following:

''(2) that is eligible to be disposed of in accordance with section 335; and''; and

(3) by adding at the end the following:

''(b) CONDITIONS.—The Secretary may not transfer any property or interest in property under subsection (a) unless—

''(1) at least 2 public notices are given of the transfer;

''(2) if requested, at least 1 public meeting is held prior to the transfer; and

''(3) the Governor and at least 1 elected county official of the State and county where the property is located are consulted prior to the transfer.''.

SEC. 647. IMPLEMENTATION OF TARGET PARTICIPATION RATES.

Section 355 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003) is amended by adding at the end the following:

''(f) IMPLEMENTATION CONSISTENT WITH SUPREME COURT HOLDING.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall ensure that the implementation of this section is consistent with the holding of the Supreme Court in Adarand Constructors, Inc. v. Federico Pena, Secretary of Transportation, 115 S. Ct. 2097 (1995).''.

SEC. 648. DELINQUENT BORROWERS.

(a) PAYMENT OF INTEREST AS A CONDITION OF LOAN SERVICING FOR BORROWERS.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following:

''SEC. 372. PAYMENT OF INTEREST AS A CONDITION OF LOAN SERVICING FOR BORROWERS.

''The Secretary may not reschedule or reamortize a loan for a borrower under this title who has not requested consideration under section 331D(e) unless the borrower pays a portion, as determined by the Secretary, of the interest due on the loan.''.

(b) LOAN AND LOAN SERVICING LIMITATIONS.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) (as amended by subsection (a)) is amended by adding at the end the following:

''SEC. 373. LOAN AND LOAN SERVICING LIMITATIONS.

''(a) DELINQUENT BORROWERS PROHIBITED FROM OBTAINING DIRECT OPERATING LOANS.—The Secretary may not make a direct operating loan under subtitle B to a borrower who is delinquent on any loan made or guaranteed under this title.

''(b) LOANS PROHIBITED FOR BORROWERS THAT HAVE RECEIVED DEBT FORGIVENESS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may not make or guarantee a loan under this title to a borrower who received debt forgiveness on a loan made or guaranteed under this title.

''(2) EXCEPTION.—The Secretary may make a direct or guaranteed farm operating loan for paying annual farm or ranch operating expenses of a borrower who was restructured with a write-down under section 353.

''(c) NO MORE THAN 1 DEBT FORGIVENESS FOR A BORROWER ON A DIRECT LOAN.—The Secretary may not provide to a borrower debt forgiveness on a direct loan made under this title if the borrower has received debt forgiveness on another direct loan made under this title.''.

SEC. 649. SHORT FORM CERTIFICATION OF FARM PROGRAM BORROWER COMPLIANCE.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) (as amended by section 648) is amended by adding at the end the following:

''SEC. 374. SHORT FORM CERTIFICATION OF FARM PROGRAM BORROWER COMPLIANCE.

''The Secretary shall develop and utilize a consolidated short form for farm program borrowers to use in certifying compliance with any applicable provision of law (including a regulation) that serves as an eligibility prerequisite for a loan made under this title.''.

SEC. 650. CREDIT STUDY.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a study and report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the demand for and availability of credit in rural areas for agriculture, housing, and rural development.

(b) PURPOSE.—The purpose of the study shall be to ensure that Congress has current and comprehensive information to consider as Congress deliberates on rural credit needs and the availability of credit to satisfy the needs of rural areas of the United States.

(c) ITEMS IN STUDY.—In conducting the study, the Secretary shall base the study on the most current available data and analyze—

(1) rural demand for credit from the Farm Credit System, the ability of the Farm Credit System to meet the demand, and the extent to which the Farm Credit System provides loans to satisfy the demand;

(2) rural demand for credit from the United States banking system, the ability of banks to meet the demand, and the extent to which banks provide loans to satisfy the demand;

(3) rural demand for credit from the Secretary, the ability of the Secretary to meet the demand, and the extent to which the Secretary provides loans to satisfy the demand;

(4) rural demand for credit from other Federal agencies, the ability of the agencies to meet the demand, and the extent to which the agencies provide loans to satisfy the demand;

(5) what measure or measures exist to gauge the overall demand for rural credit, the extent to which rural demand for credit is satisfied, and what the measures have demonstrated;

(6) a comparison of the interest rates and terms charged by the Farm Credit System

Farm Credit Banks, production credit associations, and banks for cooperatives with the rates and terms charged by the banks of the United States for credit of comparable risk and maturity;

(7) the advantages and disadvantages of the modernization and expansion proposals of the Farm Credit System on the Farm Credit System, the United States banking system, rural users of credit, local rural communities, and the Federal Government, including—

(A) any added risk to the safety and soundness of the Farm Credit System that may result from approval of a proposal; and

(B) any positive or adverse impacts on competition between the Farm Credit System and the banks of the United States in providing credit to rural users;

(8) the nature and extent of the unsatisfied rural credit need that the Farm Credit System proposals are supposed to address and what aspects of the present Farm Credit System prevent the Farm Credit System from meeting the need;

(9) the advantages and disadvantages of the proposal by commercial bankers to allow banks access to the Farm Credit System as a funding source on the Farm Credit System, the United States banking system, rural users of credit, local rural communities, and the Federal Government, including—

(A) any added risk to the safety and soundness of the Farm Credit System that may result from approval of the proposal; and

(B) any positive or adverse impacts on competition between the Farm Credit System and the banks of the United States in providing credit to rural users; and

(10) problems that commercial banks have in obtaining capital for lending in rural areas, how access to Farm Credit System funds would improve the availability of capital in rural areas in ways that cannot be achieved in the system in existence on the date of enactment of this Act, and the possible effects on the viability of the Farm Credit System of granting banks access to Farm Credit System funds.

(d) INTERAGENCY TASK FORCE.—In completing the study, the Secretary shall use, among other things, data and information obtained by the interagency task force on rural credit.

Subtitle E—General Provisions

SEC. 661. CONFORMING AMENDMENTS.

(a) Section 307(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)) is amended—

(1) in paragraph (4), by striking ''304(b), 306(a)(1), and 310B'' and inserting ''306(a)(1) and 310B''; and

(2) in paragraph (6)(B)—

(A) by striking clauses (i), (ii), (iv), and (vii);

(B) in clause (v), by adding ''and'' at the end;

(C) in clause (vi), by striking '', and'' at the end and inserting a period; and

(D) by redesignating clauses (iii), (v), and (vi) as clauses (i), (ii), and (iii), respectively.

(b) The second sentence of section 309(g)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(g)(1)) is amended by striking ''section 308,''.

(c) Section 309A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a) is amended—

(1) in the second sentence of subsection (a), by striking ''304(b), 306(a)(1), 306(a)(14), 310B, and 312(b)'' and inserting ''306(a)(1), 306(a)(14), and 310B''; and

(2) in the first sentence of subsection (b), by striking ''and section 308''.

(d) Section 310B(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(d)) is amended—

(1) by striking ''sections 304(b), 310B, and 312(b)'' each place it appears in paragraphs (2), (3), and (4) and inserting ''this section''; and

(2) in paragraph (6), by striking ''this section, section 304, or section 312'' and inserting ''this section''.

(e) The first sentence of section 310D(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1934(a)) is amended by striking ''paragraphs (1) through (5) of section 303(a), or subparagraphs (A) through (E) of section 304(a)(1)'' and inserting ''section 303(a), or paragraphs (1) through (5) of section 304(a)''.

(f) Section 311(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941(b)(1)) is amended by striking ''and for the purposes specified in section 312''.

(g) Section 316(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946(a)) is amended by striking paragraph (3).

(h) Section 343 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991) is amended—

(1) in subsection (a)(10), by striking ''recreation loan (RL) under section 304,''; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''351(h),''; and

(B) by striking paragraph (4) and inserting the following:

''(4) PRESERVATION LOAN SERVICE PROGRAM.—The term ''preservation loan service program'' means homestead retention as authorized under section 352.''.

(i) The first sentence of section 344 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1992) is amended by striking ''304(b), 306(a)(1), 310B, 312(b), or 312(c)'' and inserting ''306(a)(1), 310B, or 312(c)''.

(j) Section 353(l) of the Consolidated Farm and Rural Development Act (as redesignated by section 645(3)) is amended by striking ''and subparagraphs (A)(i) and (C)(i) of section 335(e)(1),''.

SEC. 662. ELECTRONIC FILING OF EFFECTIVE FINANCING STATEMENTS UNDER THE CLEAR TITLE PROVISIONS OF THE FOOD SECURITY ACT OF 1985.

Section 1324(c)(4) of the Food Security Act of 1985 (7 U.S.C. 1631(c)(4)) is amended—

(1) in subparagraph (A), by striking ''thereof'' and inserting ''of the statement, or, in the case of a State which (under the applicable State law provisions of the Uniform Commercial Code) allows the electronic filing of financing statements without the signature of the debtor, is an electronically reproduced copy of the statement''; and

(2) in each of subparagraphs (B) and (C), by inserting ''other than in the case of an electronically reproduced copy of the statement,'' before ''is''.

SEC. 663. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall become effective on the date of enactment of this Act.

(b) DELAYED EFFECTIVE DATES.—The amendments made by sections 601, 606, 611, 612, 622, 623, 625, 633, 640(1), 642, 645(1), 648(a), and 649 shall become effective 90 days after the date of enactment of this Act.

(c) TRANSITION PROVISION.—The amendments made by sections 638 and 644 shall not apply with respect to a complete application to acquire inventory property submitted prior to the date of enactment of this Act.

(d) REGULATIONS.—Notwithstanding any other provision of law, regulations to implement the amendments made by this title shall be published as interim final rules with request for comments and may be made effective immediately on publication.

TITLE VII—RURAL DEVELOPMENT

Subtitle A—Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990

CHAPTER 1—GENERAL PROVISIONS

SEC. 701. RURAL INVESTMENT PARTNERSHIPS.

Subtitle B of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2007 et seq.) is repealed.

SEC. 702. WATER AND WASTE FACILITY FINANCING.

Section 2322 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926–1) is repealed.

SEC. 703. RURAL WASTEWATER CIRCUIT RIDER PROGRAM.

Section 2324 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 1926 note) is repealed.

SEC. 704. TELEMEDICINE AND DISTANCE LEARNING SERVICES IN RURAL AREAS.

Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) is amended to read as follows:

''CHAPTER 1—TELEMEDICINE AND DISTANCE LEARNING SERVICES IN RURAL AREAS

''SEC. 2331. PURPOSE.

''The purpose of this chapter is to encourage and improve telemedicine services and distance learning services in rural areas through the use of telecommunications, computer networks, and related advanced technologies by students, teachers, medical professionals, and rural residents.

''SEC. 2332. DEFINITIONS.

''In this chapter:

''(1) CONSTRUCT.—The term 'construct' means to construct, acquire, install, improve, or extend a facility or system.

''(2) COST OF MONEY LOAN.—The term 'cost of money loan' means a loan made under this chapter bearing interest at a rate equal to the then current cost to the Federal Government of loans of similar maturity.

''(3) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''SEC. 2333. TELEMEDICINE AND DISTANCE LEARNING SERVICES IN RURAL AREAS.

''(a) SERVICES TO RURAL AREAS.—The Secretary may provide financial assistance for the purpose of financing the construction of facilities and systems to provide telemedicine services and distance learning services in rural areas.

''(b) FINANCIAL ASSISTANCE.—

''(1) IN GENERAL.—Financial assistance shall consist of grants or cost of money loans, or both.

''(2) FORM.—The Secretary shall determine the portion of the financial assistance provided to a recipient that consists of grants and the portion that consists of cost of money loans so as to result in the maximum feasible repayment to the Federal Government of the financial assistance, based on the ability to repay of the recipient and full utilization of funds made available to carry out this chapter.

''(c) RECIPIENTS.—

''(1) IN GENERAL.—The Secretary may provide financial assistance under this chapter to—

''(A) entities using telemedicine services or distance learning services; and

''(B) entities providing or proposing to provide telemedicine service or distance learning service to other persons at rates calculated to ensure that the benefit of the financial assistance is passed through to the other persons.

''(2) ELECTRIC OR TELECOMMUNICATIONS BORROWERS.—

''(A) LOANS TO BORROWERS.—Subject to subparagraph (B), the Secretary may provide

a cost of money loan under this chapter to a borrower of an electric or telecommunications loan under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.). A borrower receiving a cost of money loan under this paragraph shall—

''(i) make the funds provided available to entities that qualify under paragraph (1) for projects satisfying the requirements of this chapter;

''(ii) use the funds provided to acquire, install, improve, or extend a system referred to in subsection (a); or

''(iii) use the funds provided to install, improve, or extend a facility referred to in subsection (a).

''(B) LIMITATIONS.—A borrower of an electric or telecommunications loan under the Rural Electrification Act of 1936 shall—

''(i) make a system or facility funded under subparagraph (A) available to entities that qualify under paragraph (1); and

''(ii) neither retain from the proceeds of a loan provided under subparagraph (A), nor assess a qualifying entity under paragraph (1), any amount except as may be required to pay the actual costs incurred in administering the loan or making the system or facility available.

''(3) APPEAL.—If the Secretary rejects the application of a borrower who applies for a cost of money loan or grant under this section, the borrower may appeal the decision to the Secretary not later than 10 days after the borrower is notified of the rejection.

''(4) ASSISTANCE TO PROVIDE OR IMPROVE SERVICES.—Financial assistance may be provided under this chapter for a facility regardless of the location of the facility if the Secretary determines that the assistance is necessary to provide or improve telemedicine services or distance learning services in a rural area.

''(d) PRIORITY.—The Secretary shall establish procedures to prioritize financial assistance under this chapter considering—

''(1) the need for the assistance in the affected rural area;

''(2) the financial need of the applicant;

''(3) the population sparsity of the affected rural area;

''(4) the local involvement in the project serving the affected rural area;

''(5) geographic diversity among the recipients of financial assistance;

''(6) the utilization of the telecommunications facilities of any telecommunications provider serving the affected rural area;

''(7) the portion of total project financing provided by the applicant from the funds of the applicant;

''(8) the portion of project financing provided by the applicant with funds obtained from non-Federal sources;

''(9) the joint utilization of facilities financed by other financial assistance;

''(10) the coordination of the proposed project with regional projects or networks;

''(11) service to the greatest practical number of persons within the general geographic area covered by the financial assistance;

''(12) conformity with the State strategic plan as prepared under section 381D of the Consolidated Farm and Rural Development Act; and

''(13) other factors determined appropriate by the Secretary.

''(e) MAXIMUM AMOUNT OF ASSISTANCE TO INDIVIDUAL RECIPIENTS.—The Secretary may establish the maximum amount of financial assistance to be made available to an individual recipient for each fiscal year under this chapter, by publishing notice of the maximum amount in the Federal Register not more than 45 days after funds are made available for the fiscal year to carry out this chapter.

''(f) USE OF FUNDS.—Financial assistance provided under this chapter shall be used for—

''(1) the development and acquisition of instructional programming;

''(2) the development and acquisition, through lease or purchase, of computer hardware and software, audio and visual equipment, computer network components, telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, or interactive video equipment, or other facilities that would further telemedicine services or distance learning services;

''(3) providing technical assistance and instruction for the development or use of the programming, equipment, or facilities referred to in paragraphs (1) and (2); or

''(4) other uses that are consistent with this chapter, as determined by the Secretary.

''(g) SALARIES AND EXPENSES.—Notwithstanding subsection (f), financial assistance provided under this chapter shall not be used for paying salaries or administrative expenses.

''(h) EXPEDITING COORDINATED TELEPHONE LOANS.—

''(1) IN GENERAL.—The Secretary may establish and carry out procedures to ensure that expedited consideration and determination is given to applications for loans and advances of funds submitted by local exchange carriers under this chapter and the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) to enable the exchange carriers to provide advanced telecommunications services in rural areas in conjunction with any other projects carried out under this chapter.

''(2) DEADLINE IMPOSED ON SECRETARY.—Not later than 45 days after the receipt of a completed application for an expedited telephone loan under paragraph (1), the Secretary shall notify the applicant in writing of the decision of the Secretary regarding the application.

''(i) NOTIFICATION OF LOCAL EXCHANGE CARRIER.—

''(1) APPLICANTS.—Each applicant for a grant for a telemedicine or distance learning project established under this chapter shall notify the appropriate local telephone exchange carrier regarding the application filed with the Secretary for the grant.

''(2) SECRETARY.—The Secretary shall—

''(A) publish notice of applications received for grants under this chapter for telemedicine or distance learning projects; and

''(B) make the applications available for inspection.

''SEC. 2334. ADMINISTRATION.

''(a) NONDUPLICATION.—The Secretary shall ensure that facilities constructed using financial assistance provided under this chapter do not duplicate adequate established telemedicine services or distance learning services.

''(b) LOAN MATURITY.—The maturities of cost of money loans shall be determined by the Secretary, based on the useful life of the facility being financed, except that the loan shall not be for a period of more than 10 years.

''(c) LOAN SECURITY AND FEASIBILITY.—The Secretary shall make a cost of money loan only if the Secretary determines that the security for the loan is reasonably adequate and that the loan will be repaid within the period of the loan.

''(d) ENCOURAGING CONSORTIA.—The Secretary shall encourage the development of consortia to provide telemedicine services or distance learning services through telecommunications in rural areas served by a telecommunications provider.

''(e) COORDINATION WITH OTHER AGENCIES.—The Secretary shall coordinate, to the extent practicable, with other Federal and State agencies with similar grant or loan programs to pool resources for funding meritorious proposals in rural areas.

''(f) INFORMATIONAL EFFORTS.—The Secretary shall establish and implement procedures to carry out informational efforts to advise potential end users located in rural areas of each State about the program authorized by this chapter.

''SEC. 2335. REGULATIONS.

''Not later than 180 days after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, the Secretary shall issue regulations to carry out this chapter.

''SEC. 2335A. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this chapter $100,000,000 for each of fiscal years 1996 through 2002.''.

SEC. 705. LIMITATION ON AUTHORIZATION OF APPROPRIATIONS FOR RURAL TECHNOLOGY GRANTS.

Section 2347 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 4034) is amended—

(1) by striking ''(a) IN GENERAL.—''; and

(2) by striking subsection (b).

SEC. 706. DEMONSTRATION PROJECTS.

Section 2348 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2662a) is repealed.

SEC. 707. MONITORING THE ECONOMIC PROGRESS OF RURAL AMERICA.

Section 2382 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 13 U.S.C. 141 note) is repealed.

SEC. 708. ANALYSIS BY OFFICE OF TECHNOLOGY ASSESSMENT.

Section 2385 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 950aaa–4 note) is repealed.

SEC. 709. RURAL HEALTH INFRASTRUCTURE IMPROVEMENT.

Section 2391 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 2662 note) is repealed.

SEC. 710. CENSUS OF AGRICULTURE.

Section 2392 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 4057) is repealed.

SEC. 711. STUDY OF THE TRANSPORTATION OF FERTILIZER AND AGRICULTURAL CHEMICALS TO FARMERS.

Section 2517 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 4077) is repealed.

CHAPTER 2—ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION

SEC. 721. DEFINITIONS.

Section 1657(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901(c)) is amended—

(1) by striking paragraphs (3) and (4);

(2) by redesignating paragraph (5) as paragraph (3);

(3) by redesignating paragraphs (6) through (12) as paragraphs (7) through (13), respectively; and

(4) by inserting after paragraph (3) (as redesignated by paragraph (2)) the following:

''(4) CORPORATE BOARD.—The term 'Corporate Board' means the Board of Directors of the Corporation described in section 1659.

''(5) CORPORATION.—The term 'Corporation' means the Alternative Agricultural Research and Commercialization Corporation established under section 1658.

''(6) EXECUTIVE DIRECTOR.—The term 'Executive Director' means the Executive Director of the Corporation appointed under section 1659(e).''.

SEC. 722. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION CORPORATION.

(a) IN GENERAL.—Section 1658 of the Food, Agriculture, Conservation, and Trade Act of

1990 (7 U.S.C. 5902) is amended to read as follows:

"SEC. 1658. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION CORPORATION.

"(a) ESTABLISHMENT.—To carry out this subtitle, there is created a body corporate to be known as the Alternative Agricultural Research and Commercialization Corporation, which shall be an agency of the United States, within the Department of Agriculture, subject to the general supervision and direction of the Secretary, except as specifically provided for in this subtitle.

"(b) PURPOSE.—The purpose of the Corporation is to—

"(1) expedite the development and market penetration of industrial, nonfood, nonfeed products from agricultural and forestry materials; and

"(2) assist the private sector in bridging the gap between the results of research into nonfood, nonfeed products and the commercialization of the research.

"(c) PLACE OF INCORPORATION.—The Corporation shall be incorporated in the District of Columbia.

"(d) CENTRAL OFFICE.—The Secretary shall provide facilities for the principal office of the Corporation within the Washington, D.C., metropolitan area.

"(e) WHOLLY-OWNED GOVERNMENT CORPORATION.—The Corporation shall be considered a wholly-owned government corporation in accordance with chapter 91 of title 31, United States Code.

"(f) GENERAL POWERS.—In addition to any other powers granted to the Corporation under this subtitle, the Corporation—

"(1) shall have succession in its corporate name;

"(2) may adopt, alter, and rescind any bylaw and adopt and alter a corporate seal, which shall be judicially noticed;

"(3) may enter into any agreement or contract with a person or private or governmental agency, except that the Corporation shall not provide any financial assistance unless specifically authorized by this subtitle;

"(4) may lease, purchase, accept a gift or donation of, or otherwise acquire, use, own, hold, improve, or otherwise deal in or with, and sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property or interest in property, as the Corporation considers necessary in the transaction of the business of the Corporation, except that this paragraph shall not provide authority for carrying out a program of real estate investment;

"(5) may sue and be sued in the corporate name of the Corporation, except that—

"(A) no attachment, injunction, garnishment, or similar process shall be issued against the Corporation or property of the Corporation; and

"(B) exclusive original jurisdiction shall reside in the district courts of the United States, but the Corporation may intervene in any court in any suit, action, or proceeding in which the Corporation has an interest;

"(6) may independently retain legal representation;

"(7) may provide for and designate such committees, and the functions of the committees, as the Corporate Board considers necessary or desirable,

"(8) may indemnify the Executive Director and other officers of the Corporation, as the Corporate Board considers necessary and desirable, except that the Executive Director and officers shall not be indemnified for an act outside the scope of employment;

"(9) may, with the consent of any board, commission, independent establishment, or executive department of the Federal Government, including any field service, use information, services, facilities, officials, and employees in carrying out this subtitle, and pay for the use, which payments shall be transferred to the applicable appropriation account that incurred the expense;

"(10) may obtain the services and fix the compensation of any consultant and otherwise procure temporary and intermittent services under section 3109(b) of title 5, United States Code;

"(11) may use the United States mails on the same terms and conditions as the Executive agencies of the Federal Government;

"(12) shall have the rights, privileges, and immunities of the United States with respect to the right to priority of payment with respect to debts due from bankrupt, insolvent, or deceased creditors;

"(13) may collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation;

"(14) shall determine the character of, and necessity for, obligations and expenditures of the Corporation and the manner in which the obligations and expenditures shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations;

"(15) may make final and conclusive settlement and adjustment of any claim by or against the Corporation or a fiscal officer of the Corporation;

"(16) may sell assets, loans, and equity interests acquired in connection with the financing of projects funded by the Corporation; and

"(17) may exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation to carry out this subtitle and the powers, purposes, functions, duties, and authorized activities of the Corporation.

"(g) SPECIFIC POWERS.—To carry out this subtitle, the Corporation may—

"(1) make grants to, and enter into cooperative agreements and contracts with, eligible applicants for research, development, and demonstration projects in accordance with section 1660;

"(2) make loans and interest subsidy payments and invest venture capital in accordance with section 1661;

"(3) collect and disseminate information concerning State, regional, and local commercialization projects;

"(4) search for new nonfood, nonfeed products that may be produced from agricultural commodities and for processes to produce the products;

"(5) administer, maintain, and dispense funds from the Fund to facilitate the conduct of activities under this subtitle; and

"(6) engage in other activities incident to carrying out the functions of the Corporation.".

(b) WHOLLY-OWNED GOVERNMENT CORPORATION.—Section 9101(3) of title 31, United States Code, is amended—

(1) by redesignating subparagraph (N) (relating to the Uranium Enrichment Corporation) as subparagraph (O); and

(2) by adding at the end the following:

"(Q) the Alternative Agricultural Research and Commercialization Corporation.".

(c) CONFORMING AMENDMENT.—Section 211(b)(5) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6911(b)(5)) is amended by striking "Alternative Agricultural Research and Commercialization Board" and inserting "Corporate Board of the Alternative Agricultural Research and Commercialization Corporation".

SEC. 723. BOARD OF DIRECTORS, EMPLOYEES, AND FACILITIES.

(a) IN GENERAL.—Section 1659 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5903) is amended to read as follows:

"SEC. 1659. BOARD OF DIRECTORS, EMPLOYEES, AND FACILITIES.

"(a) IN GENERAL.—The powers of the Corporation shall be vested in a Corporate Board.

"(b) MEMBERS OF THE CORPORATE BOARD.—The Corporate Board shall consist of 11 members as follows:

"(1) The Under Secretary of Agriculture for Rural Development.

"(2) The Under Secretary of Agriculture for Research, Education, and Economics.

"(3) 5 members appointed by the Secretary, of whom—

"(A) at least 1 member shall be a representative of the leading scientific disciplines relevant to the activities of the Corporation;

"(B) at least 1 member shall be a producer or processor of agricultural commodities;

"(C) at least 1 member shall be a person who is privately engaged in the commercialization of new nonfood, nonfeed products from agricultural commodities; and

"(D) at least 1 member shall have expertise in financial management.

A different member shall be appointed pursuant to each subparagraph of this paragraph.

"(4) 2 members appointed by the Secretary who—

"(A) have expertise in areas of applied research relating to the development or commercialization of new nonfood, nonfeed products; and

"(B) shall be appointed from a group of at least 4 individuals nominated by the Director of the National Science Foundation if the nominations are made not later than 60 days after the date a vacancy occurs.

"(5) 2 members appointed by the Secretary who—

"(A) have expertise in financial and managerial matters; and

"(B) shall be appointed from a group of at least 4 individuals nominated by the Secretary of Commerce if the nominations are made not later than 60 days after the date a vacancy occurs.

"(c) RESPONSIBILITIES OF THE CORPORATE BOARD.—

"(1) IN GENERAL.—The Corporate Board shall—

"(A) be responsible for the general supervision of the Corporation and Regional Centers established under section 1663;

"(B) determine (in consultation with Regional Centers) high priority commercialization areas to receive assistance under section 1663;

"(C) review any grant, contract, or cooperative agreement to be made or entered into by the Corporation under section 1660 and any financial assistance to be provided under section 1661;

"(D) make the final decision, by majority vote, on whether and how to provide assistance to an applicant; and

"(E) develop and establish a budget plan and a long-term operating plan to carry out this subtitle.

"(2) AUTHORITY OF THE SECRETARY.—

"(A) IN GENERAL.—The Secretary shall vacate and remand to the Corporate Board for reconsideration any decision made pursuant to paragraph (1)(D) if the Secretary determines that there has been a violation of subsection (j), or any conflict of interest provisions of the bylaws of the Corporate Board, with respect to the decision.

"(B) REASONS.—In the case of any violation and referral of a funding decision to the Corporate Board, the Secretary shall inform the Corporate Board of the reasons for any remand pursuant to subparagraph (A).

"(d) CHAIRPERSON.—The members of the Corporate Board shall select a Chairperson from among the members of the Corporate Board. The term of office of the Chairperson

shall be 2 years. The members referred to in paragraphs (1) and (2) of subsection (b) may not serve as Chairperson.

''(e) EXECUTIVE DIRECTOR.—

''(1) APPOINTMENT.—The Corporate Board shall appoint an Executive Director, subject to the approval of the Secretary.

''(2) DUTIES.—The Executive Director shall be the chief executive officer of the Corporation, with such power and authority as may be conferred by the Corporate Board.

''(3) COMPENSATION.—The Executive Director shall receive basic pay at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(f) OFFICERS.—The Corporate Board shall establish the offices and appoint the officers of the Corporation, including a Secretary, and define the duties of the officers in a manner consistent with this subtitle.

''(g) MEETINGS.—The Corporate Board shall meet at least 3 times each fiscal year at the call of the Chairperson or at the request of the Executive Director. The location of the meetings shall be subject to approval of the Executive Director. A quorum of the Corporate Board shall consist of a majority of the members. The decisions of the Corporate Board shall be made by majority vote.

''(h) TERM; VACANCIES.—

''(1) IN GENERAL.—The term of office of a member of the Corporate Board shall be 4 years, except that the members initially appointed shall be appointed to serve staggered terms. A member appointed to fill a vacancy for an unexpired term may be appointed only for the remainder of the term. A vacancy on the Corporate Board shall be filled in the same manner as the original appointment. The Secretary may remove a member of the Corporate Board only for cause.

''(2) TRANSITION MEASURE.—The Secretary may appoint to the Corporate Board an individual who, on the day before the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, was serving on the former Alternative Agricultural Research and Commercialization Board, for a term that does not exceed the term for which the individual was appointed to the former Board.

''(i) COMPENSATION.—A member of the Corporate Board who is an officer or employee of the United States shall not receive any additional compensation by reason of service on the Corporate Board. Any other member shall receive, for each day (including travel time) the member is engaged in the performance of the functions of the Corporate Board, compensation at a rate not to exceed the daily equivalent of the annual rate in effect for Level IV of the Executive Schedule. A member of the Corporate Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in the performance of the duties of the member.

''(j) CONFLICT OF INTEREST; FINANCIAL DISCLOSURE.—

''(1) CONFLICT OF INTEREST.—Except as provided in paragraph (3), no member of the Corporate Board shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to the knowledge of the member, the member, spouse, or child of the member, partner, or organization in which the member is serving as officer, director, trustee, partner, or employee, or any person or organization with whom the member is negotiating or has any arrangement concerning prospective employment, has a financial interest.

''(2) VIOLATIONS.—Violation of paragraph (1) by a member of the Corporate Board shall be cause for removal of the member, but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the member participated.

''(3) EXCEPTIONS.—The prohibitions contained in paragraph (1) shall not apply if a member of the Corporate Board advises the Corporate Board of the nature of the particular matter in which the member proposes to participate, and if the member makes a full disclosure of the financial interest, prior to any participation, and the Corporate Board determines, by majority vote, that the financial interest is too remote or too inconsequential to affect the integrity of the member's services to the Corporation in that matter. The member involved shall not vote on the determination.

''(4) FINANCIAL DISCLOSURE.—A Board member shall be subject to the financial disclosure requirements set forth in subchapter B of chapter XVI of title 5, Code of Federal Regulations (or any corresponding or similar regulation or ruling), applicable to a special Government employee (as defined in section 202(a) of title 18, United States Code).

''(k) DELEGATION OF AUTHORITY.—

''(1) IN GENERAL.—The Corporate Board may, by resolution, delegate to the Chairperson, the Executive Director, or any other officer or employee any function, power, or duty assigned to the Corporation under this subtitle, other than a function, power, or duty expressly vested in the Corporate Board by subsections (c) through (n).

''(2) PROHIBITION ON DELEGATION.—Notwithstanding any other law, the Secretary and any other officer or employee of the United States shall not make any delegation to the Corporate Board, the Chairperson, the Executive Director, or the Corporation of any power, function, or authority not expressly authorized by this subtitle, unless the delegation is made pursuant to an authority in law that expressly makes reference to this section.

''(3) REORGANIZATION ACT.—Notwithstanding any other law, the President (through authorities provided under chapter 9 of title 5, United States Code) may not authorize the transfer to the Corporation of any power, function, or authority in addition to powers, functions, and authorities provided by law.

''(l) BYLAWS.—Notwithstanding section 1658(f)(2), the Corporate Board shall adopt, and may from time to time amend, any bylaw that is necessary for the proper management and functioning of the Corporation. The Corporate Board shall not adopt any bylaw that has not been reviewed and approved by the Secretary.

''(m) ORGANIZATION.—The Corporate Board shall provide a system of organization to fix responsibility and promote efficiency.

''(n) PERSONNEL AND FACILITIES OF CORPORATION.—

''(1) APPOINTMENT AND COMPENSATION OF PERSONNEL.—The Corporation may select and appoint officers, attorneys, employees, and agents, who shall be vested with such powers and duties as the Corporation may determine.

''(2) USE OF FACILITIES AND SERVICES OF THE DEPARTMENT OF AGRICULTURE.—Notwithstanding any other provision of law, to perform the responsibilities of the Corporation under this subtitle, the Corporation may partially or jointly utilize the facilities of and the services of employees of the Department of Agriculture, without cost to the Corporation.

''(3) GOVERNMENT EMPLOYMENT LAWS.—An officer or employee of the Corporation shall be subject to all laws of the United States relating to governmental employment.''.

(b) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Executive Director of the Alternative Agricultural Research and Commercialization Corporation.''.

SEC. 724. RESEARCH AND DEVELOPMENT GRANTS, CONTRACTS, AND AGREEMENTS.

Section 1660 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5904) is amended—

(1) by striking ''Center'' each place it appears and inserting ''Corporation'';

(2) in subsection (c), by striking ''Board'' and inserting ''Corporate Board''; and

(3) in subsection (f), by striking ''non-Center'' and inserting ''non-Corporation''.

SEC. 725. COMMERCIALIZATION ASSISTANCE.

Section 1661 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5905) is amended—

(1) by striking ''Center'' each place it appears and inserting ''Corporation'';

(2) by striking ''Board'' each place it appears and inserting ''Corporate Board'';

(3) by striking subsection (c);

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

(5) in subsection (c) (as so redesignated)—

(A) in the subsection heading of paragraph (1), by striking ''DIRECTOR'' and inserting ''EXECUTIVE DIRECTOR''; and

(B) by striking ''Director'' each place it appears and inserting ''Executive Director''.

SEC. 726. GENERAL RULES REGARDING THE PROVISION OF ASSISTANCE.

Section 1662 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5906) is amended—

(1) by striking ''Center'' each place it appears (except in subsection (b)) and inserting ''Corporation'';

(2) by striking ''Board'' each place it appears and inserting ''Corporate Board''; and

(3) in subsection (b)—

(A) in the second sentence, by striking ''Board, a Regional Center, or the Advisory Council'' and inserting ''Board or a Regional Center''; and

(B) by striking the third sentence.

SEC. 727. REGIONAL CENTERS.

Section 1663 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5907) is amended—

(1) by striking ''Board'' each place it appears and inserting ''Corporate Board'';

(2) in subsection (e)(8), by striking ''Center'' and inserting ''Corporation''; and

(3) in subsection (f)—

(A) in paragraph (2), by striking ''in consultation with the Advisory Council appointed under section 1661(c)''; and

(B) by striking paragraphs (3) and (4) and inserting the following:

''(3) RECOMMENDATION.—The Regional Director, based on the comments of the reviewers, shall make and submit a recommendation to the Board, which shall not be binding on the Board.''.

SEC. 728. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION REVOLVING FUND.

Section 1664 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5908) is amended to read as follows:

''SEC. 1664. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION REVOLVING FUND.

''(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund to be known as the Alternative Agricultural Research and Commercialization Revolving Fund. The Fund shall be available to the Corporation, without fiscal year limitation, to carry out this subtitle.

''(b) CONTENTS OF FUND.—There shall be deposited in the Fund—

''(1) such amounts as may be appropriated or transferred to support programs and activities of the Corporation;

''(2) payments received from any source for products, services, or property furnished in connection with the activities of the Corporation;

''(3) fees and royalties collected by the Corporation from licensing or other arrangements relating to commercialization of products developed through projects funded in whole or part by grants, contracts, or cooperative agreements executed by the Corporation;

''(4) proceeds from the sale of assets, loans, and equity interests made in furtherance of the purposes of the Corporation;

''(5) donations or contributions accepted by the Corporation to support authorized programs and activities; and

''(6) any other funds acquired by the Corporation.

''(c) FUNDING ALLOCATIONS.—Funding of projects and activities under this subtitle shall be subject to the following restrictions:

''(1) Of the total amount of funds made available for a fiscal year under this subtitle—

''(A) not more than the lesser of 15 percent or $3,000,000 may be set aside to be used for authorized administrative expenses of the Corporation;

''(B) not more than 1 percent may be set aside to be used for generic studies and specific reviews of individual proposals for financial assistance; and

''(C) except as provided in subsection (e), not less than 84 percent shall be set aside to be awarded to qualified applicants who file project applications with, or respond to requests for proposals from, the Corporation under sections 1660 and 1661.

''(2) Any funds remaining uncommitted at the end of a fiscal year shall be credited to the Fund and added to the total program funds available to the Corporation for the next fiscal year.

''(d) AUTHORIZED ADMINISTRATIVE EXPENSES.—For the purposes of this section, authorized administrative expenses shall include all ordinary and necessary expenses, including all compensation for personnel and consultants, expenses for computer usage, or space needs of the Corporation and similar expenses. Funds authorized for administrative expenses shall not be available for the acquisition of real property.

''(e) PROJECT MONITORING.—The Corporate Board may establish, in the bylaws of the Corporate Board, that a percentage (which shall not exceed 1 percent) of the funds provided under subsection (c) for any commercialization project shall be expended to ensure that project funds are being utilized in accordance with the project agreement.

''(f) TERMINATION OF THE FUND.—On expiration of the authority provided by this subtitle, all assets (after payment of all outstanding obligations) of the Fund shall revert to the general fund of the Treasury.

''(g) AUTHORIZATION OF APPROPRIATIONS; CAPITALIZATION.—

''(1) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to the Fund $75,000,000 for each of fiscal years 1996 through 2002.

''(2) CAPITALIZATION.—The Executive Director may pay in as capital of the Corporation, out of dollar receipts made available through annual appropriations, $75,000,000 for each of fiscal years 1996 through 2002. On the payment of an amount of capital by the Executive Director, the Corporation shall issue an equivalent amount of capital stock to the Secretary of the Treasury.

''(3) TRANSFER.—All obligations, assets, and related rights and responsibilities of the former Alternative Agricultural Research and Commercialization Center established under former section 1658 of this Act (as in effect on the day before the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996) are transferred to the Corporation.''.

SEC. 729. PROCUREMENT PREFERENCES FOR PRODUCTS RECEIVING CORPORATION ASSISTANCE.

Subtitle G of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901 et seq.) is amended by adding at the end the following:

''SEC. 1665. PROCUREMENT OF ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION PRODUCTS.

''(a) DEFINITION OF EXECUTIVE AGENCY.—In this section, the term 'executive agency' has the meaning provided the term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

''(b) PROCUREMENT.—To further the achievement of the purposes specified in section 1657(b), an executive agency may, for any procurement involving the acquisition of property, establish set-asides and preferences for property that has been commercialized with assistance provided under this subtitle.

''(c) SET-ASIDES.—Procurements solely for property may be set-aside exclusively for products developed with commercialization assistance provided under section 1661.

''(d) PREFERENCES.—Preferences for property developed with assistance provided under this subtitle in procurements involving the acquisition of property may be—

''(1) a price preference, if the procurement is solely for property, of not greater than a percentage to be determined within the sole discretion of the head of the procuring agency; or

''(2) a technical evaluation preference included as an award factor or subfactor as determined within the sole discretion of the head of the procuring agency.

''(e) NOTICE.—Each competitive solicitation or invitation for bids selected by an executive agency for a set-aside or preference under this section shall contain a provision notifying offerors where a list of products eligible for the set aside or preference may be obtained.

''(f) ELIGIBILITY.—Offerors shall receive the set aside or preference required under this section if, in the case of products developed with financial assistance under—

''(1) section 1660, less than 10 years have elapsed since the expiration of the grant, cooperative agreement, or contract;

''(2) paragraph (1) or (2) of section 1661(a), less than 5 years have elapsed since the date the loan was made or insured;

''(3) section 1661(a)(3), less than 5 years have elapsed since the date of sale of any remaining government equity interest in the company; or

''(4) section 1661(a)(4), less than 5 years have elapsed since the date of the final payment on the repayable grant.''.

SEC. 730. BUSINESS PLAN AND FEASIBILITY STUDY AND REPORT.

(a) BUSINESS PLAN.—Not later than 180 days after the date of enactment of this Act, the Alternative Agricultural Research and Commercialization Corporation established by section 1658 of the Food, Agriculture, Conservation, and Trade Act of 1990 shall—

(1) develop a 5-year business plan pursuant to section 1659(c)(1)(E) of the Act; and

(2) submit the plan to the Secretary of Agriculture, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(b) FEASIBILITY STUDY AND REPORT.—

(1) STUDY.—The Secretary of Agriculture shall conduct a study of, and prepare a report on, the continued feasibility of the Alternative Agricultural Research and Commercialization Corporation. In conducting the study, the Secretary shall examine options for privatizing the Corporation and converting the Corporation to a Government-sponsored enterprise.

(2) REPORT.—Not later than December 31, 2001, the Secretary shall transmit the report required by paragraph (1) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Subtitle B—Amendments to the Consolidated Farm and Rural Development Act

CHAPTER 1—GENERAL PROVISIONS

SEC. 741. WATER AND WASTE FACILITY LOANS AND GRANTS.

(a) IN GENERAL.—Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended—

(1) in the first sentence of paragraph (2), by striking ''$500,000,000'' and inserting ''$590,000,000'';

(2) by striking paragraph (7) and inserting the following:

''(7) DEFINITION OF RURAL AND RURAL AREAS.—For the purpose of water and waste disposal grants and direct and guaranteed loans provided under paragraphs (1) and (2), the terms 'rural' and 'rural area' mean a city, town, or unincorporated area that has a population of no more than 10,000 inhabitants.'';

(3) by striking paragraphs (9), (10), and (11) and inserting the following:

''(9) CONFORMITY WITH STATE DRINKING WATER STANDARDS.—No Federal funds shall be made available under this section for a water system unless the Secretary determines that the water system will make significant progress toward meeting the standards established under title XIV of the Public Health Service Act (commonly known as the 'Safe Drinking Water Act') (42 U.S.C. 300f et seq.).

''(10) CONFORMITY WITH FEDERAL AND STATE WATER POLLUTION CONTROL STANDARDS.—No Federal funds shall be made available under this section for a water treatment discharge or waste disposal system unless the Secretary determines that the effluent from the system conforms with applicable Federal and State water pollution control standards.

''(11) RURAL BUSINESS OPPORTUNITY GRANTS.—

''(A) IN GENERAL.—The Secretary may make grants, not to exceed $1,500,000 annually, to public bodies, private nonprofit community development corporations or entities, or such other agencies as the Secretary may select to enable the recipients—

''(i) to identify and analyze business opportunities, including opportunities in export markets, that will use local rural economic and human resources;

''(ii) to identify, train, and provide technical assistance to existing or prospective rural entrepreneurs and managers;

''(iii) to establish business support centers and otherwise assist in the creation of new rural businesses, the development of methods of financing local businesses, and the enhancement of the capacity of local individuals and entities to engage in sound economic activities;

''(iv) to conduct regional, community, and local economic development planning and coordination, and leadership development; and

''(v) to establish centers for training, technology, and trade that will provide training to rural businesses in the utilization of interactive communications technologies to develop international trade opportunities and markets.

''(B) CRITERIA.—In awarding the grants, the Secretary shall consider, among other criteria to be established by the Secretary—

''(i) the extent to which the applicant provides development services in the rural service area of the applicant; and

''(ii) the capability of the applicant to accomplish the activities described in the relevant clauses of subparagraph (A).

''(C) COORDINATION.—The Secretary shall ensure, to the maximum extent practicable, that assistance provided under this paragraph is coordinated with and delivered in cooperation with similar services or assistance provided to rural residents by the Cooperative State Research, Education, and Extension Service or other Federal agencies.

''(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $7,500,000 for each of fiscal years 1996 through 2002.'';

(4) by striking paragraphs (14) and (15);

(5) by redesignating paragraphs (16) through (20) as paragraphs (14) through (18), respectively; and

(6) in paragraph (14) (as so redesignated)—

(A) by striking ''(14)(A) The'' and inserting the following:

''(14) RURAL WATER AND WASTEWATER TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.—

''(A) IN GENERAL.—The'';

(B) in subparagraph (A)—

(i) by striking ''(i) identify'' and inserting the following:

''(i) identify'';

(ii) by striking ''(ii) prepare'' and inserting the following:

''(ii) prepare''; and

(iii) by striking ''(iii) improve'' and inserting the following:

''(iii) improve'';

(C) in subparagraph (B), by striking ''(B) In'' and inserting the following:

''(B) SELECTION PRIORITY.—In''; and

(D) in subparagraph (C)—

(i) by striking ''(C) Not'' and inserting the following:

''(C) FUNDING.—Not''; and

(ii) by striking ''2 per centum of any funds provided in Appropriations Acts'' and inserting ''3 percent of any funds appropriated''.

(b) CONFORMING AMENDMENT.—The second sentence of section 309A(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a(a)) (as amended by section 661(c)(1)) is amended by striking '', 306(a)(14),''.

SEC. 742. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM FOR SMALL COMMUNITIES.

Section 306A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926a) is amended—

(1) in subsection (e)—

(A) in paragraph (1)(A), by striking ''15,000'' and inserting ''10,000''; and

(B) in paragraph (2), by striking ''5,000'' and inserting ''3,000''; and

(2) by striking subsection (i) and inserting the following:

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $35,000,000 for each of fiscal years 1996 through 2002.''.

SEC. 743. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM FOR SMALLEST COMMUNITIES.

Section 306B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926b) is repealed.

SEC. 744. AGRICULTURAL CREDIT INSURANCE FUND.

Section 309(f) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(f)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

SEC. 745. RURAL DEVELOPMENT INSURANCE FUND.

Section 309A(g) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a(g)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) through (8) as paragraphs (1) through (7), respectively.

SEC. 746. INSURED WATERSHED AND RESOURCE CONSERVATION AND DEVELOPMENT LOANS.

Section 310A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1931) is repealed.

SEC. 747. RURAL INDUSTRIALIZATION ASSISTANCE.

(a) IN GENERAL.—Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended—

(1) in the first sentence of subsection (a)—

(A) by striking ''and'' at the end of clause (2); and

(B) by inserting before the period the following: '', and (4) to facilitate economic opportunity for industries undergoing adjustment from terminated Federal agricultural price and income support programs or increased competition from foreign trade'';

(2) in subsection (b), by striking ''(b)(1)'' and all that follows through ''(2) The'' and inserting the following:

''(b) SOLID WASTE MANAGEMENT GRANTS.—The'';

(3) in subsection (c)—

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

''(c) RURAL BUSINESS ENTERPRISE GRANTS.—

''(1) IN GENERAL.—The'';

(B) in paragraph (1), by inserting ''(including nonprofit entities)'' after ''private business enterprises'';

(C) in paragraph (2)—

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

''(2) PASSENGER TRANSPORTATION SERVICES OR FACILITIES.—The''; and

(ii) by striking ''make grants'' and inserting ''award grants on a competitive basis''; and

(D) by adding at the end the following:

''(3) GRANTS TO AID INDUSTRIES IN ADJUSTING TO TERMINATED FEDERAL AGRICULTURAL PROGRAMS OR INCREASED FOREIGN COMPETITION.—The Secretary may make grants under this section to facilitate economic opportunity for industries undergoing adjustment from terminated Federal agricultural price and income support programs or increased competition from foreign trade.'';

(4) by striking subsection (e) and inserting the following:

''(e) RURAL COOPERATIVE DEVELOPMENT GRANTS.—

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

''(A) NONPROFIT INSTITUTION.—The term 'nonprofit institution' means any organization or institution, including an accredited institution of higher education, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

''(B) UNITED STATES.—The term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the other territories and possessions of the United States.

''(2) GRANTS.—The Secretary shall make grants under this subsection to nonprofit institutions for the purpose of enabling the institutions to establish and operate centers for rural cooperative development.

''(3) GOALS.—The goals of a center funded under this subsection shall be to facilitate the creation of jobs in rural areas through the development of new rural cooperatives, value added processing, and rural businesses.

''(4) APPLICATION.—Any nonprofit institution seeking a grant under paragraph (2) shall submit to the Secretary an application containing a plan for the establishment and operation by the institution of a center or centers for cooperative development. The Secretary may approve the application if the plan contains the following:

''(A) A provision that substantiates that the center will effectively serve rural areas in the United States.

''(B) A provision that the primary objective of the center will be to improve the economic condition of rural areas through cooperative development.

''(C) A description of the activities that the center will carry out to accomplish the objective. The activities may include the following:

''(i) Programs for applied research and feasibility studies that may be useful to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

''(ii) Programs for the collection, interpretation, and dissemination of information that may be useful to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

''(iii) Programs providing training and instruction for individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

''(iv) Programs providing loans and grants to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

''(v) Programs providing technical assistance, research services, and advisory services to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

''(vi) Programs providing for the coordination of services and sharing of information among the center.

''(D) A description of the contributions that the activities are likely to make to the improvement of the economic conditions of the rural areas for which the center will provide services.

''(E) Provisions that the center, in carrying out the activities, will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the Federal Government, and State and local governments.

''(F) Provisions that the center will take all practicable steps to develop continuing sources of financial support for the center, particularly from sources in the private sector.

''(G) Provisions for—

''(i) monitoring and evaluating the activities by the nonprofit institution operating the center; and

''(ii) accounting for money received by the institution under this section.

''(5) AWARDING GRANTS.—Grants made under paragraph (2) shall be made on a competitive basis. In making grants under paragraph (2), the Secretary shall give preference to grant applications providing for the establishment of centers for rural cooperative development that—

''(A) demonstrate a proven track record in administering a nationally coordinated, regionally or State-wide operated project;

''(B) demonstrate previous expertise in providing technical assistance in rural areas;

''(C) demonstrate the ability to assist in the retention of businesses, facilitate the establishment of cooperatives and new cooperative approaches, and generate employment opportunities that will improve the economic conditions of rural areas;

''(D) demonstrate the ability to create horizontal linkages among businesses within and among various sectors in rural areas of the United States and vertical linkages to domestic and international markets;

''(E) commit to providing technical assistance and other services to underserved and

economically distressed areas in rural areas of the United States; and

''(F) commit to providing greater than a 25 percent matching contribution with private funds and in-kind contributions.

''(6) 1-YEAR GRANTS; AUTHORITY TO APPROVE GRANT FOR 1 ADDITIONAL YEAR WITHOUT APPLICATION.—The Secretary shall make grants under this subsection for a period of 1 year. The Secretary shall evaluate programs receiving assistance under this subsection. If the Secretary determines it to be in the best interest of the program, the Secretary may award an additional grant to the program for the immediately succeeding year without application for the grant.

''(7) TECHNICAL ASSISTANCE TO PREVENT EXCESSIVE UNEMPLOYMENT OR UNDEREMPLOYMENT.—In carrying out this subsection, the Secretary may provide technical assistance to alleviate or prevent conditions of excessive unemployment, underemployment, outmigration, or low employment growth in economically distressed rural areas that the Secretary determines have a substantial need for the assistance. The assistance may include planning and feasibility studies, management and operational assistance, and studies evaluating the need for development potential of projects that increase employment and improve economic growth in the areas.

''(8) GRANTS TO DEFRAY ADMINISTRATIVE COSTS.—The Secretary may make grants to defray not to exceed 75 percent of the costs incurred by organizations and public bodies to carry out projects for which grants or loans are made under this subsection. For purposes of determining the non-Federal share of the costs, the Secretary shall consider contributions in cash and in kind, fairly evaluated, including premises, equipment, and services.

''(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $50,000,000 for each of fiscal years 1996 through 2002.'';

(5) by striking subsections (f), (g), (h), and (i);

(6) by redesignating subsection (j) as subsection (f); and

(7) by adding at the end the following:

''(g) LOAN GUARANTEES FOR THE PURCHASE OF COOPERATIVE STOCK.—

''(1) DEFINITION OF FARMER.—In this subsection, the term 'farmer' means any farmer that the Secretary determines is a family farmer.

''(2) LOAN GUARANTEES.—The Secretary may guarantee loans under this section to individual farmers for the purpose of purchasing start-up capital stock of a farmer cooperative established for the purpose of processing an agricultural commodity.

''(3) ELIGIBILITY.—To be eligible for a loan guarantee under this subsection, a farmer must produce the agricultural commodity that will be processed by the cooperative.''.

(b) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 307(a)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(6)(B)) (as redesignated by section 661(a)(2)) is amended by striking ''subsections (d) and (e) of section 310B'' and inserting ''section 310B(d)''.

(2) Section 232(c)(2) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6942(c)(2)) is amended—

(A) by striking ''310B(b)(2)'' and inserting ''310B(b)''; and

(B) by striking ''1932(b)(2)'' and inserting ''1932(b)''.

(3) Section 233(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6943(b)) is amended—

(A) by striking paragraph (2); and

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

SEC. 748. ADMINISTRATION.

Section 331(b)(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(b)(4)) is amended—

(1) by inserting after ''claims'' the following: ''(including debts and claims arising from loan guarantees)'';

(2) by striking ''Farmers Home Administration or'' and inserting ''Consolidated Farm Service Agency, Rural Utilities Service, Rural Housing Service, Rural Business-Cooperative Service, or a successor agency, or''; and

(3) by inserting after ''activities under the Housing Act of 1949.'' the following: ''In the case of a security instrument entered into under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), the Secretary shall notify the Attorney General of the intent of the Secretary to exercise the authority of the Secretary under this paragraph.''.

SEC. 749. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 338 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1988) is amended—

(1) by striking subsections (b), (c), (d), and (e); and

(2) by redesignating subsection (f) as subsection (b).

(b) CONFORMING AMENDMENTS.—

(1) The first sentence of section 309(g)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(g)(1)) is amended by inserting after ''section 338(c)'' the following: ''(before the amendment made by section 749(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996)''.

(2) Section 343(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(b)) is amended by striking ''338(f),'' and inserting ''338(b),''.

SEC. 750. TESTIMONY BEFORE CONGRESSIONAL COMMITTEES.

Section 345 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1993) is repealed.

SEC. 751. PROHIBITION ON USE OF LOANS FOR CERTAIN PURPOSES.

Section 363 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006e) is amended by adding at the end the following: ''This section shall not apply to a loan made or guaranteed under this title for a utility line.''.

SEC. 752. RURAL DEVELOPMENT CERTIFIED LENDERS PROGRAM.

The Consolidated Farm and Rural Development Act is amended by inserting after section 363 (7 U.S.C. 2006e) the following:

''SEC. 364. RURAL DEVELOPMENT CERTIFIED LENDERS PROGRAM.

''(a) CERTIFIED LENDERS PROGRAM.—

''(1) IN GENERAL.—The Secretary may establish a program under which the Secretary may guarantee a loan for any rural development program that is made by a lender certified by the Secretary.

''(2) CERTIFICATION REQUIREMENTS.—The Secretary may certify a lender if the lender meets such criteria as the Secretary may prescribe in regulations, including the ability of the lender to properly make, service, and liquidate the guaranteed loans of the lender.

''(3) CONDITION OF CERTIFICATION.—As a condition of certification, the Secretary may require the lender to undertake to service the guaranteed loan using standards that are not less stringent than generally accepted banking standards concerning loan servicing that are used by prudent commercial or cooperative lenders.

''(4) GUARANTEE.—Notwithstanding any other provision of law, the Secretary may guarantee not more than 80 percent of a loan made by a certified lender described in paragraph (1), if the borrower of the loan meets the eligibility requirements and such other criteria for the loan guarantee that are established by the Secretary.

''(5) CERTIFICATIONS.—With respect to loans to be guaranteed, the Secretary may permit a certified lender to make appropriate certifications (as provided in regulations issued by the Secretary)—

''(A) relating to issues such as creditworthiness, repayment ability, adequacy of collateral, and feasibility of the operation; and

''(B) that the borrower is in compliance with all requirements of law, including regulations issued by the Secretary.

''(6) RELATIONSHIP TO OTHER REQUIREMENTS.—This subsection shall not affect the responsibility of the Secretary to determine eligibility, review financial information, and otherwise assess an application.

''(b) PREFERRED CERTIFIED LENDERS PROGRAM.—

''(1) IN GENERAL.—The Secretary may establish a preferred certified lenders program for lenders who establish their—

''(A) knowledge of, and experience under, the program established under subsection (a);

''(B) knowledge of the regulations concerning the particular guaranteed loan program; and

''(C) proficiency related to the certified lender program requirements.

''(2) ADDITIONAL LENDING INSTITUTIONS.—The Secretary may certify any lending institution as a preferred certified lender if the institution meets such additional criteria as the Secretary may prescribe by regulation.

''(3) REVOCATION OF DESIGNATION.—The designation of a lender as a preferred certified lender shall be revoked if the Secretary determines that the lender is not adhering to the rules and regulations applicable to the program or if the loss experiences of the preferred certified lender are greater than other preferred certified lenders, except that the suspension or revocation shall not affect any outstanding guarantee.

''(4) CONDITION OF CERTIFICATION.—As a condition of the preferred certification, the Secretary shall require the lender to undertake to service the loan guaranteed by the Secretary under this subsection using generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each preferred certified lender to ensure that the conditions of the certification are being met.

''(5) EFFECT OF PREFERRED LENDER CERTIFICATION.—Notwithstanding any other provision of law, the Secretary may—

''(A) guarantee not more than 80 percent of any approved loan made by a preferred certified lender as described in this subsection, if the borrower meets the eligibility requirements and such other criteria as may be applicable to loans guaranteed by the Secretary; and

''(B) permit preferred certified lenders to make all decisions, with respect to loans to be guaranteed by the Secretary under this subsection relating to creditworthiness, the closing, monitoring, collection, and liquidation of loans, and to accept appropriate certifications, as provided in regulations issued by the Secretary, that the borrower is in compliance with all requirements of law and regulations issued by the Secretary.''.

SEC. 753. SYSTEM FOR DELIVERY OF CERTAIN RURAL DEVELOPMENT PROGRAMS.

(a) IN GENERAL.—Section 365 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 2375 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6613) is amended—

(A) in subsection (e), by striking ‘‘, as defined in section 365(b)(2) of the Consolidated Farm and Rural Development Act,’’; and

(B) by adding at the end the following:

‘‘(g) DEFINITION OF DESIGNATED RURAL DEVELOPMENT PROGRAM.—In this section, the term ‘designated rural development program’ means a program carried out under section 304(b), 306(a), or 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924(b), 1926(a), and 1932(e)) for which funds are available at any time during the fiscal year.’’.

(2) Paragraph (2) of section 233(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6943(b)) (as redesignated by section 747(b)(3)(B)) is amended by striking ‘‘sections 365 through 369 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008–2008d)’’ and inserting ‘‘section 369 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008d)’’.

SEC. 754. STATE RURAL ECONOMIC DEVELOPMENT REVIEW PANEL.

Section 366 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008a) is repealed.

SEC. 755. LIMITED TRANSFER AUTHORITY OF LOAN AMOUNTS.

Section 367 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008b) is repealed.

SEC. 756. ALLOCATION AND TRANSFER OF LOAN GUARANTEE AUTHORITY.

Section 368 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008c) is repealed.

SEC. 757. WATER SYSTEMS FOR RURAL AND NATIVE VILLAGES IN ALASKA.

The Consolidated Farm and Rural Development Act is amended by inserting after section 306C (7 U.S.C. 1926c) the following:

‘‘SEC. 306D. WATER SYSTEMS FOR RURAL AND NATIVE VILLAGES IN ALASKA.

‘‘(a) IN GENERAL.—The Secretary may make grants to the State of Alaska for the benefit of rural or Native villages in Alaska to provide for the development and construction of water and wastewater systems to improve the health and sanitation conditions in those villages.

‘‘(b) MATCHING FUNDS.—To be eligible to receive a grant under subsection (a), the State of Alaska shall provide equal matching funds from non-Federal sources.

‘‘(c) CONSULTATION WITH THE STATE OF ALASKA.—The Secretary shall consult with the State of Alaska on a method of prioritizing the allocation of grants under subsection (a) according to the needs of, and relative health and sanitation conditions in, each village.

‘‘(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 1996 through 2002.’’.

SEC. 758. APPLICATION REQUIREMENTS RELATING TO WATER AND WASTE DISPOSAL LOAN AND GRANT PROGRAMS.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 926(a)) is amended by inserting after paragraph (4) the following:

‘‘(5) APPLICATION REQUIREMENTS.—Not earlier than 60 days before a preliminary application is filed for a loan under paragraph (1) or a grant under paragraph (2) for a water or waste disposal purpose, a notice of the intent of the applicant to apply for the loan or grant shall be published in a general circulation newspaper. The selection of engineers for a project design shall be done by a request for proposals by the applicant.’’.

SEC. 759. NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER.

The Consolidated Farm and Rural Development Act (as amended by section 649) is amended by adding at the end the following:

‘‘SEC. 375. NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER.

‘‘(a) DEFINITIONS.—In this section:

‘‘(1) BOARD.—The term ‘Board’ means the Board of Directors established under subsection (f).

‘‘(2) CENTER.—The term ‘Center’ means the National Sheep Industry Improvement Center established under subsection (b).

‘‘(3) ELIGIBLE ENTITY.—The term ‘eligible entity’ means an entity that promotes the betterment of the United States sheep or goat industries and that is—

‘‘(A) a public, private, or cooperative organization;

‘‘(B) an association, including a corporation not operated for profit;

‘‘(C) a federally recognized Indian Tribe; or

‘‘(D) a public or quasi-public agency.

‘‘(4) FUND.—The term ‘Fund’ means the National Sheep Industry Improvement Center Revolving Fund established under subsection (e).

‘‘(b) ESTABLISHMENT OF CENTER.—The Secretary shall establish a National Sheep Industry Improvement Center.

‘‘(c) PURPOSES.—The purposes of the Center shall be to—

‘‘(1) promote strategic development activities and collaborative efforts by private and State entities to maximize the impact of Federal assistance to strengthen and enhance production and marketing of sheep or goat products in the United States;

‘‘(2) optimize the use of available human capital and resources within the sheep or goat industries;

‘‘(3) provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, production, resource development, and market and environmental research;

‘‘(4) advance activities that empower and build the capacity of the United States sheep or goat industry to design unique responses to the special needs of the sheep or goat industries on both a regional and national basis; and

‘‘(5) adopt flexible and innovative approaches to solving the long-term needs of the United States sheep or goat industry.

‘‘(d) STRATEGIC PLAN.—

‘‘(1) IN GENERAL.—The Center shall submit to the Secretary an annual strategic plan for the delivery of financial assistance provided by the Center.

‘‘(2) REQUIREMENTS.—A strategic plan shall identify—

‘‘(A) goals, methods, and a benchmark for measuring the success of carrying out the plan and how the plan relates to the national and regional goals of the Center;

‘‘(B) the amount and sources of Federal and non-Federal funds that are available for carrying out the plan;

‘‘(C) funding priorities;

‘‘(D) selection criteria for funding; and

‘‘(E) a method of distributing funding.

‘‘(e) REVOLVING FUND.—

‘‘(1) ESTABLISHMENT.—There is established in the Treasury the National Sheep Industry Improvement Center Revolving Fund. The Fund shall be available to the Center, without fiscal year limitation, to carry out the authorized programs and activities of the Center under this section.

‘‘(2) CONTENTS OF FUND.—There shall be deposited in the Fund—

‘‘(A) such amounts as may be appropriated, transferred, or otherwise made available to support programs and activities of the Center;

‘‘(B) payments received from any source for products, services, or property furnished in connection with the activities of the Center;

‘‘(C) fees and royalties collected by the Center from licensing or other arrangements relating to commercialization of products developed through projects funded, in whole or part, by grants, contracts, or cooperative agreements executed by the Center;

‘‘(D) proceeds from the sale of assets, loans, and equity interests made in furtherance of the purposes of the Center;

‘‘(E) donations or contributions accepted by the Center to support authorized programs and activities; and

‘‘(F) any other funds acquired by the Center.

‘‘(3) USE OF FUND.—

‘‘(A) IN GENERAL.—The Center may use amounts in the Fund to make grants and loans to eligible entities in accordance with a strategic plan submitted under subsection (d).

‘‘(B) CONTINUED EXISTENCE.—The Center shall manage the Fund in a manner that ensures that sufficient amounts are available in the Fund to carry out subsection (c).

‘‘(C) DIVERSE AREA.—The Center shall, to the maximum extent practicable, use the Fund to serve broad geographic areas and regions of diverse production.

‘‘(D) VARIETY OF LOANS AND GRANTS.—The Center shall, to the maximum extent practicable, use the Fund to provide a variety of grants and intermediate- and long-term loans.

‘‘(E) ADMINISTRATION.—The Center may not use more than 3 percent of the amounts in the Fund for a fiscal year for the administration of the Center.

‘‘(F) INFLUENCING LEGISLATION.—None of the amounts in the Fund may be used to influence legislation.

‘‘(G) ACCOUNTING.—To be eligible to receive amounts from the Fund, an entity must agree to account for the amounts using generally accepted accounting principles.

‘‘(H) USES OF FUND.—The Center may use amounts in the Fund to—

‘‘(i) participate with Federal and State agencies in financing activities that are in accordance with a strategic plan submitted under subsection (d), including participation with several States in a regional effort;

‘‘(ii) participate with other public and private funding sources in financing activities that are in accordance with the strategic plan, including participation in a regional effort;

‘‘(iii) provide security for, or make principal or interest payments on, revenue or general obligation bonds issued by a State, if the proceeds from the sale of the bonds are deposited in the Fund;

‘‘(iv) accrue interest;

‘‘(v) guarantee or purchase insurance for local obligations to improve credit market access or reduce interest rates for a project that is in accordance with the strategic plan; or

‘‘(vi) sell assets, loans, and equity interests acquired in connection with the financing of projects funded by the Center.

‘‘(4) LOANS.—

‘‘(A) RATE.—A loan from the Fund may be made at an interest rate that is below the market rate or may be interest free.

‘‘(B) TERM.—The term of a loan may not exceed the shorter of—

‘‘(i) the useful life of the activity financed; or

‘‘(ii) 40 years.

‘‘(C) SOURCE OF REPAYMENT.—The Center may not make a loan from the Fund unless the recipient establishes an assured source of repayment.

‘‘(D) PROCEEDS.—All payments of principal and interest on a loan made from the Fund shall be deposited into the Fund.

‘‘(5) MAINTENANCE OF EFFORT.—The Center shall use the Fund only to supplement and not to supplant Federal, State, and private funds expended for rural development.

‘‘(6) FUNDING.—

''(A) DEPOSIT OF FUNDS.—All Federal and non-Federal amounts received by the Center to carry out this section shall be deposited in the Fund.

''(B) MANDATORY FUNDS.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Center not to exceed $20,000,000 to carry out this section.

''(C) ADDITIONAL FUNDS.—In addition to any funds provided under subparagraph (B), there is authorized to be appropriated $30,000,000 to carry out this section.

''(D) PRIVATIZATION.—No additional Federal funds shall be used to carry out this section beginning on the earlier of—

''(i) the date that is 10 years after the date of enactment of this section; or

''(ii) the day after a total of $50,000,000 has been made available under subparagraphs (B) and (C) to carry out this section.

''(f) BOARD OF DIRECTORS.—

''(1) IN GENERAL.—The management of the Center shall be vested in a Board of Directors.

''(2) POWERS.—The Board shall—

''(A) be responsible for the general supervision of the Center;

''(B) review any grant, loan, contract, or cooperative agreement to be made or entered into by the Center and any financial assistance provided to the Center;

''(C) make the final decision, by majority vote, on whether and how to provide assistance to an applicant; and

''(D) develop and establish a budget plan and a long-term operating plan to carry out the goals of the Center.

''(3) COMPOSITION.—The Board shall be composed of—

''(A) 7 voting members, of whom—

''(i) 4 members shall be active producers of sheep or goats in the United States;

''(ii) 2 members shall have expertise in finance and management; and

''(iii) 1 member shall have expertise in lamb, wool, goat, or goat product marketing; and

''(B) 2 nonvoting members, of whom—

''(i) 1 member shall be the Under Secretary of Agriculture for Rural Development; and

''(ii) 1 member shall be the Under Secretary of Agriculture for Research, Education, and Economics.

''(4) NOMINATION.—

''(A) NOMINATING BODY.—The Secretary shall appoint the voting members of the Board from nominations submitted by organizations described in subparagraph (B).

''(B) NATIONAL ORGANIZATIONS.—A national organization is described in this subparagraph if the organization—

''(i) consists primarily of active sheep or goat producers in the United States; and

''(ii) has as the primary interest of the organization the production of sheep or goats in the United States.

''(5) TERM OF OFFICE.—

''(A) IN GENERAL.—Subject to subparagraph (B), the term of office of a voting member of the Board shall be 3 years.

''(B) STAGGERED INITIAL TERMS.—The initial voting members of the Board (other than the chairperson of the initially established Board) shall serve for staggered terms of 1, 2, and 3 years, as determined by the Secretary.

''(C) REELECTION.—A voting member may be reelected for not more than 1 additional term.

''(6) VACANCY.—

''(A) IN GENERAL.—A vacancy on the Board shall be filled in the same manner as the original Board.

''(B) REELECTION.—A member elected to fill a vacancy for an unexpired term may be reelected for 1 full term.

''(7) CHAIRPERSON.—

''(A) IN GENERAL.—The Board shall select a chairperson from among the voting members of the Board.

''(B) TERM.—The term of office of the chairperson shall be 2 years.

''(8) ANNUAL MEETING.—

''(A) IN GENERAL.—The Board shall meet not less than once each fiscal year at the call of the chairperson or at the request of the executive director appointed under subsection (g)(1).

''(B) LOCATION.—The location of a meeting of the Board shall be established by the Board.

''(9) VOTING.—

''(A) QUORUM.—A quorum of the Board shall consist of a majority of the voting members.

''(B) MAJORITY VOTE.—A decision of the Board shall be made by a majority of the voting members of the Board.

''(10) CONFLICTS OF INTEREST.—

''(A) IN GENERAL.—Except as provided in subparagraph (D), a member of the Board shall not vote on any matter respecting any application, contract, claim, or other particular matter pending before the Board in which, to the knowledge of the member, an interest is held by—

''(i) the member;

''(ii) any spouse of the member;

''(iii) any child of the member;

''(iv) any partner of the member;

''(v) any organization in which the member is serving as an officer, director, trustee, partner, or employee; or

''(vi) any person with whom the member is negotiating or has any arrangement concerning prospective employment or with whom the member has a financial interest.

''(B) REMOVAL.—Any action by a member of the Board that violates subparagraph (A) shall be cause for removal from the Board.

''(C) VALIDITY OF ACTION.—An action by a member of the Board that violates subparagraph (A) shall not impair or otherwise affect the validity of any otherwise lawful action by the Board.

''(D) DISCLOSURE.—

''(i) IN GENERAL.—If a member of the Board makes a full disclosure of an interest and, prior to any participation by the member, the Board determines, by majority vote, that the interest is too remote or too inconsequential to affect the integrity of any participation by the member, the member may participate in the matter relating to the interest, except as provided in subparagraph (E)(iii).

''(ii) VOTE.—A member that discloses an interest under clause (i) shall not vote on a determination of whether the member may participate in the matter relating to the interest.

''(E) REMANDS.—

''(i) IN GENERAL.—The Secretary may vacate and remand to the Board for reconsideration any decision made pursuant to subsection (e)(3)(H) if the Secretary determines that there has been a violation of this paragraph or any conflict of interest provision of the bylaws of the Board with respect to the decision.

''(ii) REASONS.—In the case of any violation and remand of a funding decision to the Board under clause (i), the Secretary shall inform the Board of the reasons for the remand.

''(iii) CONFLICTED MEMBERS NOT TO VOTE ON REMANDED DECISIONS.—If a decision with respect to a matter is remanded to the Board by reason of a conflict of interest faced by a Board member, the member may not participate in any subsequent decision with respect to the matter.

''(11) COMPENSATION.—

''(A) IN GENERAL.—A member of the Board shall not receive any compensation by reason of service on the Board.

''(B) EXPENSES.—A member of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in the performance of a duty of the member.

''(12) BYLAWS.—The Board shall adopt, and may from time to time amend, any bylaw that is necessary for the proper management and functioning of the Center.

''(13) PUBLIC HEARINGS.—Not later than 1 year after the date of enactment of this section, the Board shall hold public hearings on policy objectives of the program established under this section.

''(14) ORGANIZATIONAL SYSTEM.—The Board shall provide a system of organization to fix responsibility and promote efficiency in carrying out the functions of the Board.

''(15) USE OF DEPARTMENT OF AGRICULTURE.—The Board may, with the consent of the Secretary, utilize the facilities of and the services of employees of the Department of Agriculture, without cost to the Center.

''(g) OFFICERS AND EMPLOYEES.—

''(1) EXECUTIVE DIRECTOR.—

''(A) IN GENERAL.—The Board shall appoint an executive director to be the chief executive officer of the Center.

''(B) TENURE.—The executive director shall serve at the pleasure of the Board.

''(C) COMPENSATION.—Compensation for the executive director shall be established by the Board.

''(2) OTHER OFFICERS AND EMPLOYEES.—The Board may select and appoint officers, attorneys, employees, and agents who shall be vested with such powers and duties as the Board may determine.

''(3) DELEGATION.—The Board may, by resolution, delegate to the chairperson, the executive director, or any other officer or employee any function, power, or duty of the Board other than voting on a grant, loan, contract, agreement, budget, or annual strategic plan.

''(h) CONSULTATION.—To carry out this section, the Board may consult with—

''(1) State departments of agriculture;

''(2) Federal departments and agencies;

''(3) nonprofit development corporations;

''(4) colleges and universities;

''(5) banking and other credit-related agencies;

''(6) agriculture and agribusiness organizations; and

''(7) regional planning and development organizations.

''(i) OVERSIGHT.—

''(1) IN GENERAL.—The Secretary shall review and monitor compliance by the Board and the Center with this section.

''(2) SANCTIONS.—If, following notice and opportunity for a hearing, the Secretary finds that the Board or the Center is not in compliance with this section, the Secretary may—

''(A) cease making deposits to the Fund;

''(B) suspend the authority of the Center to withdraw funds from the Fund; or

''(C) impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this Act and disqualification from receipt of financial assistance under this section.

''(3) RESCISSION OF SANCTIONS.—The Secretary shall rescind sanctions imposed under paragraph (2) on a finding by the Secretary that there is no longer any failure by the Board or the Center to comply with this section or that the noncompliance will be promptly corrected.''.

SEC. 759A. COOPERATIVE AGREEMENTS.

Section 607(b) of the Rural Development Act of 1972 (7 U.S.C. 2204b(b)) is amended by striking paragraph (4) and inserting the following:

''(4) COOPERATIVE AGREEMENTS.—

''(A) IN GENERAL.—Notwithstanding chapter 63 of title 31, United States Code, the Secretary may enter into cooperative agreements with other Federal agencies, State and local governments, and any other organization or individual to improve the coordination and effectiveness of Federal programs, services, and actions affecting rural areas, including the establishment and financing of interagency groups, if the Secretary determines that the objectives of the agreement will serve the mutual interest of the parties in rural development activities.

''(B) COOPERATORS.—Each cooperator, including each Federal agency, to the extent that funds are otherwise available, may participate in any cooperative agreement or working group established pursuant to this paragraph by contributing funds or other resources to the Secretary to carry out the agreement or functions of the group.''.

SEC. 759B. ELIGIBILITY FOR GRANTS TO BROADCASTING SYSTEMS.

Section 310B(f) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(f)) (as redesignated by section 747(a)(6))) is amended by striking ''SYSTEMS.—The'' and inserting ''SYSTEMS.—

''(1) DEFINITION OF STATEWIDE.—In this subsection, the term 'statewide' means having a coverage area of not less than 90 percent of the population of a State and not less than 80 percent of the rural land area of the State (as determined by the Secretary).

''(2) GRANTS.—The''.

CHAPTER 2—RURAL COMMUNITY ADVANCEMENT PROGRAM

SEC. 761. RURAL COMMUNITY ADVANCEMENT PROGRAM.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following:

"Subtitle E—Rural Community Advancement Program

"SEC. 381A. DEFINITIONS.

''In this subtitle:

''(1) RURAL AND RURAL AREA.—The terms 'rural' and 'rural area' mean, subject to section 306(a)(7), a city, town, or unincorporated area that has a population of 50,000 inhabitants or less, other than an urbanized area immediately adjacent to a city, town, or unincorporated area that has a population in excess of 50,000 inhabitants.

''(2) STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Federated States of Micronesia.

''(3) STATE DIRECTOR.—The term 'State director' means, with respect to a State, the Director of the Rural Economic and Community Development State Office.

"SEC. 381B. ESTABLISHMENT.

''The Secretary shall establish a rural community advancement program to provide grants, loans, loan guarantees, and other assistance to meet the rural development needs of local communities in States and federally recognized Indian tribes.

"SEC. 381C. NATIONAL OBJECTIVES.

''The national objectives of the program established under this subtitle shall be to—

''(1) promote strategic development activities and collaborative efforts by State and local communities, and federally recognized Indian tribes, to maximize the impact of Federal assistance;

''(2) optimize the use of resources;

''(3) provide assistance in a manner that reflects the complexity of rural needs, including the needs for business development, health care, education, infrastructure, cultural resources, the environment, and housing;

''(4) advance activities that empower, and build the capacity of, State and local communities to design unique responses to the special needs of the State and local communities, and federally recognized Indian tribes, for rural development assistance; and

''(5) adopt flexible and innovative approaches to solving rural development problems.

"SEC. 381D. STRATEGIC PLANS.

''(a) IN GENERAL.—The Secretary shall direct each of the Directors of Rural Economic and Community Development State Offices to prepare a strategic plan—

''(1) for each State for the delivery of assistance under this subtitle in the State; and

''(2) for each federally recognized Indian tribe for the delivery of assistance under this subtitle to the Indian tribe.

''(b) ASSISTANCE.—

''(1) IN GENERAL.—Financial assistance for rural development provided under this subtitle for a State or a federally recognized Indian tribe shall be used only for orderly community development that is consistent with the strategic plan of the State or Indian tribe.

''(2) RURAL AREA.—Assistance under this subtitle may only be provided in a rural area.

''(3) SMALL COMMUNITIES.—In carrying out this subtitle in a State, the Secretary shall give priority to communities with the smallest populations and lowest per capita income.

''(c) REVIEW.—The Secretary shall review the strategic plan of each State and federally recognized Indian tribe not later than 60 days after receiving the plan, and at least once every 5 years thereafter.

''(d) CONTENTS.—A strategic plan of a State or federally recognized Indian tribe under this section shall be a plan that—

''(1) coordinates economic, human, and community development plans and related activities proposed for an affected area;

''(2) provides that the State or federally recognized Indian tribe, as appropriate, and an affected community (including local institutions and organizations that have contributed to the planning process) shall act as full partners in the process of developing and implementing the plan;

''(3) identifies goals, methods, and benchmarks for measuring the success of carrying out the plan and how the plan relates to local or regional ecosystems;

''(4) in the case of a State, provides for the involvement, in the preparation of the plan, of State, local, private, and public persons, State rural development councils, federally recognized Indian tribes in the State, and community-based organizations;

''(5) identifies the amount and source of Federal and non-Federal resources that are available for carrying out the plan; and

''(6) includes such other information as may be required by the Secretary.

"SEC. 381E. RURAL DEVELOPMENT TRUST FUND.

''(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund which shall be known as the Rural Development Trust Fund (in this subtitle referred to as the 'Trust Fund').

''(b) ACCOUNTS.—There are established in the Trust Fund the following accounts:

''(1) The rural community facilities account.

''(2) The rural utilities account.

''(3) The rural business and cooperative development account.

''(4) The national reserve account.

''(5) The federally recognized Indian tribe account.

''(c) DEPOSITS INTO ACCOUNTS.—Notwithstanding any other provision of law, each fiscal year—

''(1) all amounts made available to carry out the authorities described in subsection (d)(1) for the fiscal year shall be deposited into the rural community facilities account of the Trust Fund;

''(2) all amounts made available to carry out the authorities described in subsection (d)(2) for the fiscal year shall be deposited into the rural utilities account of the Trust Fund; and

''(3) all amounts made available to carry out the authorities described in subsection (d)(3) for the fiscal year shall be deposited into the rural business and cooperative development account of the Trust Fund.

''(d) FUNCTION CATEGORIES.—The function categories described in this subsection are the following:

''(1) RURAL COMMUNITY FACILITIES.—The rural community development category consists of all amounts made available for—

''(A) community facility direct and guaranteed loans under section 306(a)(1); or

''(B) community facility grants under section 306(a)(19).

''(2) RURAL UTILITIES.—The rural utilities category consists of all amounts made available for—

''(A) water or waste disposal grants or direct or guaranteed loans under paragraph (1) or (2) of section 306(a);

''(B) rural water or wastewater technical assistance and training grants under section 306(a)(14);

''(C) emergency community water assistance grants under section 306A; or

''(D) solid waste management grants under section 310B(b).

''(3) RURAL BUSINESS AND COOPERATIVE DEVELOPMENT.—The rural business and cooperative development category consists of all amounts made available for—

''(A) rural business opportunity grants under section 306(a)(11)(A);

''(B) business and industry guaranteed loans under section 310B(a)(1); or

''(C) rural business enterprise grants or rural educational network grants under section 310B(c).

''(e) NATIONAL RESERVE ACCOUNT.—

''(1) TRANSFERS INTO ACCOUNT.—

''(A) INITIAL TRANSFER.—Each fiscal year, the Secretary shall transfer to the national reserve account of the Trust Fund from each account specified in subsection (c) not more than the applicable percentage of the amount deposited in each such account for the fiscal year under subsection (c).

''(B) REPOOLING OF UNOBLIGATED FUNDS ALLOCATED AMONG THE STATES.—Not earlier than July 15 of each fiscal year, the Secretary shall transfer to the national reserve account from each account specified in subsection (c) any amount in the account that is allocated for any State, and has not been obligated by the State director or obligated for specific approved projects in the State.

''(2) USE.—The Secretary may use amounts in the national reserve account of the Trust Fund, pursuant to any authority described in subsection (d)—

''(A) in the case of a fiscal year other than fiscal year 2001 or 2002—

''(i) to meet situations of exceptional need;

''(ii) to meet emergency situations; or

''(iii) to provide funds to entities whose applications for funds provided under this subtitle have been approved and who have not received funds sufficient to meet the needs of the projects described in the applications; or

''(B) in the case of fiscal years 2001 and 2002—

''(i) to meet situations of exceptional need; or

''(ii) to meet emergency situations.

''(3) APPLICABLE PERCENTAGE DEFINED.—In paragraph (1), the term 'applicable percentage' means, with respect to a fiscal year—

''(A) 15 percent for fiscal year 1997;

''(B) 12.5 percent for fiscal year 1998;

''(C) 10 percent for fiscal year 1999;

''(D) 7.5 percent for fiscal year 2000;

''(E) 5 percent for fiscal year 2001; and

''(F) 5 percent for fiscal year 2002.

''(f) FEDERALLY RECOGNIZED INDIAN TRIBE ACCOUNT.—

''(1) TRANSFERS INTO ACCOUNT.—Each fiscal year, the Secretary shall transfer to the federally recognized Indian tribe account of the Trust Fund 3 percent of the amount deposited into the Trust Fund for the fiscal year under subsection (d).

''(2) USE OF FUNDS.—The Secretary shall make available to federally recognized Indian tribes the amounts in the federally recognized Indian tribe account for use pursuant to any authority described in subsection (d).

''(g) ALLOCATION AMONG STATES.—The Secretary shall allocate the amounts in each account specified in subsection (c) among the States in a fair, reasonable, and appropriate manner that takes into consideration rural population, levels of income, unemployment, and other relevant factors, as determined by the Secretary.

''(h) AVAILABILITY OF FUNDS ALLOCATED FOR STATES.—The Secretary shall make available to each State the total amount allocated for the State under subsection (g) of this section that remains after applying section 381G.

''SEC. 381F. TRANSFERS OF FUNDS.

''(a) GENERAL AUTHORITY.—Subject to subsection (b) of this section, the State Director of any State may, during any fiscal year, transfer from each account specified in section 381E(c) a total of not more than 25 percent of the amount in the account that is allocated for the State for the fiscal year to any other account in which amounts are allocated for the State for the fiscal year.

''(b) LIMITATION.—Except as provided in subsection (c) of this section, a transfer otherwise authorized by subsection (a) of this section to be made during a fiscal year may not be made to the extent that the sum of the amount to be transferred and all amounts so transferred by State directors under subsection (a) of this section during the fiscal year exceeds 10 percent of the total amount made available to carry out the authorities described in section 381E(d) for the fiscal year.

''(c) EXCEPTIONS.—Subsections (a) and (b) shall not apply to a transfer of funds by a State director if the State director certifies to the Secretary that—

''(1) there is an approved application for a project in the function category to which the funds are to be transferred but funds are not available for the project in the function category; and

''(2)(A) there is no such approved application in the function category from which the funds are to be transferred; or

''(B) the community that would benefit from the project has a smaller population and a lesser per capita income than any community that would benefit from a project in the function category from which the funds are to be transferred.

''SEC. 381G. GRANTS TO STATES.

''(a) SIMPLE GRANTS.—

''(1) MANDATORY GRANT.—The Secretary shall make a grant to any eligible State for any fiscal year for which the State requests a grant under this section in an amount equal to 5 percent of the total amount allocated for the State under section 381E(g)

''(2) PERMISSIVE GRANT.—Before July 15 of each fiscal year, the Secretary may make a grant to any State to defray the cost of any subsidy associated with a guarantee provided by an eligible public entity of the State under section 381H in an amount that does not exceed 5 percent of the total amount allocated for the State under section 381E(g).

''(3) SOURCE OF FUNDS.—The Secretary shall make grants to a State under paragraphs (1) and (2) from amounts allocated for the State in the accounts specified in section 381E(c), by reducing each such allocated amount by the same percentage.

''(b) MATCHING GRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall make a grant to any eligible State for any fiscal year for which the State requests a grant under this section in an amount equal to 5 percent of the amount allocated for the State for the fiscal year under section 381E(h).

''(2) ELIGIBILITY.—A State shall be eligible for a grant under paragraph (1) if the State makes commitments to the Secretary to—

''(A) expend from non-Federal sources in accordance with subsection (c) an amount that is not less than 200 percent of the amount of the grant; and

''(B) maintain the amounts paid to the State under this subsection and the amount referred to in subparagraph (A) in an account separate from all other State funds until expended in accordance with subsection (c).

''(3) SOURCE OF FUNDS.—If the Secretary makes a grant under paragraph (1) before July 15 of the fiscal year, the grant shall be made from amounts allocated for the State in the accounts specified in section 381E(c) for the fiscal year, by reducing each allocated amount by the same percentage.

''(c) USE OF FUNDS.—A State to which funds are provided under this section shall use the funds in rural areas for any activity authorized under the authorities described in section 381E(d) in accordance with the State strategic plan referred to in section 381D.

''(d) MAINTENANCE OF EFFORT.—The State shall provide assurances to the Secretary that funds provided to the State under this section will be used only to supplement, not to supplant, the amount of Federal, State, and local funds otherwise expended for rural development assistance in the State.

''(e) APPEALS.—The Secretary shall provide to a State an opportunity to appeal any action taken with respect to the State under this section.

''(f) ADMINISTRATIVE COSTS.—Federal funds shall not be used for any administrative costs incurred by a State in carrying out this subtitle.

''(g) EXPENDITURE OF FUNDS BY STATE.—

''(1) IN GENERAL.—Payments to a State from a grant under this section for a fiscal year shall be obligated by the State in the fiscal year or in the succeeding fiscal year. A State shall obligate funds under this section to provide assistance to rural areas.

''(2) FAILURE TO OBLIGATE.—If a State fails to obligate payments in accordance with paragraph (1), the Secretary shall make an equal reduction in the amount of payments provided to the State under this section for the immediately succeeding fiscal year.

''(3) NONCOMPLIANCE.—

''(A) REVIEW.—The Secretary shall review and monitor State compliance with this section.

''(B) PENALTY.—If the Secretary finds that there has been misuse of grant funds provided under this section, or noncompliance with any of the terms and conditions of a grant, after reasonable notice and opportunity for a hearing—

''(i) the Secretary shall notify the State of the finding; and

''(ii) no further payments to the State shall be made with respect to the programs funded under this section until the Secretary is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected.

''(C) OTHER SANCTIONS.—In the case of a finding of noncompliance made pursuant to subparagraph (B), the Secretary may, in addition to, or in lieu of, imposing the sanctions described in subparagraph (B), impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this section and disqualification from the receipt of financial assistance under this section.

''(h) NO ENTITLEMENT TO CONTRACT, GRANT, OR ASSISTANCE.—Nothing in this subtitle—

''(1) entitles any person to assistance or a contract or grant; or

''(2) limits the right of a State to impose additional limitations or conditions on assistance or a contract or grant under this section.

''SEC. 381H. GUARANTEE AND COMMITMENT TO GUARANTEE LOANS.

''(a) DEFINITION OF ELIGIBLE PUBLIC ENTITY.—In this section, the term 'eligible public entity' means any unit of general local government.

''(b) GUARANTEE AND COMMITMENT.—The Secretary, on such terms and conditions as the Secretary may prescribe, may guarantee and make commitments to guarantee notes or other obligations issued by eligible public entities, or by public agencies designated by the eligible public entities, for the purposes of financing rural development activities authorized and funded under section 381G.

''(c) LIMITATION.—The Secretary may not make a guarantee or commitment to guarantee with respect to a note or other obligation if the total amount of outstanding notes or obligations guaranteed under this section (excluding any amount repaid under the contract entered into under subsection (e)(1)(A)) for issuers in the State would exceed an amount equal to 5 times the sum of the total amount of grants made to the State under section 381G.

''(d) PAYMENT OF PRINCIPAL, INTEREST, AND COSTS.—Notwithstanding any other provision of this subtitle, a State to which a grant is made under section 381G may use the grant (including program income derived from the grant) to pay principal and interest due (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) on any note or other obligation guaranteed under this section.

''(e) REPAYMENT CONTRACT; SECURITY.—

''(1) IN GENERAL.—To ensure the repayment of notes or other obligations and charges incurred under this section and as a condition for receiving the guarantees, the Secretary shall require the issuer to—

''(A) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this section;

''(B) pledge any grant for which the issuer may become eligible under this subtitle; and

''(C) furnish, at the discretion of the Secretary, such other security as may be considered appropriate by the Secretary in making the guarantees.

''(2) SECURITY.—To assist in ensuring the repayment of notes or other obligations and charges incurred under this section, a State shall pledge any grant for which the State may become eligible under this subtitle as security for notes or other obligations and charges issued under this section by any eligible public entity in the State.

''(f) PLEDGED GRANTS FOR REPAYMENTS.—Notwithstanding any other provision of this subtitle, the Secretary may apply grants pledged pursuant to paragraphs (1)(B) and (2) of subsection (e) to any repayments due the United States as a result of the guarantees.

''(g) OUTSTANDING OBLIGATIONS.—The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to subsection (b) shall not at any time exceed such amount as may be authorized to be appropriated for such purpose for any fiscal year.

''(h) PURCHASE OF GUARANTEED OBLIGATIONS BY FEDERAL FINANCING BANK.—Notes

or other obligations guaranteed under this section may not be purchased by the Federal Financing Bank.

''(i) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed obligations.

''SEC. 381I. LOCAL INVOLVEMENT.

''An application for assistance under this subtitle shall include evidence of significant community support for the project for which the assistance is requested. In the case of assistance for a community facilities or infrastructure project, the evidence shall be in the form of a certification of support for the project from each affected general purpose local government.

''SEC. 381J. INTERSTATE COLLABORATION.

''The Secretary shall permit the establishment of voluntary pooling arrangements among States, and regional fund-sharing agreements, to carry out projects receiving assistance under this subtitle.

''SEC. 381K. ANNUAL REPORT.

''(a) IN GENERAL.—The Secretary, in collaboration with State, local, public, and private entities, State rural development councils, and community-based organizations, shall prepare an annual report that contains evaluations, assessments, and performance outcomes concerning the rural community advancement programs carried out under this subtitle.

''(b) SUBMISSION.—Not later than March 1 of each year, the Secretary shall—

''(1) submit the report required by subsection (a) to Congress and the chief executives of the States participating in the program established under this subtitle; and

''(2) make the report available to State and local participants.

''SEC. 381L. RURAL DEVELOPMENT INTERAGENCY WORKING GROUP.

''(a) IN GENERAL.—The Secretary shall provide leadership within the Executive branch for, and assume responsibility for, establishing an interagency working group chaired by the Secretary.

''(b) DUTIES.—The working group shall establish policy for, coordinate, make recommendations with respect to, and evaluate the performance of, all Federal rural development efforts.

''SEC. 381M. DUTIES OF RURAL ECONOMIC AND COMMUNITY DEVELOPMENT STATE OFFICES.

''In carrying out this subtitle, the Director of a Rural Economic and Community Development State Office shall—

''(1) to the maximum extent practicable, ensure that the State strategic plan referred to in section 381D is implemented;

''(2) coordinate community development objectives within the State;

''(3) establish links between local, State, and field office program administrators of the Department of Agriculture;

''(4) ensure that recipient communities comply with applicable Federal and State laws and requirements; and

''(5) integrate State development programs with assistance under this subtitle.

''SEC. 381N. ELECTRONIC TRANSFER.

''The Secretary shall transfer funds in accordance with this subtitle through electronic transfer as soon as practicable after the date of enactment of this subtitle.

''SEC. 381O. RURAL VENTURE CAPITAL DEMONSTRATION PROGRAM.

''(a) IN GENERAL.—The Secretary may designate for each fiscal year up to 10 community development venture capital organizations to demonstrate the utility of guarantees to attract increased private investment in rural private business enterprises.

''(b) RURAL BUSINESS INVESTMENT POOL.—

''(1) ESTABLISHMENT.—To be eligible to participate in the demonstration program, an organization referred to in subsection (a) shall establish a rural business private investment pool (referred to in this subsection as a 'pool') for the purpose of making equity investments in rural private business enterprises.

''(2) GUARANTEE.—From amounts in the national reserve account of the Trust Fund, the Secretary shall guarantee the funds in a pool against loss, except that the guarantee shall not exceed an amount equal to 30 percent of the total funds in the pool.

''(3) AMOUNT.—The Secretary shall issue guarantees covering not more than $15,000,000 of contingent liabilities for each of fiscal years 1996 through 2002.

''(4) TERM.—The term of a guarantee provided under this subsection shall not exceed 10 years.

''(5) SUBMISSION OF PLAN.—To be eligible to participate in the demonstration program, an organization referred to in subsection (a) shall submit a plan that describes—

''(A) potential sources and uses of the pool to be established by the organization;

''(B) the utility of the guarantee authority in attracting capital for the pool; and

''(C) on selection, mechanisms for notifying State, local, and private nonprofit business development organizations and businesses of the existence of the pool.

''(6) COMPETITION.—

''(A) IN GENERAL.—The Secretary shall conduct a competition for the designation and establishment of pools.

''(B) PRIORITY.—In conducting the competition, the Secretary shall give priority to organizations that—

''(i) have a demonstrated record of performance, or have a board and executive director with experience, in venture capital, small business equity investment, or community development finance;

''(ii) propose to serve low-income communities;

''(iii) propose to maintain an average investment of not more than $500,000 from the pool of the organization;

''(iv) invest funds statewide or in a multicounty region; and

''(v) propose to target job opportunities resulting from the investments primarily to economically disadvantaged individuals, as determined by the Secretary.

''(C) GEOGRAPHIC DIVERSITY.—To the extent practicable, the Secretary shall designate organizations in diverse geographic areas.''.

SEC. 762. SIMPLIFIED, UNIFORM APPLICATION FOR ASSISTANCE FROM ALL FEDERAL RURAL DEVELOPMENT PROGRAMS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall develop a streamlined, simplified, and uniform application which shall be used in applying for assistance under all of the following:

(1) Sections 304(b), 306, 306A, 306C, 306D, 310B, and 375 and subtitle E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924(b), 1926, 1926a, 1926c, 1926d, and 1932).

(2) Subtitle G of title XVI and sections 2281, 2333, and 2381 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901–5908, 5177a, 950aaa–2, and 3125b).

(3) Subtitle C of title IX of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237: 7 U.S.C. 5930 note).

(4) Section 1323(b) of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1932 note).

(5) Title V and section 603(c) of the Rural Development Act of 1972 (7 U.S.C. 26661–2669 and 2204a(c)).

(6) Sections 5 and 311 and title IV of the Rural Electrification Act of 1936 (7 U.S.C. 905, 940a, and 941–950b).

SEC. 763. COMMUNITY FACILITIES GRANT PROGRAM.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) (as amended by section 741(a)(5)) is amended by adding at the end the following:

''(19) COMMUNITY FACILITIES GRANT PROGRAM.—

''(A) IN GENERAL.—The Secretary may make grants, in a total amount not to exceed $10,000,000 for any fiscal year, to associations, units of general local government, nonprofit corporations, and federally recognized Indian tribes to provide the Federal share of the cost of developing specific essential community facilities in rural areas.

''(B) FEDERAL SHARE.—

''(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the Secretary shall, by regulation, establish the amount of the Federal share of the cost of the facility under this paragraph.

''(ii) MAXIMUM AMOUNT.—The amount of a grant provided under this paragraph for a facility shall not exceed 75 percent of the cost of developing the facility.

''(iii) GRADUATED SCALE.—The Secretary shall provide for a graduated scale for the amount of the Federal share provided under this paragraph, with higher Federal shares for facilities in communities that have lower community population and income levels, as determined by the Secretary.''.

Subtitle C—Amendments to the Rural Electrification Act of 1936

SEC. 771. PURPOSES; INVESTIGATIONS AND REPORTS.

Section 2 of the Rural Electrification Act of 1936 (7 U.S.C. 902) is amended—

(1) by striking ''SEC. 2. (a) The Secretary of Agriculture is'' and inserting the following:

''SEC. 2. GENERAL AUTHORITY OF THE SECRETARY OF AGRICULTURE.

''(a) LOANS.—The Secretary of Agriculture (referred to in this Act as the 'Secretary') is'';

(2) in subsection (a)—

(A) by striking ''and the furnishing'' the first place it appears and all that follows through ''central station service''; and

(B) by striking ''systems; to make'' and all that follows and inserting ''systems.''; and

(3) by striking subsection (b) and inserting the following:

''(b) INVESTIGATIONS AND REPORTS.—The Secretary may make, or cause to be made, studies, investigations, and reports regarding matters, including financial, technological, and regulatory matters, affecting the condition and progress of electric, telecommunications, and economic development in rural areas, and publish and disseminate information with respect to the matters.''.

SEC. 772. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 3 of the Rural Electrification Act of 1936 (7 U.S.C. 903) is amended to read as follows:

''SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this Act.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 301(a) of the Rural Electrification Act of 1936 (7 U.S.C. 931(a)) is amended—

(A) by striking ''(a)'' the first place the term appears; and

(B) in paragraph (3), by striking ''notwithstanding section 3(a) of title I,''.

(2) Section 302(b)(2) of the Rural Electrification Act of 1936 (7 U.S.C. 932(b)(2)) is amended by striking ''pursuant to section 3(a) of this Act''.

(3) The last sentence of section 406(a) of the Rural Electrification Act of 1936 (7 U.S.C. 946(a)) is amended by striking ''pursuant to section 3(a) of this Act''.

SEC. 773. LOANS FOR ELECTRICAL PLANTS AND TRANSMISSION LINES.

Section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904) is amended—

(1) in the first sentence—

(A) by striking ''for the furnishing of'' and all that follows through ''central station service and''; and

(B) by striking ''the provisions of sections 3(d) and 3(e) but without regard to the 25 per centum limitation therein contained,'' and inserting ''section 3,'';

(2) in the second sentence, by striking '': *Provided further,* That all'' and all that follows through ''loan: *And provided further,* That'' and inserting '', except that''; and

(3) in the third sentence, by striking ''and section 5''.

SEC. 774. LOANS FOR ELECTRICAL AND PLUMBING EQUIPMENT.

(a) IN GENERAL.—Section 5 of the Rural Electrification Act of 1936 (7 U.S.C. 905) is repealed.

(b) CONFORMING AMENDMENTS.—Section 12(a) of the Rural Electrification Act of 1936 (7 U.S.C. 912(a)) is amended—

(1) by striking '': *Provided, however,* That'' and inserting '', except that,''; and

(2) by striking '', and with respect to any loan made under section 5,'' and all that follows through ''section 3''.

SEC. 775. TESTIMONY ON BUDGET REQUESTS.

Section 6 of the Rural Electrification Act of 1936 (7 U.S.C. 906) is amended by striking the second sentence.

SEC. 776. TRANSFER OF FUNCTIONS OF ADMINISTRATION CREATED BY EXECUTIVE ORDER.

Section 8 of the Rural Electrification Act of 1936 (7 U.S.C. 908) is repealed.

SEC. 777. ANNUAL REPORT.

Section 10 of the Rural Electrification Act of 1936 (7 U.S.C. 910) is repealed.

SEC. 778. PROHIBITION ON RESTRICTING WATER AND WASTE FACILITY SERVICES TO ELECTRIC CUSTOMERS.

The Rural Electrification Act of 1936 is amended by inserting after section 16 (7 U.S.C. 916) the following:

''SEC. 17. PROHIBITION ON RESTRICTING WATER AND WASTE FACILITY SERVICES TO ELECTRIC CUSTOMERS.

''(a) PROHIBITION.—Assistance under any rural development program administered by the Secretary or any agency of the Department of Agriculture shall not be conditioned on any requirement that the recipient of the assistance accept or receive electric service from any particular utility, supplier, or cooperative.

''(b) ENSURING COMPLIANCE.—The Secretary shall establish, by regulation, adequate safeguards to ensure that assistance under any rural development program is not subject to such a condition. The safeguards shall include periodic certifications and audits, and appropriate measures and sanctions against any person violating, or attempting to violate subsection (a).

''(c) DEFINITION OF RURAL DEVELOPMENT PROGRAMS.—In this section, the term 'rural development program' means the following:

''(1) Sections 304(b), 306, 306A, 306C, 306D, 310B, and 375 and subtitle E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924(b), 1926, 1926a, 1926c, 1926d, and 1932).

''(2) Subtitle G of title XVI and sections 2281, 2333, and 2381 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901–5908, 5177a, 950aaa–2, and 3125b).

''(3) Subtitle C of title IX of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237: 7 U.S.C. 5930 note).

''(4) Section 1323(b) of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1932 note).

''(5) Title V and section 603(c) of the Rural Development Act of 1972 (7 U.S.C. 26661–2669 and 2204a(c)).

''(6) Sections 5 and 311 and title IV of this Act (7 U.S.C. 905, 940a, and 941–950b).

''(d) REGULATIONS.—Not later than 60 days after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, the Secretary shall issue final regulations to ensure compliance with subsection (a).''

SEC. 779. TELEPHONE LOAN TERMS AND CONDITIONS.

Section 309 of the Rural Electrification Act of 1936 (7 U.S.C. 939) is amended—

(1) in subsection (a), by striking ''(a) IN GENERAL.—''; and

(2) by striking subsection (b).

SEC. 780. PRIVATIZATION PROGRAM.

Section 311 of the Rural Electrification Act of 1936 (7 U.S.C. 940a) is repealed.

SEC. 781. RURAL BUSINESS INCUBATOR FUND.

(a) IN GENERAL.—Section 502 of the Rural Electrification Act of 1936 (7 U.S.C. 950aa–1) is repealed.

(b) CONFORMING AMENDMENTS.—Section 501 of the Rural Electrification Act of 1936 (7 U.S.C. 950aa) is amended—

(1) in paragraph (5), by inserting ''and'' at the end;

(2) in paragraph (6), by striking ''; and'' at the end and inserting a period; and

(3) by striking paragraph (7).

Subtitle D—Miscellaneous Rural Development Provisions

SEC. 791. INTEREST RATE FORMULA.

(a) BANKHEAD-JONES FARM TENANT ACT.—Section 32(e) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011) is amended by striking the fifth sentence and inserting the following: ''A loan under this subsection shall be made under a contract that provides, under such terms and conditions as the Secretary considers appropriate, for the repayment of the loan in not more than 30 years, with interest at a rate not to exceed the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity for the loan, adjusted to the nearest ⅛ of 1 percent.''.

(b) WATERSHED PROTECTION AND FLOOD PREVENTION ACT.—Section 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1006a) is amended by striking the second sentence and inserting the following: ''A loan or advance under this section shall be made under a contract or agreement that provides, under such terms and conditions as the Secretary considers appropriate, for the repayment of the loan or advance in not more than 50 years from the date when the principal benefits of the works of improvement first become available, with interest at a rate not to exceed the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity for the loan, adjusted to the nearest ⅛ of 1 percent.''.

SEC. 792. GRANTS FOR FINANCIALLY STRESSED FARMERS, DISLOCATED FARMERS, AND RURAL FAMILIES.

(a) IN GENERAL.—Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended by striking subsection (f).

(b) CONFORMING AMENDMENTS.—

(1) Section 2389 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 2662 note) is amended by striking subsection (d).

(2) Section 503(c) of the Rural Development Act of 1972 (7 U.S.C. 2663(c)) is amended—

(A) in paragraph (1)—

(i) by striking ''(1)'';

(ii) by striking ''section 502(e)'' and all that follows through ''shall be distributed'' and inserting ''subsections (e), (h), and (i) of section 502 shall be distributed''; and

(iii) by striking ''objectives of'' and all that follows through ''title'' and inserting ''objectives of subsections (e), (h), and (i) of section 502''; and

(B) by striking paragraph (2).

SEC. 793. FUND FOR RURAL AMERICA.

(a) IN GENERAL.—There is established in the Treasury of the United States an account to be known as the Fund for Rural America (referred to in this section as the ''Account'') to provide funds for activities described in subsection (c).

(b) FUNDING.—

(1) IN GENERAL.—On January 1, 1997, October 1, 1998, and October 1, 1999, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer $100,000,000 to the Account.

(2) ENTITLEMENT.— The Secretary of Agriculture (referred to in this section as the ''Secretary'')—

(A) shall be entitled to receive the funds transferred to the Account under paragraph (1);

(B) shall accept the funds; and

(C) shall use the funds to carry out this section.

(3) PURPOSES.—Subject to subsection (d), of the amounts transferred to the Account for a fiscal year, the Secretary shall make available—

(A) for activities described in subsection (c)(1), not less than ⅓ and not more than ⅔ of the funds in the Account; and

(B) for activities described in subsection (c)(2), all funds in the Account not made available by the Secretary for activities described in subsection (c)(1).

(c) ACTIVITIES.—

(1) RURAL DEVELOPMENT.—

(A) IN GENERAL.—The Secretary may use the funds in the Account for a rural development activity—

(i) authorized under the Housing Act of 1949 for—

(I) direct loans to low-income borrowers under section 502 (42 U.S.C. 1472);

(II) loans for financial assistance for housing for domestic farm laborers under section 514 (42 U.S.C. 1484);

(III) financial assistance for housing for domestic farm laborers under section 516 (42 U.S.C. 1486);

(IV) payments for elderly who are not now receiving rental assistance under section 521 (42 U.S.C. 1490a);

(V) grants and contracts for mutual and self-help housing under section 523(b)(1)(A) (42 U.S.C. 1490c(b)(1)(A)); or

(VI) grants for rural housing preservation under section 533 (42 U.S.C. 1490m); or

(ii) conducted under any rural development program, including a program authorized under—

(I) the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.);

(II) subtitle G of title XVI and title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990;

(III) title V of the Rural Development Act of 1971 (7 U.S.C. 2661 et seq.); or

(IV) section 1323(b) of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1932 note).

(B) LIMITATION ON PROGRAMS FUNDED.—The Secretary may not expend funds made available to carry out activities described in subparagraph (A) for any activity that did not receive appropriations for fiscal year 1995. Funds expended under this section for any program purpose shall be spent in accordance with and subject to the applicable program limitations, restrictions, and priorities found in the underlying program authority and this Act.

(C) LIMITATION ON HOUSING ASSISTANCE.—Not more than 20 percent of the funds made available to carry out activities described in subparagraph (A) shall be made available to carry out activities described in subparagraph (A)(i).

(D) DISCLOSURE OF ALLOCATION.—For any fiscal year, the Secretary shall not disclose the allocation of funds under this section for any activity described in subparagraph (A) until the date that is 1 day after the date of enactment of legislation authorizing appropriations for the Department of Agriculture for any period in the fiscal year.

(2) RESEARCH.—

(A) IN GENERAL.—The Secretary may use the funds in the Account for research, extension, and education grants to—

(i) increase international competitiveness, efficiency, and farm profitability;

(ii) reduce economic and health risks;

(iii) conserve and enhance natural resources;

(iv) develop new crops, new crop uses, and new agricultural applications of biotechnology;

(v) enhance animal agricultural resources;

(vi) preserve plant and animal germplasm;

(vii) increase economic opportunities in farming and rural communities; and

(viii) expand locally-owned value-added processing.

(B) ELIGIBLE GRANTEE.—The Secretary may make a grant under this paragraph to—

(i) a Federal research agency;

(ii) a national laboratory;

(iii) a college or university or a research foundation maintained by a college or university; or

(iv) a private research organization with an established and demonstrated capacity to perform research or technology transfer.

(C) USE OF GRANT.—

(i) IN GENERAL.—A grant made under this paragraph may be used by a grantee for 1 or more of the following uses:

(I) Outcome-oriented research at the discovery end of the spectrum to provide breakthrough results.

(II) Exploratory and advanced development and technology with well-identified outcomes.

(III) A national, regional, or multi-State program oriented primarily toward extension programs and education programs demonstrating and supporting the competitiveness of United States agriculture.

(ii) SMALLER INSTITUTIONS.—Of the amounts made available for activities described in this paragraph, not less than 15 percent shall be awarded to colleges, universities, or research foundations eligible for a grant under subparagraph (B)(iii) that rank in the lowest ⅓ of such colleges, universities, and foundations on the basis of Federal research funds received under a provision of law other than this section.

(D) ADMINISTRATION.—

(i) PRIORITY.—In administering this paragraph, the Secretary shall—

(I) establish criteria for allocating grants based on the priorities in subparagraph (A) and in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123);

(II) seek and accept proposals for grants;

(III) determine the relevance and merit of proposals through a system of peer review and review by the National Agricultural Research, Extension, Education, and Economics Advisory Board; and

(IV) award grants on the basis of merit, quality, and relevance to advancing the purposes of federally supported agricultural research, extension, and education provided in section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101).

(ii) COMPETITIVE BASIS.—A grant under this paragraph shall be awarded on a competitive basis.

(iii) TERMS.—A grant under this paragraph shall have a term that does not exceed 5 years.

(iv) MATCHING FUNDS.—As a condition of making a grant under this paragraph, the Secretary shall require the funding of the grant with equal matching funds from a non-Federal source if the grant is—

(I) for applied research that is commodity-specific; and

(II) not of national scope.

(v) DELEGATION.—The Secretary shall administer this section through the Cooperative State Research, Education, and Extension Service of the Department of Agriculture.

(vi) AVAILABILITY OF FUNDS.—Funds shall be available for obligation under this paragraph for a 2-year period.

(vii) ADMINISTRATIVE COSTS.—The Secretary may use not more than 4 percent of the funds made available for activities described in this paragraph for administrative costs incurred by the Secretary in carrying out this paragraph.

(viii) BUILDINGS.—Funds made available for activities described in this paragraph shall not be used for the construction of a new building or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees).

(d) LIMITATIONS.—Amounts in the Account may not be used for an activity described in subsection (c) for a fiscal year if the program funding level for the fiscal year for the activity is less than 90 percent of the amount appropriated for the activity for fiscal year 1996, adjusted for inflation.

SEC. 794. UNDER SECRETARY OF AGRICULTURE FOR RURAL ECONOMIC AND COMMUNITY DEVELOPMENT RENAMED THE UNDER SECRETARY OF AGRICULTURE FOR RURAL DEVELOPMENT.

(a) IN GENERAL.—Section 231 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6941) is amended—

(1) in the section heading, by striking ''**ECONOMIC AND COMMUNITY**''; and

(2) by striking ''Economic and Community'' each place such term appears in subsections (a), (b), and (c).

(b) CONFORMING AMENDMENT.—Section 5314 of title 5, United States Code, is amended by striking ''Economic and Community''.

TITLE VIII—RESEARCH, EXTENSION, AND EDUCATION

Subtitle A—Modification and Extension of Activities Under 1977 Act

SEC. 801. PURPOSES OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.

Section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101) is amended to read as follows:

"SEC. 1402. PURPOSES OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.

''The purposes of federally supported agricultural research, extension, and education are to—

''(1) enhance the competitiveness of the United States agriculture and food industry in an increasingly competitive world environment;

''(2) increase the long-term productivity of the United States agriculture and food industry while maintaining and enhancing the natural resource base on which rural America and the United States agricultural economy depend;

''(3) develop new uses and new products for agricultural commodities, such as alternative fuels, and develop new crops;

''(4) support agricultural research and extension to promote economic opportunity in rural communities and to meet the increasing demand for information and technology transfer throughout the United States agriculture industry;

''(5) improve risk management in the United States agriculture industry;

''(6) improve the safe production and processing of, and adding of value to, United States food and fiber resources using methods that maintain the balance between yield and environmental soundness;

''(7) support higher education in agriculture to give the next generation of Americans the knowledge, technology, and applications necessary to enhance the competitiveness of United States agriculture; and

''(8) maintain an adequate, nutritious, and safe supply of food to meet human nutritional needs and requirements.''.

SEC. 802. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, EDUCATION, AND ECONOMICS ADVISORY BOARD.

(a) IN GENERAL.—Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) is amended to read as follows:

"SEC. 1408. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, EDUCATION, AND ECONOMICS ADVISORY BOARD.

''(a) ESTABLISHMENT.—The Secretary shall establish within the Department of Agriculture a board to be known as the 'National Agricultural Research, Extension, Education, and Economics Advisory Board'.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Advisory Board shall consist of 30 members, appointed by the Secretary.

''(2) SELECTION OF MEMBERS.—The Secretary shall appoint members of the Advisory Board from nominations submitted by organizations, associations, societies, councils, federations, groups, and companies fitting the criteria specified in paragraph (3).

''(3) MEMBERSHIP CATEGORIES.—The Advisory Board shall consist of members from each of the following categories:

''(A) 1 member representing a national farm organization.

''(B) 1 member representing farm cooperatives.

''(C) 1 member actively engaged in the production of a food animal commodity.

''(D) 1 member actively engaged in the production of a plant commodity.

''(E) 1 member representing a national animal commodity organization.

''(F) 1 member representing a national crop commodity organization.

''(G) 1 member representing a national aquaculture association.

''(H) 1 member representing a national food animal science society.

''(I) 1 member representing a national crop, soil, agronomy, horticulture, or weed science society.

''(J) 1 member representing a national food science organization.

''(K) 1 member representing a national human health association.

''(L) 1 member representing a national nutritional science society.

''(M) 1 member representing the land-grant colleges and universities eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301 et seq.).

''(N) 1 member representing the land-grant colleges and universities eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University.

''(O) 1 member representing the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act

of 1994 (Public Law 103–382; 7 U.S.C. 301 note)).

''(P) 1 member representing Hispanic-serving institutions.

''(Q) 1 member representing the American Colleges of Veterinary Medicine.

''(R) 1 member representing that portion of the scientific community not closely associated with agriculture.

''(S) 1 member engaged in the transportation of food and agricultural products to domestic and foreign markets.

''(T) 1 member representing food retailing and marketing interests.

''(U) 1 member representing food and fiber processors.

''(V) 1 member actively engaged in rural economic development.

''(W) 1 member representing a national consumer interest group.

''(X) 1 member representing a national forestry group.

''(Y) 1 member representing a national conservation or natural resource group.

''(Z) 1 member representing private sector organizations involved in international development.

''(AA) 1 member representing an agency within the Department of Agriculture that lacks research capabilities.

''(BB) 1 member representing a research agency of the Federal Government (other than the Department of Agriculture).

''(CC) 1 member representing a national social science association.

''(DD) 1 member representing national organizations directly concerned with agricultural research, education, and extension.

''(4) EX OFFICIO MEMBERS.—The Secretary, the Under Secretary of Agriculture for Research, Education, and Economics, the Administrator of the Agricultural Research Service, the Administrator of the Cooperative State Research, Education, and Extension Service, the Administrator of the Economic Research Service, and the Administrator of the National Agricultural Statistics Service shall serve as ex officio members of the Advisory Board.

''(5) OFFICERS.—At the first meeting of the Advisory Board each year, the members shall elect from among the members of the Advisory Board a chairperson, vice chairperson, and 7 additional members to serve on the executive committee established under paragraph (6).

''(6) EXECUTIVE COMMITTEE.—The Advisory Board shall establish an executive committee charged with the responsibility of working with the Secretary and officers and employees of the Department of Agriculture to summarize and disseminate the recommendations of the Advisory Board.

''(c) DUTIES.—The Advisory Board shall—

''(1) review and provide consultation to the Secretary and land-grant colleges and universities on long-term and short-term national policies and priorities, as set forth in section 1402, relating to agricultural research, extension, education, and economics;

''(2) evaluate the results and effectiveness of agricultural research, extension, education, and economics with respect to the policies and priorities;

''(3) review and make recommendations to the Under Secretary of Agriculture for Research, Education, and Economics on the research, extension, education, and economics portion of the draft strategic plan required under section 306 of title 5, United States Code; and

''(4) review the mechanisms of the Department of Agriculture for technology assessment (which should be conducted by qualified professionals) for the purposes of—

''(A) performance measurement and evaluation of the implementation by the Secretary of the strategic plan required under section 306 of title 5, United States Code;

''(B) implementation of the national research policies and priorities set forth in section 1402; and

''(C) the development of mechanisms for the assessment of emerging public and private agricultural research and technology transfer initiatives.

''(d) CONSULTATION.—In carrying out this section, the Advisory Board shall solicit opinions and recommendations from persons who will benefit from and use federally funded agricultural research, extension, education, and economics.

''(e) APPOINTMENT.—A member of the Advisory Board shall be appointed by the Secretary for a term of up to 3 years. The members of the Advisory Board shall be appointed to serve staggered terms.

''(f) FEDERAL ADVISORY COMMITTEE ACT.—The Advisory Board shall be deemed to have filed a charter for the purpose of section 9(c) of the Federal Advisory Committee Act (5 U.S.C. App.).

''(g) TERMINATION.—The Advisory Board shall remain in existence until September 30, 2002.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1404(1) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(1)) is amended by striking ''National Agricultural Research and Extension Users Advisory Board'' and inserting ''National Agricultural Research, Extension, Education, and Economics Advisory Board''.

(2) Section 1410(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3125(2)) is amended by striking ''the recommendations of the Advisory Board developed under section 1408(g),'' and inserting ''any recommendations of the Advisory Board''.

(3) The last sentence of section 4(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1673(a)) is amended by striking ''National Agricultural Research and Extension Users Advisory Board'' and inserting ''National Agricultural Research, Extension, Education, and Economics Advisory Board''.

SEC. 803. FEDERAL ADVISORY COMMITTEE ACT EXEMPTION FOR FEDERAL-STATE COOPERATIVE PROGRAMS.

Section 1409A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3124a) is amended by adding at the end the following:

''(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—

''(1) PUBLIC MEETINGS.—All meetings of any entity described in paragraph (3) shall be publicly announced in advance and shall be open to the public. Detailed minutes of meetings and other appropriate records of the activities of such an entity shall be kept and made available to the public on request.

''(2) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of this Act shall not apply to any entity described in paragraph (3).

''(3) ENTITIES DESCRIBED.—This subsection shall apply to any committee, board, commission, panel, or task force, or similar entity that—

''(A) is created for the purpose of cooperative efforts in agricultural research, extension, or teaching; and

''(B) consists entirely of—

''(i) full-time Federal employees; and

''(ii) one or more individuals who are employed by, or are officials of—

''(I) a State cooperative institution or State cooperative agency; or

''(II) a public college or university or other postsecondary institution.''.

SEC. 804. COORDINATION AND PLANNING OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1413 (7 U.S.C. 3128) the following:

''SEC. 1413A. ACCOUNTABILITY.

''(a) REVIEW OF INFORMATION TECHNOLOGY SYSTEMS.—The Secretary shall conduct a comprehensive review of state-of-the-art information technology systems that are available for use in developing the system required by subsection (b).

''(b) MONITORING AND EVALUATION SYSTEM.—The Secretary shall develop and carry out a system to monitor and evaluate agricultural research and extension activities conducted or supported by the Department of Agriculture that will enable the Secretary to measure the impact and effectiveness of research, extension, and education programs according to priorities, goals, and mandates established by law. In developing the system, the Secretary shall incorporate information transfer technologies to optimize public access to research information.

''(c) CONSISTENCY WITH OTHER REQUIREMENTS.—The Secretary shall develop and implement the system in a manner consistent with the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285) and amendments made by the Act.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

''SEC. 1413B. FEDERAL ADVISORY COMMITTEE ACT EXEMPTION FOR COMPETITIVE RESEARCH, EXTENSION, AND EDUCATION PROGRAMS.

''The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of this Act shall not apply to any committee, board, commission, panel, or task force, or similar entity, created solely for the purpose of reviewing applications or proposals requesting funding under any competitive research, extension, or education program carried out by the Secretary.''.

SEC. 805. GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.

(a) PURPOSE OF GRANTS.—Section 1417(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(b)) is amended by striking paragraph (4) and inserting the following:

''(4) to design and implement food and agricultural programs to build teaching and research capacity at colleges and universities having significant minority enrollments;''.

(b) RESEARCH FOUNDATIONS.—Section 1417(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(c)) is amended by adding at the end the following:

''(3) RESEARCH FOUNDATIONS.—An eligible college or university under subsection (b) includes a research foundation maintained by the college or university.''.

(c) EXTENSION OF PROGRAM.—Section 1417(i) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(i)) is amended by striking ''1995'' and inserting ''1997''.

(d) SECONDARY EDUCATION AND 2-YEAR POSTSECONDARY EDUCATION TEACHING PROGRAMS.—Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the following:

''(h) SECONDARY EDUCATION AND 2-YEAR POSTSECONDARY EDUCATION TEACHING PROGRAMS.—

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

''(A) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section

1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

''(B) SECONDARY SCHOOL.—The term 'secondary school' has the meaning given the term in section 14101(25) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(25)).

''(2) AGRISCIENCE AND AGRIBUSINESS EDUCATION.—The Secretary shall—

''(A) promote and strengthen secondary education and 2-year postsecondary education in agriscience and agribusiness in order to help ensure the existence in the United States of a qualified workforce to serve the food and agricultural sciences system; and

''(B) promote complementary and synergistic linkages among secondary, 2-year postsecondary, and higher education programs in the food and agricultural sciences in order to promote excellence in education and encourage more young Americans to pursue and complete a baccalaureate or higher degree in the food and agricultural sciences.

''(3) GRANTS.—The Secretary may make competitive or noncompetitive grants, for grant periods not to exceed 5 years, to public secondary schools, and institutions of higher education that award an associate's degree, that the Secretary determines have made a commitment to teaching agriscience and agribusiness—

''(A) to enhance curricula in agricultural education;

''(B) to increase faculty teaching competencies;

''(C) to interest young people in pursuing higher education in order to prepare for scientific and professional careers in the food and agricultural sciences;

''(D) to promote the incorporation of agriscience and agribusiness subject matter into other instructional programs, particularly classes in science, business, and consumer education;

''(E) to facilitate joint initiatives by the grant recipient with other secondary schools, institutions of higher education that award an associate's degree, and institutions of higher education that award a bachelor's degree to maximize the development and use of resources, such as faculty, facilities, and equipment, to improve agriscience and agribusiness education; and

''(F) to support other initiatives designed to meet local, State, regional, or national needs related to promoting excellence in agriscience and agribusiness education.''.

SEC. 806. GRANTS FOR RESEARCH ON THE PRODUCTION AND MARKETING OF ALCOHOLS AND INDUSTRIAL HYDROCARBONS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS.

Section 1419(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154(d)) is amended by striking ''1995'' and inserting ''1997''.

SEC. 807. POLICY RESEARCH CENTERS.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1419 (7 U.S.C. 3154) the following:

''SEC. 1419A. POLICY RESEARCH CENTERS.

''(a) IN GENERAL.—Consistent with this section, the Secretary may make grants, competitive grants, and special research grants to, and enter into cooperative agreements and other contracting instruments with, policy research centers described in subsection (b) to conduct research and education programs that are objective, operationally independent, and external to the Federal Government and that concern the effect of public policies on—

''(1) the farm and agricultural sectors;

''(2) the environment;

''(3) rural families, households, and economies; and

''(4) consumers, food, and nutrition.

''(b) ELIGIBLE RECIPIENTS.—State agricultural experiment stations, colleges and universities, other research institutions and organizations, private organizations, corporations, and individuals shall be eligible to apply for funding under subsection (a).

''(c) ACTIVITIES.—Under this section, funding may be provided for disciplinary and interdisciplinary research and education concerning policy research activities consistent with this section, including activities that—

''(1) quantify the implications of public policies and regulations;

''(2) develop theoretical and research methods;

''(3) collect and analyze data for policymakers, analysts, and individuals; and

''(4) develop programs to train analysts.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for fiscal years 1996 and 1997.''.

SEC. 808. HUMAN NUTRITION INTERVENTION AND HEALTH PROMOTION RESEARCH PROGRAM.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by striking section 1424 (7 U.S.C. 3174) and inserting the following:

''SEC. 1424. HUMAN NUTRITION INTERVENTION AND HEALTH PROMOTION RESEARCH PROGRAM.

''(a) AUTHORITY OF SECRETARY.—The Secretary may establish, and award grants for projects for, a multi-year research initiative on human nutrition intervention and health promotion.

''(b) EMPHASIS OF INITIATIVE.—In administering human nutrition research projects under this section, the Secretary shall give specific emphasis to—

''(1) coordinated longitudinal research assessments of nutritional status; and

''(2) the implementation of unified, innovative intervention strategies,

to identify and solve problems of nutritional inadequacy and contribute to the maintenance of health, well-being, performance, and productivity of individuals, thereby reducing the need of the individuals to use the health care system and social programs of the United States.

''(c) ADMINISTRATION OF FUNDS.—The Administrator of the Agricultural Research Service shall administer funds made available to carry out this section to ensure a coordinated approach to health and nutrition research efforts.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for fiscal years 1996 and 1997.

''SEC. 1424A. PILOT RESEARCH PROGRAM TO COMBINE MEDICAL AND AGRICULTURAL RESEARCH.

''(a) FINDINGS.—Congress finds the following:

''(1) Although medical researchers in recent years have demonstrated that there are several naturally occurring compounds in many vegetables and fruits that can aid in the prevention of certain forms of cancer, coronary heart disease, stroke, and atherosclerosis, there has been almost no research conducted to enhance these compounds in food plants by modern breeding and molecular genetic methods.

''(2) By linking the appropriate medical and agricultural research scientists in a highly-focused, targeted research program, it should be possible to develop new varieties of vegetables and fruits that would provide greater prevention of diet-related diseases that are a major cause of death in the United States.

''(b) PILOT RESEARCH PROGRAM.—The Secretary shall conduct, through the Cooperative State Research, Education, and Extension Service, a pilot research program to link major cancer and heart and other circulatory disease research efforts with agricultural research efforts to identify compounds in vegetables and fruits that prevent these diseases. Using information derived from such combined research efforts, the Secretary shall assist in the development of new varieties of vegetables and fruits having enhanced therapeutic properties for disease prevention.

''(c) AGREEMENTS.—The Secretary shall carry out the pilot program through agreements entered into with land-grant colleges or universities, other universities, State agricultural experiment stations, the State cooperative extension services, nonprofit organizations with demonstrable expertise, or Federal or State governmental entities. The Secretary shall enter into the agreements on a competitive basis.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1997 to carry out the pilot program.''.

SEC. 809. FOOD AND NUTRITION EDUCATION PROGRAM.

Section 1425(c)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175(c)(3)) is amended by striking ''$63,000,000'' and all that follows through ''fiscal year 1995'' and inserting '', $83,000,000 for each of fiscal years 1996 and 1997''.

SEC. 810. PURPOSES AND FINDINGS RELATING TO ANIMAL HEALTH AND DISEASE RESEARCH.

Section 1429 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3191) is amended to read as follows:

''SEC. 1429. PURPOSES AND FINDINGS RELATING TO ANIMAL HEALTH AND DISEASE RESEARCH.

''(a) PURPOSES.—The purposes of this subtitle are to—

''(1) promote the general welfare through the improved health and productivity of domestic livestock, poultry, aquatic animals, and other income-producing animals that are essential to the food supply of the United States and the welfare of producers and consumers of animal products;

''(2) improve the health of horses;

''(3) facilitate the effective treatment of, and, to the extent possible, prevent animal and poultry diseases in both domesticated and wild animals that, if not controlled, would be disastrous to the United States livestock and poultry industries and endanger the food supply of the United States;

''(4) improve methods for the control of organisms and residues in food products of animal origin that could endanger the human food supply;

''(5) improve the housing and management of animals to improve the well-being of livestock production species;

''(6) minimize livestock and poultry losses due to transportation and handling;

''(7) protect human health through control of animal diseases transmissible to humans;

''(8) improve methods of controlling the births of predators and other animals; and

''(9) otherwise promote the general welfare through expanded programs of research and extension to improve animal health.

''(b) FINDINGS.—Congress finds that—

''(1) the total animal health and disease research and extension efforts of State colleges and universities and of the Federal Government would be more effective if there were close coordination between the efforts; and

''(2) colleges and universities having accredited schools or colleges of veterinary

medicine and State agricultural experiment stations that conduct animal health and disease research are especially vital in training research workers in animal health and related disciplines.''.

SEC. 811. ANIMAL HEALTH AND DISEASE CONTINUING RESEARCH.

Section 1433 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195) is amended—

(1) in the first sentence of subsection (a), by striking ''1995'' and inserting ''1997'';

(2) in subsection (b)(2)—

(A) by striking ''domestic livestock and poultry'' each place it appears and inserting ''domestic livestock, poultry, and commercial aquaculture species''; and

(B) in the second sentence, by striking ''horses, and poultry'' and inserting ''horses, poultry, and commercial aquaculture species'';

(3) in subsection (d), by striking ''domestic livestock and poultry'' and inserting ''domestic livestock, poultry, and commercial aquaculture species''; and

(4) in subsection (f), by striking ''domestic livestock and poultry'' and inserting ''domestic livestock, poultry, and commercial aquaculture species''.

SEC. 812. ANIMAL HEALTH AND DISEASE NATIONAL OR REGIONAL RESEARCH.

Section 1434 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196) is amended—

(1) in subsection (a)—

(A) by inserting ''or national or regional problems relating to pre-harvest, on-farm food safety, or animal well-being,'' after ''problems,''; and

(B) by striking ''1995'' and inserting ''1997'';

(2) in subsection (b), by striking ''eligible institutions'' and inserting ''State agricultural experiment stations, colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals'';

(3) in subsection (c)—

(A) in the first sentence, by inserting '', food safety, and animal well-being'' after ''animal health and disease''; and

(B) in the fourth sentence—

(i) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively; and

(ii) by inserting after paragraph (1) the following:

''(2) any food safety problem that has a significant pre-harvest (on-farm) component and is recognized as posing a significant health hazard to the consuming public;

''(3) issues of animal well-being related to production methods that will improve the housing and management of animals to improve the well-being of livestock production species;'';

(4) in the first sentence of subsection (d), by striking ''to eligible institutions''; and

(5) by adding at the end the following:

''(f) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of this Act shall not apply to a panel or board created solely for the purpose of reviewing applications or proposals submitted under this subtitle.''.

SEC. 813. GRANT PROGRAM TO UPGRADE AGRICULTURAL AND FOOD SCIENCES FACILITIES AT 1890 LAND-GRANT COLLEGES.

Section 1447(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222b(b)) is amended by striking ''$8,000,000 for each of the fiscal years 1991 through 1995'' and inserting '', $15,000,000 for each of fiscal years 1996 and 1997''.

SEC. 814. NATIONAL RESEARCH AND TRAINING CENTENNIAL CENTERS.

Section 1448 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222c) is amended—

(1) in subsection (a)(1), by inserting '', or fiscal years 1996 and 1997,'' after ''1995''; and

(2) in subsection (f), by striking ''1995'' and inserting ''1997''.

SEC. 815. PROGRAMS FOR HISPANIC-SERVING INSTITUTIONS.

(a) IN GENERAL.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1448 (7 U.S.C. 3222c) the following:

''Subtitle H—Programs for Hispanic-Serving Institutions

''SEC. 1455. EDUCATION GRANTS PROGRAMS FOR HISPANIC-SERVING INSTITUTIONS.

''(a) GRANT AUTHORITY.—The Secretary may make competitive grants (or grants without regard to any requirement for competition) to Hispanic-serving institutions for the purpose of promoting and strengthening the ability of Hispanic-serving institutions to carry out education, applied research, and related community development programs.

''(b) USE OF GRANT FUNDS.—Grants made under this section shall be used—

''(1) to support the activities of consortia of Hispanic-serving institutions to enhance educational equity for underrepresented students;

''(2) to strengthen institutional educational capacities, including libraries, curriculum, faculty, scientific instrumentation, instruction delivery systems, and student recruitment and retention, in order to respond to identified State, regional, national, or international educational needs in the food and agricultural sciences;

''(3) to attract and support undergraduate and graduate students from underrepresented groups in order to prepare them for careers related to the food, agricultural, and natural resource systems of the United States, beginning with the mentoring of students at the high school level and continuing with the provision of financial support for students through their attainment of a doctoral degree; and

''(4) to facilitate cooperative initiatives between 2 or more Hispanic-serving institutions, or between Hispanic-serving institutions and units of State government or the private sector, to maximize the development and use of resources, such as faculty, facilities, and equipment, to improve food and agricultural sciences teaching programs.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section $20,000,000 for fiscal year 1997.''.

(b) HISPANIC-SERVING INSTITUTION DEFINED.—Paragraph (9) of section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) is amended to read as follows:

''(9) the term 'Hispanic-serving institution' has the meaning given the term by section 316(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)(1));''.

SEC. 816. INTERNATIONAL AGRICULTURAL RESEARCH AND EXTENSION.

Section 1458(a)(8) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291(a)(8)) is amended—

(1) by striking ''establish'' and inserting ''continue''; and

(2) by striking ''to be''.

SEC. 817. AUTHORIZATION OF APPROPRIATIONS FOR AGRICULTURAL RESEARCH PROGRAMS.

Section 1463 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311) is amended by striking ''1995'' both places it appears and inserting ''1997''.

SEC. 818. AUTHORIZATION OF APPROPRIATIONS FOR EXTENSION EDUCATION.

Section 1464 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3312) is amended by striking ''fiscal year 1995'' and inserting ''each of fiscal years 1995 through 1997''.

SEC. 819. SUPPLEMENTAL AND ALTERNATIVE CROPS RESEARCH.

(a) EXTENSION OF PROGRAM.—Section 1473D(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(a)) is amended by striking ''1995'' and inserting ''1997''.

(b) ELIMINATION OF PILOT NATURE OF PROGRAM.—Section 1473D of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d) is amended—

(1) in subsection (a), by striking ''and pilot'';

(2) in subsection (c)(2)(B), by striking ''at pilot sites'' and all that follows through ''the area'';

(3) in subsection (c)(2)(C), by striking ''from pilot sites'';

(4) in subsection (c)(2)(D)—

(A) by striking ''near such pilot sites''; and

(B) by striking ''successful pilot program'' and inserting ''successful program''; and

(5) in paragraph (3), by striking ''pilot''.

(c) ADDITIONAL AUTHORITY.—Section 1473D(c)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(c)(3)) is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(E) to conduct fundamental and applied research related to the development of new commercial products derived from natural plant material for industrial, medical, and agricultural applications; and

''(F) to participate with colleges and universities, other Federal agencies, and private sector entities in conducting research described in subparagraph (E).''

SEC. 820. AQUACULTURE ASSISTANCE PROGRAMS.

(a) DEFINITION.—Section 1404(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(3)) is amended by inserting ''ornamental fish,'' after ''reptile,''.

(b) REPORTS.—Section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3322) is amended—

(1) by striking subsection (e); and

(2) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(c) AUTHORIZATION OF APPROPRIATIONS FOR AQUACULTURE RESEARCH FACILITIES.—Section 1476(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3323(b)) is amended by striking ''1995'' and inserting ''1997''.

(d) AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH AND EXTENSION.—Section 1477 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3324) is amended by striking ''1995'' and inserting ''1997''.

SEC. 821. AUTHORIZATION OF APPROPRIATIONS FOR RANGELAND RESEARCH.

Section 1483(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3336(a)) is amended by striking ''1995'' and inserting ''1997''.

Subtitle B—Modification and Extension of Activities Under 1990 Act

SEC. 831. WATER QUALITY RESEARCH, EDUCATION, AND COORDINATION.

Section 1481(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5501(d)) is amended by striking ''1995'' and inserting ''1997''.

SEC. 832. NATIONAL GENETICS RESOURCES PROGRAM.

(a) FUNCTIONS.—Section 1632(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5841(d)) is amended by striking paragraph (4) and inserting the following:

''(4) unless otherwise prohibited by law, have the right to make available on request, without charge and without regard to the country from which the request originates, the genetic material that the program assembles;''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1635(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5844(b)) is amended by striking ''1995'' and inserting ''1997''.

SEC. 833. NATIONAL AGRICULTURAL WEATHER INFORMATION SYSTEM.

Section 1641(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5855(c)) is amended by striking ''1995'' and inserting ''1997''.

SEC. 834. LIVESTOCK PRODUCT SAFETY AND INSPECTION PROGRAM.

Section 1670(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5923(e)) is amended by striking ''1995'' and inserting ''1997''.

SEC. 835. PLANT GENOME MAPPING PROGRAM.

Section 1671(g) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5924(g)) is amended by inserting ''for fiscal years 1996 and 1997'' after ''appropriated''.

SEC. 836. CERTAIN SPECIALIZED RESEARCH PROGRAMS.

Subsections (d)(4), (e)(4), and (i) of section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) are each amended by striking ''1995'' and inserting ''1997''.

SEC. 837. AGRICULTURAL TELECOMMUNICATIONS PROGRAM.

Section 1673(h) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5926(h)) is amended by striking ''1995'' and inserting ''1997''.

SEC. 838. NATIONAL CENTERS FOR AGRICULTURAL PRODUCT QUALITY RESEARCH.

(a) PURPOSES OF NATIONAL CENTERS.—Section 1675(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5928(a)) is amended—

(1) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(2) by inserting after paragraph (4) the following:

''(5) enhance agricultural competitiveness through product quality research and technology implementation;''.

(b) REGIONAL BASIS OF CENTERS.—Section 1675(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5928(b)) is amended by striking paragraph (1) and inserting the following:

''(1) REGIONAL BASIS.—The centers shall be regionally based units that conduct a broad spectrum of research, development, and education programs to enhance the competitiveness, quality, safety and wholesomeness of agricultural products.''.

(c) PROGRAM PLAN AND REVIEW.—Section 1675(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5928(b)) is amended—

(1) in paragraph (1), by striking the second sentence; and

(2) in paragraph (2), by striking '', but not less'' and all that follows through ''the Secretary''.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1675(g)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5928(g)(1)) is amended by striking ''1995'' and inserting ''1997''.

SEC. 839. RED MEAT SAFETY RESEARCH CENTER.

Section 1676 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5929) is amended to read as follows:

''SEC. 1676. RED MEAT SAFETY RESEARCH CENTER.

''(a) ESTABLISHMENT OF CENTER.—The Secretary of Agriculture shall award a grant, on a competitive basis, to a research facility described in subsection (b) to establish a red meat safety research center.

''(b) ELIGIBLE RESEARCH FACILITY DESCRIBED.—A research facility eligible for a grant under subsection (a) is a research facility that—

''(1) is part of a land-grant college or university, or other federally supported agricultural research facility, located in close proximity to a livestock slaughter and processing facility; and

''(2) is staffed by professionals with a wide diversity of scientific expertise covering all aspects of meat science.

''(c) RESEARCH CONDUCTED.—The red meat safety research center established under subsection (a) shall carry out research related to general food safety, including—

''(1) the development of intervention strategies that reduce microbiological contamination of carcass surfaces;

''(2) research regarding microbiological mapping of carcass surfaces; and

''(3) the development of model hazard analysis and critical control point plans.

''(d) ADMINISTRATION OF FUNDS.—The Secretary of Agriculture shall administer funds appropriated to carry out this section.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for fiscal year 1997 to carry out this section.''.

SEC. 840. INDIAN RESERVATION EXTENSION AGENT PROGRAM.

Section 1677 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5930) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

''(f) REDUCED REGULATORY BURDEN.—On a determination by the Secretary of Agriculture that a program carried out under this section has been satisfactorily administered for not less than 2 years, the Secretary shall implement a reduced reapplication process for the continued operation of the program in order to reduce regulatory burdens on participating university and tribal entities.''.

SEC. 841. ASSISTIVE TECHNOLOGY PROGRAM FOR FARMERS WITH DISABILITIES.

Section 1680 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5933) is amended—

(1) in subsection (a)(6)(B), by striking ''1996'' and inserting ''1997''; and

(2) in subsection (b)(2), by striking ''1996'' and inserting ''1997''.

SEC. 842. NATIONAL RURAL INFORMATION CENTER CLEARINGHOUSE.

Section 2381(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125b(e)) is amended by striking ''1995'' and inserting ''1997''.

SEC. 843. GLOBAL CLIMATE CHANGE.

Section 2412 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6710) is amended by striking ''1996'' and inserting ''1997''.

Subtitle C—Repeal of Certain Activities and Authorities

SEC. 851. SUBCOMMITTEE ON FOOD, AGRICULTURAL, AND FORESTRY RESEARCH.

Section 401(h) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6651(h)) is amended by striking the second through fifth sentences.

SEC. 852. JOINT COUNCIL ON FOOD AND AGRICULTURAL SCIENCES.

(a) REPEAL.—Section 1407 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3122) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 1405 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3121) is amended—

(A) in paragraph (5), by striking ''Joint Council, Advisory Board,'' and inserting ''Advisory Board''; and

(B) in paragraph (11), by striking ''the Joint Council,''.

(2) Section 1410(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3125(2)) is amended by striking ''the recommendations of the Joint Council developed under section 1407(f),''.

(3) Section 1412 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3127) is amended—

(A) in the section heading, by striking ''**THE JOINT COUNCIL, ADVISORY BOARD,**'' and inserting ''**ADVISORY BOARD**'';

(B) in subsection (a)—

(i) by striking ''Joint Council, the Advisory Board,'' and inserting ''Advisory Board'';

(ii) by striking ''the cochairpersons of the Joint Council and'' each place it appears; and

(iii) in paragraph (2), by striking ''one shall serve as the executive secretary to the Joint Council, one shall serve as the executive secretary to the Advisory Board,'' and inserting ''one shall serve as the executive secretary to the Advisory Board''; and

(C) in subsections (b) and (c), by striking ''Joint Council, Advisory Board,'' each place it appears and inserting ''Advisory Board''.

(4) Section 1413 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128) is amended—

(A) in subsection (a), by striking ''Joint Council, the Advisory Board,'' and inserting ''Advisory Board''; and

(B) in subsection (b), by striking ''Joint Council, Advisory Board,'' and inserting ''Advisory Board''.

(5) Section 1434(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196(c)) is amended—

(A) in the second sentence, by striking ''Joint Council, the Advisory Board,'' and inserting ''Advisory Board''; and

(B) in the fourth sentence, by striking ''the Joint Council,''.

SEC. 853. AGRICULTURAL SCIENCE AND TECHNOLOGY REVIEW BOARD.

(a) REPEAL.—Section 1408A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123a) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) is amended—

(A) in paragraph (16)(F), by adding ''and'' at the end;

(B) in paragraph (17), by striking ''; and'' at the end and inserting a period; and

(C) by striking paragraph (18).

(2) Section 1405(12) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3121(12)) is amended by striking ‘‘, after coordination with the Technology Board,’’.

(3) Section 1410(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3125(2)) (as amended by section 802(b)(2)) is amended by striking ‘‘and the recommendations of the Technology Board developed under section 1408A(d)’’.

(4) Section 1412 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3127) (as amended by section 852(b)(3)) is amended—

(A) in the section heading, by striking ‘‘**AND TECHNOLOGY BOARD**’’;

(B) in subsection (a)—

(i) by striking ‘‘and the Technology Board’’ each place it appears; and

(ii) in paragraph (2), by striking ‘‘and one shall serve as the executive secretary to the Technology Board’’; and

(C) in subsections (b) and (c), by striking ‘‘and Technology Board’’ each place it appears.

(5) Section 1413 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128) (as amended by section 852(b)(4)) is amended—

(A) in subsection (a), by striking ‘‘or the Technology Board’’; and

(B) in subsection (b), by striking ‘‘and the Technology Board’’.

SEC. 854. ANIMAL HEALTH SCIENCE RESEARCH ADVISORY BOARD.

Section 1432 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3194) is repealed.

SEC. 855. RESIDENT INSTRUCTION PROGRAM AT 1890 LAND-GRANT COLLEGES.

Section 1446 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222a) is repealed.

SEC. 856. GRANTS TO STATES FOR INTERNATIONAL TRADE DEVELOPMENT CENTERS.

Section 1458A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292) is repealed.

SEC. 857. RANGELAND RESEARCH.

(a) REPORTS.—Section 1481 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3334) is repealed.

(b) ADVISORY BOARD.—Section 1482 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3335) is repealed.

SEC. 858. COMPOSTING RESEARCH AND EXTENSION PROGRAM.

Section 1456 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3130) is repealed.

SEC. 859. EDUCATION PROGRAM REGARDING HANDLING OF AGRICULTURAL CHEMICALS AND AGRICULTURAL CHEMICAL CONTAINERS.

(a) REPEAL.—Section 1499A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125c) is repealed.

(b) CONFORMING AMENDMENT.—Section 1499(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5506(b)) is amended by striking ‘‘and section 1499A’’.

SEC. 860. PROGRAM ADMINISTRATION REGARDING SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION.

(a) REPORTING REQUIREMENT.—Section 1622 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5812) is amended by striking subsection (b).

(b) ADVISORY COUNCIL.—Section 1622 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5812) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2);

(B) in paragraph (3), by striking ‘‘subsection (e)’’ and inserting ‘‘subsection (b)’’; and

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(2) by striking subsections (c) and (d);

(3) by redesignating subsection (e) as subsection (b); and

(4) in subsection (b)(2) (as so redesignated)—

(A) by striking subparagraph (A); and

(B) by redesignating subparagraphs (B) through (F) as subparagraphs (A) through (E), respectively.

(c) CONFORMING AMENDMENTS.—

(1) Section 1619(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5801(b)) is amended—

(A) by striking paragraph (7); and

(B) by redesignating paragraphs (8), (9), and (10) as paragraphs (7), (8), and (9), respectively.

(2) Section 1621(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5811(c)) is amended—

(A) in paragraph (1)—

(i) by striking subparagraph (A); and

(ii) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively; and

(B) in paragraph (2)—

(i) by striking subparagraph (A); and

(ii) by redesignating subparagraphs (B) through (F) as subparagraphs (A) through (E), respectively.

(3) Section 1628(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5831(b)) is amended by striking ‘‘Advisory Council, the Soil Conservation Service,’’ and inserting ‘‘Natural Resources Conservation Service’’.

SEC. 861. RESEARCH REGARDING PRODUCTION, PREPARATION, PROCESSING, HANDLING, AND STORAGE OF AGRICULTURAL PRODUCTS.

Subtitle E of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5871 et seq.) is repealed.

SEC. 862. PLANT AND ANIMAL PEST AND DISEASE CONTROL PROGRAM.

(a) REPEAL.—Subtitle F of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5881 et seq.) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 28(b)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w–3(b)(2)(A)) is amended by striking ‘‘and the information required by section 1651 of the Food, Agriculture, Conservation, and Trade Act of 1990’’.

(2) Section 1627(a)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5821(a)(3)) is amended by striking ‘‘and section 1650’’.

(3) Section 1628 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5831) is amended by striking ‘‘section 1650,’’ each place it appears in subsections (a) and (d).

(4) Section 1629 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5832) is amended by striking ‘‘section 1650,’’ each place it appears in subsections (f) and (g)(11).

SEC. 863. CERTAIN SPECIALIZED RESEARCH PROGRAMS.

Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended—

(1) by striking subsections (a), (f), (g), (h), and (j); and

(2) by redesignating subsections (i) and (k) as subsections (f) and (g), respectively.

SEC. 864. COMMISSION ON AGRICULTURAL RESEARCH FACILITIES.

Section 1674 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5927) is repealed.

SEC. 865. SPECIAL GRANT TO STUDY CONSTRAINTS ON AGRICULTURAL TRADE.

Section 1678 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5931) is repealed.

SEC. 866. PILOT PROJECT TO COORDINATE FOOD AND NUTRITION EDUCATION PROGRAMS.

Section 1679 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5932) is repealed.

SEC. 867. DEMONSTRATION AREAS FOR RURAL ECONOMIC DEVELOPMENT.

Section 2348 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2662a) is repealed.

SEC. 868. TECHNICAL ADVISORY COMMITTEE REGARDING GLOBAL CLIMATE CHANGE.

Section 2404 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6703) is repealed.

SEC. 869. COMMITTEE OF NINE UNDER HATCH ACT OF 1887.

Section 3(c)3 of the Act of March 2, 1887 (commonly known as the ‘‘Hatch Act of 1887’’; 7 U.S.C. 361c(c)3) is amended by striking ‘‘, and shall be used’’ and all that follows through ‘‘by this paragraph’’.

SEC. 870. COTTON CROP REPORTS.

The Act of May 3, 1924 (43 Stat. 115, chapter 149; 7 U.S.C. 475), is repealed.

SEC. 871. RURAL ECONOMIC AND BUSINESS DEVELOPMENT AND ADDITIONAL RESEARCH GRANTS UNDER TITLE V OF RURAL DEVELOPMENT ACT OF 1972.

Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended by striking subsections (g) and (j).

SEC. 872. HUMAN NUTRITION RESEARCH.

Section 1452 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 7 U.S.C. 3173 note) is repealed.

SEC. 873. GRANTS TO UPGRADE 1890 LAND-GRANT COLLEGE EXTENSION FACILITIES.

Section 1416 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1981 (7 U.S.C. 3224) is repealed.

SEC. 874. INDIAN SUBSISTENCE FARMING DEMONSTRATION GRANT PROGRAM.

Subtitle C of title IX of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 7 U.S.C. 5930 note) is repealed.

Subtitle D—Miscellaneous Research Provisions

SEC. 881. CRITICAL AGRICULTURAL MATERIALS RESEARCH.

(a) REPORTS.—Section 4 of the Critical Agricultural Materials Act (7 U.S.C. 178b) is amended—

(1) by striking subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 16(a) of the Critical Agricultural Materials Act (7 U.S.C. 178n(a)) is amended by striking ‘‘1995’’ and inserting ‘‘1997’’.

SEC. 882. MEMORANDUM OF AGREEMENT REGARDING 1994 INSTITUTIONS.

Section 533 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note) is amended by adding at the end the following:

‘‘(d) MEMORANDUM OF AGREEMENT.—Not later than January 6, 1997, the Secretary shall develop and implement a formal memorandum of agreement with the 1994 Institutions to establish programs to ensure that tribally controlled colleges and Native American communities equitably participate in Department of Agriculture employment, programs, services, and resources.’’.

SEC. 883. SMITH-LEVER ACT FUNDING FOR 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE UNIVERSITY.

(a) ELIGIBILITY FOR FUNDS.—Section 3(d) of the Act of May 8, 1914 (commonly known as the ''Smith-Lever Act''; 7 U.S.C. 343(d)), is amended by adding at the end the following: ''A college or university eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, may apply for and receive directly from the Secretary of Agriculture—

''(1) amounts made available under this subsection after September 30, 1995, to carry out programs or initiatives for which no funds were made available under this subsection for fiscal year 1995, or any previous fiscal year, as determined by the Secretary; and

''(2) amounts made available after September 30, 1995, to carry out programs or initiatives funded under this subsection prior to that date that are in excess of the highest amount made available for the programs or initiatives under this subsection for fiscal year 1995, or any previous fiscal year, as determined by the Secretary.''.

(b) CONFORMING AMENDMENT.—The third sentence of section 1444(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(a)) is amended by inserting before the period at the end the following: '', except that for the purpose of this calculation, the total appropriations shall not include amounts made available after September 30, 1995, under section 3(d) of that Act (7 U.S.C. 343(d)), to carry out programs or initiatives for which no funds were made available under section 3(d) of that Act for fiscal year 1995, or any previous fiscal year, as determined by the Secretary, and shall not include amounts made available after September 30, 1995, to carry out programs or initiatives funded under section 3(d) of that Act prior to that date that are in excess of the highest amount made available for the programs or initiatives for fiscal year 1995, or any previous fiscal year, as determined by the Secretary''.

SEC. 884. AGRICULTURAL RESEARCH FACILITIES.

(a) RESEARCH FACILITIES.—The Research Facilities Act (7 U.S.C. 390 et seq.) is amended to read as follows:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Research Facilities Act'.

''SEC. 2. DEFINITIONS.

''In this Act:

''(1) AGRICULTURAL RESEARCH FACILITY.—The term 'agricultural research facility' means a proposed facility for research in food and agricultural sciences for which Federal funds are requested by a college, university, or nonprofit institution to assist in the construction, alteration, acquisition, modernization, renovation, or remodeling of the facility.

''(2) CONGRESSIONAL AGRICULTURE COMMITTEES.—The term 'congressional agriculture committees' means the Committee on Appropriations and the Committee on Agriculture of the House of Representatives and the Committee on Appropriations and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

''(3) FOOD AND AGRICULTURAL SCIENCES.—The term 'food and agricultural sciences' means—

''(A) agriculture, including soil and water conservation and use, the use of organic materials to improve soil tilth and fertility, plant and animal production and protection, and plant and animal health;

''(B) the processing, distribution, marketing, and utilization of food and agricultural products;

''(C) forestry, including range management, production of forest and range products, multiple use of forests and rangelands, and urban forestry;

''(D) aquaculture (as defined in section 1404(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(3));

''(E) human nutrition;

''(F) production inputs, such as energy, to improve productivity; and

''(G) germ plasm collection and preservation.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''(5) TASK FORCE.—The term 'task force' means the Strategic Planning Task Force established under section 4.

''SEC. 3. REVIEW PROCESS.

''(a) SUBMISSION TO SECRETARY.—Each proposal for an agricultural research facility shall be submitted to the Secretary for review. The Secretary shall review the proposals in the order in which the proposals are received.

''(b) APPLICATION PROCESS.—In consultation with the congressional agriculture committees, the Secretary shall establish an application process for the submission of proposals for agricultural research facilities.

''(c) CRITERIA FOR APPROVAL.—

''(1) DETERMINATION BY SECRETARY.—With respect to each proposal for an agricultural research facility submitted under subsection (a), the Secretary shall determine whether the proposal meets the criteria set forth in paragraph (2).

''(2) CRITERIA.—A proposal for an agricultural research facility shall meet the following criteria:

''(A) NON-FEDERAL SHARE.—The proposal shall certify the availability of at least a 50 percent non-Federal share of the cost of the facility. The non-Federal share shall be paid in cash and may include funding from private sources or from units of State or local government.

''(B) NONDUPLICATION OF FACILITIES.—The proposal shall demonstrate how the agricultural research facility would be complementary to, and not duplicative of, facilities of colleges, universities, and nonprofit institutions, and facilities of the Agricultural Research Service, within the State and region.

''(C) NATIONAL RESEARCH PRIORITIES.—The proposal shall demonstrate how the agricultural research facility would serve—

''(i) 1 or more of the national research policies and priorities set forth in section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101); and

''(ii) regional needs.

''(D) LONG-TERM SUPPORT.—The proposal shall demonstrate that the recipient college, university, or nonprofit institution has the ability and commitment to support the long-term, ongoing operating costs of—

''(i) the agricultural research facility after the facility is completed; and

''(ii) each program to be based at the facility.

''(d) EVALUATION OF PROPOSALS.—Not later than 90 days after receiving a proposal under subsection (a), the Secretary shall—

''(1) evaluate and assess the merits of the proposal, including the extent to which the proposal meets the criteria set forth in subsection (c); and

''(2) report to the congressional agriculture committees on the results of the evaluation and assessment.

''SEC. 4. TASK FORCE ON 10-YEAR STRATEGIC PLAN FOR AGRICULTURAL RESEARCH FACILITIES.

''(a) ESTABLISHMENT.—Not later than 6 months after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, the Secretary shall establish a task force, to be known as the 'Strategic Planning Task Force'. The task force shall be comprised of 15 members.

''(b) COMPOSITION.—The Secretary shall select the members of the task force from a list of individuals recommended by the Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123). In submitting the list to the Secretary, the board may recommend for selection individuals (including members of the Advisory Board) who have expertise in facilities development, modernization, construction, consolidation, and closure.

''(c) DUTIES.—The task force shall review all currently operating agricultural research facilities constructed in whole or in part with Federal funds, and all planned agricultural research facilities proposed to be constructed with Federal funds, pursuant to criteria established by the Secretary, to ensure that a comprehensive research capacity is maintained.

''(d) 10-YEAR STRATEGIC PLAN.—Not later than 2 years after the task force is established, the task force shall prepare and submit to the Secretary and the congressional agriculture committees a 10-year strategic plan, reflecting both national and regional perspectives, for development, modernization, construction, consolidation, and closure of Federal agricultural research facilities and agricultural research facilities proposed to be constructed with Federal funds.

''(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—

''(1) PUBLIC MEETINGS.—All meetings of the task force shall be publicly announced in advance and shall be open to the public. Detailed minutes of meetings and other appropriate records of the activities of the task force shall be kept and made available to the public on request.

''(2) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to the task force.

''(f) DEFINITION OF AGRICULTURAL RESEARCH FACILITY.—Notwithstanding section 2(1), in this section the term 'agricultural research facility' means a facility for research in food and agricultural sciences.

''SEC. 5. APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

''The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to a panel or board created solely for the purpose of reviewing applications or proposals submitted under this Act.

''SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated such sums as are necessary for fiscal years 1996 and 1997 for the study, plan, design, structure, and related costs of agricultural research facilities under this Act.

''(b) ALLOWABLE ADMINISTRATIVE COSTS.—Not more than 3 percent of the funds made available for any project for an agricultural research facility shall be available for administration of the project.''.

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a), other than section 4 of the Research Facilities Act (as amended by subsection (a)), shall not apply to any project for an agricultural research facility for which funds have been made available for a feasibility study or for any phase of the project prior to October 1, 1995.

(c) AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL FACILITIES.—Section 1431 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1556) is amended—

(1) in subsection (a)—

(A) by striking ''(a)''; and

(B) by striking ''1995'' and inserting ''1997''; and

(2) by striking subsection (b).

(d) CONFORMING AMENDMENT.—Section 1463(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311(a)) is amended by striking ''1416,''.

SEC. 885. NATIONAL COMPETITIVE RESEARCH INITIATIVE.

(a) AUTHORIZATION OF APPROPRIATIONS FOR COMPETITIVE GRANTS.—Subsection (b)(10) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)(10)) is amended—

(1) by striking ''fiscal year 1995'' and inserting ''each of fiscal years 1995 through 1997''; and

(2) in subparagraph (B), by striking ''20 percent'' and inserting ''40 percent''.

(b) AVAILABILITY OF FUNDS.—Subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)) is amended by adding at the end the following:

''(11) AVAILABILITY OF FUNDS.—Funds made available under paragraph (10) shall be available for obligation for a 2-year period beginning on October 1 of the fiscal year for which the funds are made available.''.

SEC. 886. RURAL DEVELOPMENT RESEARCH AND EDUCATION.

Section 502(a) of the Rural Development Act of 1972 (7 U.S.C. 2662(a)) is amended by inserting after the first sentence the following: ''The rural development extension programs shall also promote coordinated and integrated rural community initiatives that advance and empower capacity building through leadership development, entrepreneurship, business development and management training, and strategic planning to increase jobs, income, and quality of life in rural communities.''.

SEC. 887. DAIRY GOAT RESEARCH PROGRAM.

Section 1432(b)(5) of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1981 (Public Law 97–98; 7 U.S.C. 3222 note) is amended by striking ''1995'' and inserting ''1997''.

SEC. 888. COMPETITIVE GRANTS FOR RESEARCH TO ERADICATE AND CONTROL BROWN CITRUS APHID AND CITRUS TRISTEZA VIRUS.

Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) (as amended by section 863) is amended by inserting before subsection (b) the following:

''(a) BROWN CITRUS APHID AND CITRUS TRISTEZA VIRUS.—

''(1) RESEARCH GRANTS AUTHORIZED.—The Secretary of Agriculture may make competitive grants available to support research for the purpose of—

''(A) developing methods to eradicate the brown citrus aphid and the citrus tristeza virus from citrus crops grown in the United States; or

''(B) adapting citrus crops grown in the United States to the brown citrus aphid and the citrus tristeza virus.

''(2) METHOD OF PROVIDING GRANTS.—Grants authorized under this subsection shall be made in the same manner, and shall be subject to the same conditions, as provided for competitive grants under the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i).

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $3,000,000 for fiscal year 1997.''.

SEC. 889. STUTTGART NATIONAL AQUACULTURE RESEARCH CENTER.

(a) TRANSFER OF FUNCTIONS TO SECRETARY OF AGRICULTURE.—

(1) PURPOSE.—The first section of Public Law 85–342 (16 U.S.C. 778) is amended—

(A) by striking ''Secretary of the Interior'' and all that follows through ''directed to'' and inserting ''Secretary of Agriculture shall'';

(B) by striking ''an experiment station or stations'' and inserting ''1 or more centers''; and

(C) in paragraph (5), by striking ''Department of Agriculture'' and inserting ''Secretary of the Interior''.

(2) AUTHORITY.—Section 2 of Public Law 85–342 (16 U.S.C. 778a) is amended by striking '', the Secretary'' and all that follows through ''authorized'' and inserting '', the Secretary of Agriculture is authorized''.

(3) ASSISTANCE.—Section 3 of Public Law 85–342 (16 U.S.C. 778b) is amended—

(A) by striking ''Secretary of the Interior'' and inserting ''Secretary of Agriculture''; and

(B) by striking ''Department of Agriculture'' and inserting ''Secretary of the Interior''.

(b) TRANSFER OF FISH FARMING EXPERIMENTAL LABORATORY TO DEPARTMENT OF AGRICULTURE.—

(1) DESIGNATION OF STUTTGART NATIONAL AQUACULTURE RESEARCH CENTER.—

(A) IN GENERAL.—The Fish Farming Experimental Laboratory in Stuttgart, Arkansas (including the facilities in Kelso, Arkansas), shall be known and designated as the ''Stuttgart National Aquaculture Research Center''.

(B) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the laboratory referred to in subparagraph (A) shall be deemed to be a reference to the ''Stuttgart National Aquaculture Research Center''.

(2) TRANSFER OF LABORATORY TO DEPARTMENT OF AGRICULTURE.—Subject to section 1531 of title 31, United States Code, not later than 90 days after the date of enactment of this Act, there are transferred to the Department of Agriculture—

(A) the personnel employed in connection with the laboratory referred to in paragraph (1)(A);

(B) the assets, liabilities, contracts, and real and personal property of the laboratory;

(C) the records of the laboratory; and

(D) the unexpended balance of appropriations, authorizations, allocations, and other funds employed in connection with, held in connection with, arising from, available to, or to be made available in connection with the laboratory.

(3) NONDUPLICATION OF FACILITIES.—The research center referred to in paragraph (1)(A) shall be complementary to, and not duplicative of, facilities of colleges, universities, and nonprofit institutions, and facilities of the Agricultural Research Service, within the State and region, as determined by the Administrator of the Service.

SEC. 890. EXPANSION OF AUTHORITIES RELATED TO NATIONAL ARBORETUM.

(a) SOLICITATION OF GIFTS, BENEFITS, AND DEVISES.—The first sentence of section 5 of the Act of March 4, 1927 (20 U.S.C. 195), is amended by inserting ''solicit,'' after ''authorized to''.

(b) CONCESSIONS, FEES, AND VOLUNTARY SERVICES.—The Act of March 4, 1927 (20 U.S.C. 191 et seq.), is amended by adding at the end the following:

''SEC. 6. CONCESSIONS, FEES, AND VOLUNTARY SERVICES.

''(a) IN GENERAL.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) and section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), the Secretary of Agriculture, in furtherance of the mission of the National Arboretum, may—

''(1) negotiate agreements granting concessions at the National Arboretum to nonprofit scientific or educational organizations the interests of which are complementary to the mission of the National Arboretum, except that the net proceeds of the organizations from the concessions shall be used exclusively for research and educational work for the benefit of the National Arboretum;

''(2) provide by concession, on such terms as the Secretary of Agriculture considers appropriate and necessary, for commercial services for food, drink, and nursery sales, if an agreement for a permanent concession under this paragraph is negotiated with a qualified person submitting a proposal after due consideration of all proposals received after the Secretary of Agriculture provides reasonable public notice of the intent of the Secretary to enter into such an agreement;

''(3) dispose of excess property, including excess plants and fish, in a manner designed to maximize revenue from any sale of the property, including by way of public auction, except that this paragraph shall not apply to the free dissemination of new varieties of seeds and germ plasm in accordance with section 520 of the Revised Statutes (commonly known as the 'Department of Agriculture Organic Act of 1862') (7 U.S.C. 2201);

''(4) charge such fees as the Secretary of Agriculture considers reasonable for temporary use by individuals or groups of National Arboretum facilities and grounds for any purpose consistent with the mission of the National Arboretum;

''(5) charge such fees as the Secretary of Agriculture considers reasonable for the use of the National Arboretum for commercial photography or cinematography;

''(6) publish, in print and electronically and without regard to laws relating to printing by the Federal Government, informational brochures, books, and other publications concerning the National Arboretum or the collections of the Arboretum; and

''(7) license use of the National Arboretum name and logo for public service or commercial uses.

''(b) USE OF FUNDS.—Any funds received or collected by the Secretary of Agriculture as a result of activities described in subsection (a) shall be retained in a special fund in the Treasury for the use and benefit of the National Arboretum as the Secretary of Agriculture considers appropriate.

''(c) ACCEPTANCE OF VOLUNTARY SERVICES.—The Secretary of Agriculture may accept the voluntary services of organizations described in subsection (a)(1), and the voluntary services of individuals (including employees of the National Arboretum), for the benefit of the National Arboretum.''.

SEC. 891. TRANSFER OF AQUACULTURAL RESEARCH CENTER.

(a) TRANSFER OF FISH CULTURE LABORATORY TO DEPARTMENT OF AGRICULTURE.—

(1) DESIGNATION OF CLAUDE HARRIS NATIONAL AQUACULTURAL RESEARCH CENTER.—

(A) IN GENERAL.—The Southeastern Fish Culture Laboratory in Marion, Alabama, shall be known and designated as the ''Claude Harris National Aquacultural Research Center''.

(B) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the laboratory referred to in subparagraph (A) shall be deemed to be a reference to the ''Claude Harris National Aquacultural Research Center''.

(2) TRANSFER OF LABORATORY TO DEPARTMENT OF AGRICULTURE.—Subject to section 1531 of title 31, United States Code, not later than 90 days after the date of enactment of this Act, the Secretary of the Interior may transfer, in whole or in part, to the Department of Agriculture, with the consent of the Secretary of Agriculture—

(A) the personnel employed in connection with the laboratory referred to in paragraph (1);

(B) the assets, liabilities, contracts, and real and personal property of the laboratory;

(C) the records of the laboratory; and

(D) the unexpended balance of appropriations, authorizations, allocations, and other funds employed in connection with, held in connection with, arising from, available to, or to be made available in connection with the laboratory.

(b) NONDUPLICATION OF FACILITIES.—The research center designated by subsection (a) shall be complementary to, and not duplicative of, facilities of colleges, universities, and nonprofit institutions, and facilities of the Agricultural Research Service, within the State and region, as determined by the Secretary of Agriculture.

SEC. 892. USE OF REMOTE SENSING DATA AND OTHER DATA TO ANTICIPATE POTENTIAL FOOD, FEED, AND FIBER SHORTAGES OR EXCESSES AND TO PROVIDE TIMELY INFORMATION TO ASSIST FARMERS WITH PLANTING DECISIONS.

(a) FINDINGS.—Congress finds that—

(1) remote sensing data can be useful to predict impending famine problems and forest infestations in time to allow remedial action;

(2) remote sensing data can inform the agricultural community as to the condition of crops and the land that sustains those crops; and

(3) remote sensing data and other data can be valuable, when received on a timely basis, in determining the need for additional plantings of a particular crop or a substitute crop.

(b) INFORMATION DEVELOPMENT.—The Secretary of Agriculture and the Administrator of the National Aeronautics and Space Administration, maximizing private funding and involvement, shall provide farmers and other interested persons with timely information, through remote sensing, on crop conditions, fertilization and irrigation needs, pest infiltration, soil conditions, projected food, feed, and fiber production, and any other information available through remote sensing.

(c) COORDINATION.—The Secretary of Agriculture and the Administrator of the National Aeronautics and Space Administration shall jointly develop a proposal to provide farmers and other prospective users with supply and demand information for food and fibers.

(d) SUNSET.—The authorities provided by this section shall expire 5 years after the date of enactment of this Act.

SEC. 893. SENSE OF SENATE REGARDING METHYL BROMIDE ALTERNATIVE RESEARCH AND EXTENSION ACTIVITIES.

It is the sense of the Senate that—

(1) the Department of Agriculture should continue to make methyl bromide alternative research and extension activities a high priority of the Department; and

(2) the Department of Agriculture, the Environmental Protection Agency, producer and processor organizations, environmental organizations, and State agencies should continue their dialogue on the risks and benefits of extending the 2001 phaseout deadline.

Subtitle E—Research Authority After Fiscal Year 1997

SEC. 897. AUTHORIZATION OF APPROPRIATIONS.

Subject to section 898, there are authorized to be appropriated for fiscal years 1998 through 2002 such sums as are necessary to carry out the agricultural research, extension, and education activities and initiatives of the Department of Agriculture.

SEC. 898. ACTIVITIES SUBJECT TO AVAILABILITY OF APPROPRIATIONS.

During each of fiscal years 1998 through 2002, the Secretary of Agriculture shall conduct only those agricultural research, extension, and education activities and initiatives of the Department of Agriculture for which funds are specifically provided for the fiscal year in an appropriation Act.

TITLE IX—MISCELLANEOUS

Subtitle A—Commercial Transportation of Equine for Slaughter

SEC. 901. FINDINGS.

Because of the unique and special needs of equine being transported to slaughter, Congress finds that it is appropriate for the Secretary of Agriculture to issue guidelines for the regulation of the commercial transportation of equine for slaughter by persons regularly engaged in that activity within the United States.

SEC. 902. DEFINITIONS.

In this subtitle:

(1) COMMERCIAL TRANSPORTATION.—The term ''commercial transportation'' means the regular operation for profit of a transport business that uses trucks, tractors, trailers, or semitrailers, or any combination thereof, propelled or drawn by mechanical power on any highway or public road.

(2) EQUINE FOR SLAUGHTER.—The term ''equine for slaughter'' means any member of the Equidae family being transferred to a slaughter facility, including an assembly point, feedlot, or stockyard.

(3) PERSON.—The term ''person''—

(A) means any individual, partnership, corporation, or cooperative association that regularly engages in the commercial transportation of equine for slaughter; but

(B) does not include any individual or other entity referred to in subparagraph (A) that occasionally transports equine for slaughter incidental to the principal activity of the individual or other entity in production agriculture.

SEC. 903. REGULATION OF COMMERCIAL TRANSPORTATION OF EQUINE FOR SLAUGHTER.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Agriculture may issue guidelines for the regulation of the commercial transportation of equine for slaughter by persons regularly engaged in that activity within the United States.

(b) ISSUES FOR REVIEW.—In carrying out this section, the Secretary of Agriculture shall review the food, water, and rest provided to equine for slaughter in transit, the segregation of stallions from other equine during transit, and such other issues as the Secretary considers appropriate.

(c) ADDITIONAL AUTHORITY.—In carrying out this section, the Secretary of Agriculture may—

(1) require any person to maintain such records and reports as the Secretary considers necessary;

(2) conduct such investigations and inspections as the Secretary considers necessary; and

(3) establish and enforce appropriate and effective civil penalties.

SEC. 904. LIMITATION OF AUTHORITY TO EQUINE FOR SLAUGHTER.

Nothing in this subtitle authorizes the Secretary of Agriculture to regulate the routine or regular transportation, to slaughter or elsewhere, of—

(1) livestock other than equine; or

(2) poultry.

SEC. 905. EFFECTIVE DATE.

This subtitle shall become effective on the first day of the first month that begins 30 days or more after the date of enactment of this Act.

Subtitle B—General Provisions

SEC. 911. INTERSTATE QUARANTINE.

The fourth sentence of section 8 of the Act of August 20, 1912 (7 U.S.C. 161), is amended by inserting after ''*Provided*, That'' the following: ''if the Secretary of Agriculture determines under this section that it is necessary to quarantine a State entirely comprised of islands, the Secretary of Agriculture, in implementing the restrictions authorized under this section, shall give consideration to enhancing passenger movement and commerce on and between islands in the State: *Provided further*, That''.

SEC. 912. COTTON CLASSIFICATION SERVICES.

(a) EXTENSION OF AUTHORIZATION.—The first sentence of section 3a of the Act of March 3, 1927 (commonly known as the ''Cotton Statistics and Estimates Act'') (7 U.S.C. 473a), is amended by striking ''1996'' and inserting ''2002''.

(b) COTTON CLASSING OFFICE LOCATIONS.—Section 4 of the Act of March 3, 1927 (commonly known as the ''Cotton Statistics and Estimates Act'') (7 U.S.C. 474), is amended by adding at the end the following: ''The Secretary of Agriculture shall maintain until at least January 1, 1999, all cotton classing office locations in the State of Missouri that existed on January 1, 1996.''.

SEC. 913. PLANT VARIETY PROTECTION FOR CERTAIN TUBER PROPAGATED PLANT VARIETIES.

(a) IN GENERAL.—Section 42(a)(1)(B)(i) of the Plant Variety Protection Act (7 U.S.C. 2402(a)(1)(B)(i)) is amended by inserting after ''filing'' the following: '', except that in the case of a tuber propagated plant variety the Secretary may waive the 4-year limitation for a period ending 1 year after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996''.

(b) TERM OF PROTECTION.—Section 83(b) of the Plant Variety Protection Act (7 U.S.C. 2483(b)) is amended—

(1) by striking ''(b) The term'' and inserting the following:

''(b) TERM.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term'';

(2) in the second sentence, by striking ''If the certificate'' and inserting the following:

''(2) EXCEPTIONS.—If the certificate''; and

(3) in paragraph (2) (as so designated), by striking ''except that, in the case'' and inserting the following: ''except that—

''(A) in the case of a tuber propagated plant variety subject to a waiver granted under section 42(a)(1)(B)(i), the term of the plant variety protection shall expire 20 years after the date of the original grant of the plant breeder's rights to the variety outside the United States; and

''(B) in the case''.

SEC. 914. SWINE HEALTH PROTECTION.

(a) TERMINATION OF STATE PRIMARY ENFORCEMENT RESPONSIBILITY.—Section 10 of the Swine Health Protection Act (7 U.S.C. 3809) is amended—

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

(2) by inserting after subsection (b) the following:

''(c) REQUEST OF STATE OFFICIAL.—

''(1) IN GENERAL.—On request of the Governor or other appropriate official of a State, the Secretary may terminate, effective as soon as the Secretary determines is practicable, the primary enforcement responsibility of a State under subsection (a). In terminating the primary enforcement responsibility under this subsection, the Secretary shall work with the appropriate State official to determine the level of support to be provided to the Secretary by the State under this Act.

''(2) REASSUMPTION.—Nothing in this subsection shall prevent a State from reassuming primary enforcement responsibility if the Secretary determines that the State meets the requirements of subsection (a).''.

(b) ADVISORY COMMITTEE.—The Swine Health Protection Act is amended—

(1) by striking section 11 (7 U.S.C. 3810); and

(2) by redesignating sections 12, 13, and 14 (7 U.S.C. 3811, 3812, and 3813) as sections 11, 12, and 13, respectively.

SEC. 915. DESIGNATION OF MOUNT PLEASANT NATIONAL SCENIC AREA.

Sections 1, 2, and 3(a)(1) of the George Washington National Forest Mount Pleasant Scenic Area Act (Public Law 103–314; 16 U.S.C. 545 note) are each amended by striking ''George Washington National Forest Mount Pleasant Scenic Area'' and inserting ''Mount Pleasant National Scenic Area''.

SEC. 916. PSEUDORABIES ERADICATION PROGRAM.

Section 2506(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 114i(d)) is amended by striking ''1995'' and inserting ''2002''.

SEC. 917. COLLECTION AND USE OF AGRICULTURAL QUARANTINE AND INSPECTION FEES.

Section 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a) is amended by striking subsection (a) and inserting the following:

''(a) QUARANTINE AND INSPECTION FEES.—

''(1) FEES AUTHORIZED.—The Secretary of Agriculture may prescribe and collect fees sufficient—

''(A) to cover the cost of providing agricultural quarantine and inspection services in connection with the arrival at a port in the customs territory of the United States, or the preclearance or preinspection at a site outside the customs territory of the United States, of an international passenger, commercial vessel, commercial aircraft, commercial truck, or railroad car;

''(B) to cover the cost of administering this subsection; and

''(C) through fiscal year 2002, to maintain a reasonable balance in the Agricultural Quarantine Inspection User Fee Account established under paragraph (5).

''(2) LIMITATION.—In setting the fees under paragraph (1), the Secretary shall ensure that the amount of the fees is commensurate with the costs of agricultural quarantine and inspection services with respect to the class of persons or entities paying the fees. The costs of the services with respect to passengers as a class includes the costs of related inspections of the aircraft or other vehicle.

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

''(4) LATE PAYMENT PENALTIES.—If a person subject to a fee under this subsection fails to pay the fee when due, the Secretary shall assess a late payment penalty, and the overdue fees shall accrue interest, as required by section 3717 of title 31, United States Code.

''(5) AGRICULTURAL QUARANTINE INSPECTION USER FEE ACCOUNT.—

''(A) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the 'Agricultural Quarantine Inspection User Fee Account', which shall contain all of the fees collected under this subsection and late payment penalties and interest charges collected under paragraph (4) through fiscal year 2002.

''(B) USE OF ACCOUNT.—For each of fiscal years 1996 through 2002, funds in the Agricultural Quarantine Inspection User Fee Account shall be available, in such amounts as are provided in advance in appropriations Acts, to cover the costs associated with the provision of agricultural quarantine and inspection services and the administration of this subsection. Amounts made available under this subparagraph shall be available until expended.

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

''(6) USE OF AMOUNTS COLLECTED AFTER FISCAL YEAR 2002.—After September 30, 2002, the unobligated balance in the Agricultural Quarantine Inspection User Fee Account and fees and other amounts collected under this subsection shall be credited to the Department of Agriculture accounts that incur the costs associated with the provision of agricultural quarantine and inspection services and the administration of this subsection. The fees and other amounts shall remain available to the Secretary until expended without fiscal year limitation.

''(7) STAFF YEARS.—The number of full-time equivalent positions in the Department of Agriculture attributable to the provision of agricultural quarantine and inspection services and the administration of this subsection shall not be counted toward the limitation on the total number of full-time equivalent positions in all agencies specified in section 5(b) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 5 U.S.C. 3101 note) or other limitation on the total number of full-time equivalent positions.''.

SEC. 918. MEAT AND POULTRY INSPECTION.

(a) ESTABLISHMENT OF SAFE MEAT AND POULTRY INSPECTION PANEL.—

(1) IN GENERAL.—The Federal Meat Inspection Act is amended—

(A) by redesignating section 410 (21 U.S.C. 680) as section 411; and

(B) by inserting after section 409 (21 U.S.C. 679) the following:

''SEC. 410. SAFE MEAT AND POULTRY INSPECTION PANEL.

''(a) ESTABLISHMENT.—There is established in the Department of Agriculture a permanent advisory panel to be known as the 'Safe Meat and Poultry Inspection Panel' (referred to in this section as the 'panel').

''(b) DUTIES.—

''(1) REVIEW AND EVALUATION.—The panel shall review and evaluate, as the panel considers necessary, the adequacy, necessity, safety, cost-effectiveness, and scientific merit of—

''(A) inspection procedures of, and work rules and worker relations involving Federal employees employed in, plants inspected under this Act;

''(B) informal petitions or proposals for changes in inspection procedures, processes, and techniques of plants inspected under this Act;

''(C) formal changes in meat inspection regulations promulgated under this Act, whether in notice, proposed, or final form; and

''(D) such other matters as may be referred to the panel by the Secretary regarding the quality or effectiveness of a safe and cost-effective meat inspection system under this Act.

''(2) REPORTS.—

''(A) IN GENERAL.—The panel shall submit to the Secretary a report on the results of each review and evaluation carried out under paragraph (1), including such recommendations as the panel considers appropriate.

''(B) REPORTS ON FORMAL CHANGES.—In the case of a report concerning a formal change in meat inspection regulations, the report shall be made within the time limits prescribed for formal comments on such changes.

''(C) PUBLICATION IN FEDERAL REGISTER.—Each report of the panel to the Secretary shall be published in the Federal Register.

''(c) SECRETARIAL RESPONSE.—Not later than 90 days after the publication of a panel report under subsection (b)(2)(C), the Secretary shall publish in the Federal Register any response required of the Secretary to the report.

''(d) COMPOSITION OF PANEL.—The panel shall be composed of 7 members, not fewer than 5 of whom shall be from the food science, meat science, or poultry science profession, appointed to staggered terms not to exceed 3 years by the Secretary from nominations received from the National Institutes of Health and the Federation of American Societies of Food Animal Science and based on the professional qualifications of the nominees.

''(e) NOMINATIONS.—

''(1) INITIAL PANEL.—In constituting the initial panel, the Secretary shall solicit 6 nominees from the National Institutes of Health and 6 nominees from the Federation of American Societies of Food Animal Science for membership on the panel.

''(2) VACANCIES.—Any subsequent vacancy on the panel shall be filled by the Secretary after soliciting 2 nominees from the National Institutes of Health and 2 nominees from the Federation of American Societies of Food Animal Science.

''(3) REQUIREMENTS FOR NOMINEES.—

''(A) IN GENERAL.—Each nominee provided under paragraph (1) or (2) shall have a background in public health issues and a scientific expertise in food, meat, or poultry science or in veterinary science.

''(B) SUBMISSION OF INFORMATION.—The Secretary may require nominees to submit such information as the Secretary considers necessary prior to completing the selection process.

''(4) ADDITIONAL NOMINEES.—If any list of nominees provided under paragraph (1) or (2) is unsatisfactory to the Secretary, the Secretary may request the nominating entities to submit an additional list of nominees.

''(f) TRAVEL EXPENSES.—While away from the home or regular place of business of a member of the panel in the performance of services for the panel, the member shall be allowed travel expenses, including per diem in lieu of subsistence, at the same rate as a person employed intermittently in the Government service would be allowed under section 5703 of title 5, United States Code.

''(g) CONFLICTS OF INTEREST.—The Secretary shall promulgate regulations regarding conflicts of interest with respect to the members of the panel.

''(h) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to the panel.

''(i) FUNDING.—From funds available to the Secretary to carry out this Act and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), the Secretary shall allocate such sums as may be necessary to carry out this section.''.

(2) CROSS REFERENCE IN POULTRY PRODUCTS INSPECTION ACT.—The Poultry Products Inspection Act (21 U.S.C. 451 et seq.) is amended by adding at the end the following:

''SEC. 30. SAFE MEAT AND POULTRY INSPECTION PANEL.

''(a) REVIEW AND EVALUATION.—The advisory panel known as the 'Safe Meat and Poultry Inspection Panel' established by section 410 of the Federal Meat Inspection Act shall review and evaluate, as the panel considers necessary, the adequacy, necessity, safety, cost-effectiveness, and scientific merit of—

''(1) inspection procedures of, and work rules and worker relations involving Federal employees employed in, plants inspected under this Act;

''(2) informal petitions or proposals for changes in inspection procedures, processes, and techniques of plants inspected under this Act;

''(3) formal changes in poultry inspection regulations promulgated under this Act, whether in notice, proposed, or final form; and

''(4) such other matters as may be referred to the panel by the Secretary regarding the quality or effectiveness of a safe and cost-effective poultry inspection system under this Act.

''(b) REPORTS.—

''(1) IN GENERAL.—The Safe Meat and Poultry Inspection Panel shall submit to the Secretary a report on the results of each review and evaluation carried out under paragraph (1), including such recommendations as the panel considers appropriate.

''(2) REPORTS ON FORMAL CHANGES.—In the case of a report concerning a formal change in poultry inspection regulations, the report shall be made within the time limits prescribed for formal comments on such changes.''.

(b) INTERSTATE SHIPMENT OF STATE-INSPECTED MEAT AND POULTRY.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall submit to Congress recommendations concerning the steps necessary to achieve interstate shipment of—

(1) meat inspected under a State meat inspection program developed and administered under section 301 of the Federal Meat Inspection Act (21 U.S.C. 661); and

(2) poultry inspected under a State poultry product inspection program developed and administered under section 5 of the Poultry Products Inspection Act (21 U.S.C. 454).

SEC. 919. REIMBURSABLE AGREEMENTS.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the ''Secretary'') may enter into reimbursable fee agreements with persons for preclearance at locations outside the United States of plants, plant products, animals, and articles for movement into the United States.

(b) OVERTIME, NIGHT, AND HOLIDAY WORK.—Notwithstanding any other provision of law, the Secretary may pay an employee of the Department of Agriculture performing services relating to imports into and exports from the United States for overtime, night, and holiday work performed by the employee at a rate of pay established by the Secretary.

(c) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary may require persons for whom preclearance services are performed to reimburse the Secretary for any amounts paid by the Secretary for performance of the services.

(2) CREDITING OF FUNDS.—All funds collected under paragraph (1) shall be credited to the account that incurs the costs and shall remain available until expended without fiscal year limitation.

(3) LATE PAYMENT PENALTY.—

(A) IN GENERAL.—On failure of a person to reimburse the Secretary for the costs of performance of preclearance services—

(i) the Secretary may assess a late payment penalty; and

(ii) the overdue funds shall accrue interest in accordance with section 3717 of title 31, United States Code.

(B) CREDITING OF FUNDS.—Any late payment penalty and any accrued interest collected under this paragraph shall be credited to the account that incurs the costs and shall remain available until expended without fiscal year limitation.

SEC. 920. OVERSEAS TORT CLAIMS.

(a) IN GENERAL.—The Secretary of Agriculture may pay a tort claim in the manner authorized by section 2672 of title 28, United States Code, if the claim arises outside the United States in connection with activities of individuals who are performing services for the Secretary.

(b) PERIOD FOR PRESENTATION OF CLAIM.—A claim may not be allowed under this section unless the claim is presented in writing to the Secretary of Agriculture within 2 years after the date on which the claim accrues.

(c) FINALITY.—Notwithstanding any other provision of law, an award or denial of a claim by the Secretary of Agriculture under this section is final.

SEC. 921. OPERATION OF GRADUATE SCHOOL OF DEPARTMENT OF AGRICULTURE AS NONAPPROPRIATED FUND INSTRUMENTALITY.

(a) DEFINITIONS.—In this section:

(1) GRADUATE SCHOOL.—The term ''Graduate School'' means the Graduate School of the Department of Agriculture.

(2) BOARD.—The term ''Board'' means the General Administration Board of the Graduate School.

(3) DIRECTOR.—The term ''Director'' means the Director of the Graduate School.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(b) OPERATION AS NONAPPROPRIATED FUND INSTRUMENTALITY.—On and after the date of enactment of this Act, the Graduate School of the Department of Agriculture shall continue to operate as a nonappropriated fund instrumentality of the United States under the jurisdiction of the Department of Agriculture.

(c) ACTIVITIES OF GRADUATE SCHOOL.—Under the general supervision of the Secretary, the Graduate School shall develop, administer, and provide educational, training, and professional development activities, including educational activities for Federal agencies, Federal employees, nonprofit organizations, other entities, and members of the general public.

(d) FEES AND DONATIONS.—

(1) COLLECTION OF FEES.—The Graduate School may charge and retain fair and reasonable fees for the activities provided by the Graduate School. The amount of the fees shall be based on the cost of the activities to the Graduate School.

(2) ACCEPTANCE OF DONATIONS.—

(A) ACCEPTANCE AND USE AUTHORIZED.—The Graduate School may accept, use, hold, dispose, and administer gifts, bequests, and devises of money, securities, and other real or personal property made for the benefit of, or in connection with, the Graduate School.

(B) EXCEPTION.—The Graduate School shall not accept a donation from a person that is actively engaged in a procurement activity with the Graduate School or has an interest that may be substantially affected by the performance or nonperformance of an official duty of a member of the Board or an employee of the Graduate School.

(3) NOT FEDERAL FUNDS.—Fees collected under paragraph (1) and amounts received under paragraph (2) shall not be considered to be Federal funds and shall not be required to be deposited in the Treasury of the United States.

(e) GENERAL ADMINISTRATION BOARD AND DIRECTOR.—

(1) APPOINTMENT AS GOVERNING BOARD.—The Secretary shall appoint a General Administration Board to serve as a governing board for the Graduate School and to supervise and direct the activities of the Graduate School. The Board shall be subject to regulation by the Secretary.

(2) DUTIES OF BOARD.—The Board shall—

(A) formulate broad policies in accordance with which the Graduate School shall be administered;

(B) take all steps necessary to ensure that the highest possible educational standards are maintained by the Graduate School;

(C) exercise general supervision over the administration of the Graduate School; and

(D) establish such bylaws, rules, and procedures as may be necessary for the fulfillment of the duties described in subparagraphs (A), (B), and (C).

(3) APPOINTMENT OF DIRECTOR AND OTHER OFFICERS.—The Board shall select a Director and such other officers as the Board considers necessary to administer the Graduate School. The Director and other officers shall serve on such terms and perform such duties as the Board may prescribe.

(4) DUTIES OF DIRECTOR.—The Director shall be responsible, subject to the supervision and direction of the Board, for carrying out the functions of the Graduate School.

(5) BORROWING AND INVESTMENT AUTHORITY.—The Board may authorize the Director—

(A) to borrow money on the credit of the Graduate School; and

(B) to invest funds held in excess of the current operating requirements of the Graduate School for purposes of maintaining a reasonable reserve.

(6) LIABILITY.—The Director and the members of the Board shall not be held personally liable for any loss or damage that may accrue to the funds of the Graduate School as the result of any act or exercise of discretion performed in carrying out their duties under this section.

(f) EMPLOYEES.—Employees of the Graduate School are employees of a nonappropriated fund instrumentality and shall not be considered to be Federal employees.

(g) NOT A FEDERAL AGENCY.—The Graduate School shall not be considered to be a Federal agency for purposes of—

(1) the Federal Advisory Committee Act (5 U.S.C. App.);

(2) section 552 or 552a of title 5, United States Code; or

(3) chapter 171 of title 28, United States Code;

(h) ACQUISITION AND DISPOSAL OF PROPERTY.—In order to carry out the activities of the Graduate School, the Graduate School may—

(1) acquire real property in the District of Columbia and in other places by lease, purchase, or otherwise;

(2) maintain, enlarge, or remodel any such property;

(3) have sole control of any such property; and

(4) dispose of real and personal property without regard to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(i) CONTRACT AUTHORITY.—The Graduate School may enter into contracts without regard to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or any other law that prescribes procedures for the procurement of property or services by an executive agency.

(j) USE OF DEPARTMENT FACILITIES AND RESOURCES.—The Graduate School may use the facilities and resources of the Department of Agriculture, on the condition that any costs incurred by the Department that are attributable solely to Graduate School operations and all costs incurred by the Graduate School arising out of such operations shall be paid using funds of the Graduate School. Federal funds may not be used to pay the costs.

SEC. 922. STUDENT INTERNSHIP PROGRAMS.

(a) STUDENT INTERN SUBSISTENCE PROGRAM.—

(1) DEFINITION OF STUDENT INTERN.—In this subsection, the term ''student intern'' means a person who—

(A) is employed by the Department of Agriculture (referred to in this section as the ''Department'') to assist scientific, professional, administrative, or technical employees of the Department; and

(B) is a student in good standing at an institution of higher education (as defined in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141)) pursuing a course of study related to the field in which the person is employed by the Department.

(2) PAYMENT OF CERTAIN EXPENSES BY THE SECRETARY.—The Secretary of Agriculture (referred to in this section as the ''Secretary'') may, out of user fee funds or funds appropriated to any agency of the Department, pay for lodging expenses, subsistence expenses, and transportation expenses of a student intern at the agency (including expenses of transportation to and from the student intern's residence at or near the institution of higher education attended by the student intern and the official duty station at which the student intern is employed).

(b) COOPERATION WITH ASSOCIATIONS OF COLLEGES AND UNIVERSITIES.—

(1) AUTHORITY TO COOPERATE.—Notwithstanding chapter 63 of title 31, United States Code, the Secretary may enter into cooperative agreements on an annual basis with 1 or more associations of institutions of higher education (as defined in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141)) for the purpose of providing for Department participation in internship programs for graduate and undergraduate students who are selected by the associations from students attending member institutions of the associations and other institutions of higher education.

(2) INTERNSHIP PROGRAM.—An internship program supported under this subsection (referred to in this subsection as an ''internship program'') shall provide work assignments for students within the Department and such other activities as the association that enters into the cooperative agreement under paragraph (1) with respect to the internship program (referred to in this subsection as the ''cooperating association'') and the Secretary shall determine. The nature of Department participation in an internship program shall be developed jointly by the Secretary and the cooperating association.

(3) PROGRAM COORDINATION.—The cooperating association shall coordinate an internship program, including—

(A) the recruitment of students;

(B) arrangements for travel of the students to Washington, District of Columbia, and to agency field locations;

(C) the provision of housing for students, if required; and

(D) all activities for the students that take place outside the Department work assignments of the students.

(4) NUMBER AND SELECTION OF STUDENTS.—

(A) NUMBER.—A cooperative agreement entered into under paragraph (1) shall specify the number of students that the Department will host each year and a list of work assignments to be provided for the students.

(B) SELECTION.—The cooperating association shall provide the Department with a pool of student candidates meeting the requirements for each work assignment identified by the Secretary. Final selection of the students for Department internship positions shall be made by the Secretary.

(5) COST REIMBURSEMENT.—From such amounts as the Secretary determines are available each fiscal year for internship programs, and subject to such regulations as the Secretary may issue, the Secretary may reimburse a cooperating association for the Department share of all direct and indirect costs of an internship program, including student stipends, transportation costs to the internship site, and other costs of an internship program.

(6) LEAD AGENCY.—The Secretary may designate a lead agency within the Department to carry out this subsection.

(7) INTERAGENCY AGREEMENTS.—Agencies and offices within the Department other than the lead agency—

(A) may enter into interagency agreements with the lead agency to provide work assignments for students participating in an internship program; and

(B) shall reimburse the lead agency for the direct and indirect costs of each student assigned to the agency under an internship program.

(8) FEDERAL EMPLOYEE STATUS.—A student who participates in an internship program shall not be considered a Federal employee, except for purposes of chapter 81 of title 5, and chapter 171 of title 28, United States Code.

SEC. 923. CONVEYANCE OF EXCESS FEDERAL PERSONAL PROPERTY.

Notwithstanding any other provision of law, the Secretary of Agriculture may—

(1) convey title to excess Federal personal property owned by the Department of Agriculture, with or without monetary compensation and for such purposes as are determined by the Secretary, to—

(A) any of the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note));

(B) any Hispanic-serving institution (as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))); and

(C) any college or university eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University; and

(2) acquire from, exchange with, or dispose of personal property to other Federal departments and agencies without monetary compensation in furtherance of the purposes of this section.

SEC. 924. CONVEYANCE OF LAND TO WHITE OAK CEMETERY.

(a) IN GENERAL.—

(1) RELEASE OF INTEREST.—After execution of the agreement described in subsection (b), the Secretary of Agriculture shall release the condition stated in the deed on the land described in subsection (c) that the land be used for public purposes, and that if the land is not so used, that the land revert to the United States. The release shall be on the condition that the land be used exclusively for cemetery purposes, and that if the land is not so used, that the land revert to the United States.

(2) BANKHEAD-JONES FARM TENANT ACT.—Section 32(c) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(c)) shall not apply to the release under paragraph (1).

(b) AGREEMENT.—The Secretary of Agriculture shall make the release under subsection (a) on execution by the Board of Trustees of the University of Arkansas, in consideration of the release, of an agreement, satisfactory to the Secretary of Agriculture, that—

(1) the Board of Trustees will not sell, lease, exchange, or otherwise dispose of the land described in subsection (c) except to the White Oak Cemetery Association of Washington County, Arkansas, or a successor organization, for exclusive use for an expansion of the cemetery maintained by the Association or successor organization; and

(2) the proceeds of such a disposition of the land will be deposited and held in an account open to inspection by the Secretary of Agriculture, and used, if withdrawn from the account, for public purposes.

(c) LAND DESCRIPTION.—The land described in this subsection is the land conveyed to the Board of Trustees of the University of Arkansas, with certain other land, by deed dated November 18, 1953, comprising approximately 2.2 acres located within property of the University of Arkansas in Washington County, Arkansas, commonly known as the ''Savor property'' and described as follows:

The part of Section 20, Township 17 north, range 31 west, beginning at the north corner of the White Oak Cemetery and the University of Arkansas Agricultural Experiment Station farm at Washington County road #874, running west approximately 330 feet, thence south approximately 135 feet, thence southeast approximately 384 feet, thence north approximately 330 feet to the point of beginning.

SEC. 925. SALE OF LAND BY THE UNIVERSITY OF ARKANSAS.

The Act of March 2, 1887 (commonly known as the ''Hatch Act of 1887'') (7 U.S.C. 361a et seq.) shall not apply to the sale by the University of Arkansas of the approximately 103.52 acres of land in Washington County, Arkansas, owned by the University and commonly known as the ''Walker Tract'', if the sale is made on the condition that all of the proceeds of the sale are used for agricultural research facilities and programs of the University of Arkansas.

SEC. 926. DESIGNATION OF DALE BUMPERS SMALL FARMS RESEARCH CENTER.

(a) IN GENERAL.—The small farms research facility of the Agricultural Research Service located near Booneville, Arkansas, shall be known and designated as the ''Dale Bumpers Small Farms Research Center''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the research facility referred to in subsection (a) shall be deemed to be a reference to the ''Dale Bumpers Small Farms Research Center''.

SEC. 927. DEPARTMENT OF AGRICULTURE WASHINGTON AREA STRATEGIC SPACE PLAN.

The Secretary of Agriculture may obligate not more than $5,000,000, from funds appropriated for agriculture buildings and facilities and rental payments, for the improvement of State and local roads relating to the construction of an office complex at the Beltsville Agriculture Research Center, Maryland, as part of the implementation of the Department of Agriculture Washington Area Strategic Space Plan.

SEC. 928. SEVERABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act that can be given effect without regard to the invalid provision or application, and to this end the provisions of this Act are severable.

And the Senate agree to the same.

PAT ROBERTS,
BILL EMERSON,
STEVE GUNDERSON,
THOMAS W. EWING,
BILL BARRETT,
WAYNE ALLARD,
JOHN BOEHNER,
RICHARD POMBO,
E DE LA GARZA,
CHARLIE ROSE,
CHARLIE STENHOLM,
GARY CONDIT,
Managers on the Part of the House.

RICHARD G. LUGAR,
BOB DOLE,
JESSE HELMS,
THAD COCHRAN,
MITCH MCCONNELL,
LARRY E. CRAIG,
PATRICK LEAHY,
HOWELL HEFLIN,
Managers on the Part of the Senate.

Pending consideration of the conference report,

On demand of Mr. VOLKMER, pursuant to clause 2, rule XXVIII,

Ordered, That time for debate be equally divided among Messrs. ROBERTS, DE LA GARZA, and VOLKMER.

When said conference report was considered.

After debate,

FRIDAY, MARCH 29 (LEGISLATIVE DAY OF MARCH 28), 1996

On motion of Mr. ROBERTS, the previous question was ordered on the conference report to its adoption or rejection.

The question being put, viva voce,

Will the House agree to said conference report?

The SPEAKER pro tempore, Mr. OXLEY, announced that the yeas had it.

Mr. VOLKMER demanded a recorded vote on agreeing to said conference report, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the affirmative ..... { Yeas ..... 318 / Nays 89

¶37.30 [Roll No. 107]

AYES—318

Abercrombie, Ackerman, Allard, Archer, Armey, Bachus, Baker (CA), Baker (LA), Baldacci, Ballenger, Barcia, Barr, Barrett (NE), Bartlett, Barton, Bass, Bateman, Bentsen, Bereuter, Berman, Bevill, Bilbray, Bilirakis, Bishop, Bliley, Boehlert, Boehner, Bonilla, Bono, Boucher, Brewster, Browder, Brown (FL), Brown (OH), Brownback, Bryant (TN), Bunn, Bunning, Burr, Burton, Buyer, Callahan, Calvert, Camp, Campbell, Canady, Castle, Chambliss, Chapman, Chenoweth, Christensen, Chrysler, Clayton, Clement, Clinger, Clyburn, Coble, Coburn, Collins (GA), Combest, Condit, Cooley, Costello, Cox, Cramer, Crane, Crapo, Cremeans, Cubin, Cunningham, Danner, Davis, de la Garza, Deal, DeLauro, DeLay, Deutsch, Diaz-Balart, Dickey, Dingell, Dixon, Doolittle, Dornan, Dreier, Duncan, Dunn, Durbin, Edwards, Ehlers, Ehrlich, Emerson, English, Ensign, Evans, Everett, Ewing, Farr, Fawell, Fazio, Fields (LA), Fields (TX), Flake, Flanagan, Foley, Forbes, Franks (CT), Frisa, Frost, Funderburk, Furse, Gallegly, Ganske, Gejdenson, Gekas, Geren, Gilchrest, Gillmor, Gilman, Gonzalez, Goodlatte, Goodling, Gordon, Graham, Greenwood, Gunderson, Gutknecht, Hall (OH), Hall (TX), Hamilton, Hancock, Hansen, Harman, Hastert, Hastings (FL), Hastings (WA), Hayworth, Hefley, Hefner, Heineman, Herger, Hilleary, Hilliard, Hinchey, Hobson, Hoekstra, Holden, Horn, Hostettler, Houghton, Hoyer, Hunter, Hutchinson, Hyde, Inglis, Istook, Jackson-Lee (TX), Jefferson, Johnson (CT), Johnson, E. B., Johnson, Sam, Jones, Kanjorski, Kasich, Kelly, Kennedy (RI), Kennelly, Kildee, Kim, King, Kingston, Klink, Klug, Knollenberg, Kolbe, LaFalce, LaHood, Largent, Latham, LaTourette, Laughlin, Lazio, Leach, Lewis (CA), Lewis (GA), Lewis (KY), Lightfoot, Linder, Livingston, Longley, Lucas, Maloney, Manton, Manzullo, Mascara, Matsui, McCollum, McCrery, McDade, McHale, McHugh, McInnis, McIntosh, McKeon, Meek, Metcalf, Meyers, Mica, Mink, Molinari, Mollohan, Montgomery, Moorhead, Morella, Murtha, Myers, Myrick, Nethercutt, Neumann, Ney, Norwood, Nussle, Olver, Ortiz, Orton, Oxley, Packard, Parker, Pastor, Paxon, Payne (VA), Peterson (FL), Petri, Pickett, Pombo, Porter, Portman, Poshard, Pryce, Quillen, Quinn, Radanovich, Rahall, Ramstad, Rangel, Reed, Regula, Richardson, Riggs, Roberts, Roemer, Rogers, Rohrabacher, Roth, Royce, Rush, Salmon, Sanders, Sawyer, Schaefer, Schiff, Schumer, Scott, Seastrand, Shadegg, Shaw, Shays, Shuster, Sisisky, Skeen, Skelton, Slaughter, Smith (MI), Smith (NJ), Solomon, Souder, Spence, Spratt, Stearns, Stenholm, Stockman, Stump, Stupak, Talent, Tanner, Tate, Tauzin, Taylor (NC), Tejeda, Thomas, Thompson, Thornberry, Thornton, Thurman, Tiahrt, Torres, Torricelli, Towns, Upton, Vucanovich, Waldholtz, Walker, Walsh, Ward, Watt (NC), Watts (OK), Weldon (FL), Weller, White, Whitfield, Wicker, Wilson, Wise, Wolf, Woolsey, Wynn, Young (AK), Young (FL), Zeliff

NOES—89

Andrews, Baesler, Barrett (WI), Becerra, Blute, Bonior, Borski, Brown (CA), Cardin, Chabot, Clay, Collins (MI), Conyers, Coyne, DeFazio, Dellums, Dicks, Doggett, Dooley, Doyle, Engel, Fattah, Filner, Foglietta, Ford, Fox, Frank (MA), Franks (NJ), Frelinghuysen, Gephardt, Goss, Green, Gutierrez, Hoke, Jackson (IL), Jacobs, Johnson (SD), Johnston, Kaptur, Kennedy (MA), Kleczka, Levin, Lincoln, Lipinski, LoBiondo, Lofgren, Lowey, Luther, Markey, Martini, McCarthy, McDermott, McKinney, Menendez, Miller (CA), Miller (FL), Minge, Moakley, Moran, Nadler, Oberstar, Obey, Owens, Pallone, Payne (NJ), Pelosi, Peterson (MN), Pomeroy, Rivers, Roybal-Allard, Sabo, Sanford, Saxton, Scarborough, Sensenbrenner, Serrano, Skaggs, Stark, Taylor (MS), Torkildsen, Traficant, Velazquez, Vento, Visclosky, Volkmer, Wamp, Waters, Williams, Zimmer

NOT VOTING—24

Beilenson, Bryant (TX), Coleman, Collins (IL), Eshoo, Fowler, Gibbons, Hayes, Lantos, Martinez, McNulty, Meehan, Neal, Ros-Lehtinen, Rose, Roukema, Schroeder, Smith (TX), Smith (WA), Stokes, Studds, Waxman, Weldon (PA), Yates

So the conference report was agreed to.

A motion to reconsider the vote whereby said conference report was agreed to was, by unanimous consent, laid on the table.

Ordered, That the Clerk notify the Senate thereof.

¶37.31 ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill and joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2969. An Act to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897.

H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the 104th Congress.

¶37.32 SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 4. An Act to give the President line item veto authority with respect to appropriations, new direct spending, and limited tax benefits.

¶37.33 LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted—

To Mr. MCNULTY, for today after 2:15 p.m. and balance of the week;

To Ms. ESHOO, for today after 8:30 p.m. and balance of the week; and

To Mrs. SMITH of Washington, for today;

And then,

¶37.34 ADJOURNMENT

On motion of Mr. HAYWORTH, at 12 o'clock and 42 minutes a.m., Friday, March 29 (legislative day of Thursday, March 28), 1996, the House adjourned.

¶37.35 REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GOODLING: Committee on Economic and Educational Opportunities. H.R. 3055. A bill to amend section 326 of the Higher Education Act of 1965 to permit continued participation by Historically Black Graduate Professional Schools in the grant program authorized by that section (Rept. No. 104–504). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOODLING. Committee on Economic and Educational Opportunities. H.R. 3049. A bill to amend section 1505 of the Higher Education Act of 1965 to provide for the continuity of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development (Rept. No 104–505). Referred to the Committee of the Whole House of the State of the Union.

Mr. ARCHER: Committee on Ways and Means. H.R. 2337. A bill to amend the Internal Revenue Code of 1986 to provide for increased taxpayer protections; with an amendment (Rept. No. 104–506). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2501. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes; with an amendment (Rept. No. 104–507). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2630. A bill to extend the deadline for

commencement of construction of a hydroelectric project in the State of Illinois; with an amendment (Rept. No. 104–508). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2695. A bill to extend the deadline under the Federal Power Act applicable to the construction of certain hydroelectric projects in the State of Pennsylvania; with an amendment (Rept. No. 104–509). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2773. A bill to extend the deadline under the Federal Power Act applicable to the construction of 2 hydroelectric projects in North Carolina, and for other purposes; with an amendment (Rept. No. 104–510). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2816. A bill to reinstate the license for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Ohio, and for other purposes (Rept. No. 104–511). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2869. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Kentucky; with an amendment (Rept. No. 104–512). Referred to the Committee of the Whole House on the State of the Union.

¶37.36 PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FROST:

H.R. 3180. A bill to increase penalties for sex offenses against children; to the Committee on the Judiciary.

By Ms. ESHOO:

H.R. 3181. A bill to prohibit providers of cellular and other mobile radio services from blocking access to 911 emergency services; to the Committee on Commerce.

By Mr. EWING (for himself, Mr. POSHARD, Mr. WELLER, Mr. LAHOOD, and Mr. EMERSON):

H.R. 3182. A bill to amend title 49, United States Code, relating to alcohol and controlled substances testing of operators of motor vehicles used to transport agricultural commodities and property for small local governments; to the Committee on Transportation and Infrastructure.

By Mr. MONTGOMERY:

H.R. 3183. A bill to amend title 38, United States Code, to limit the amount of recoupment from veterans' disability compensation that is required in the case of veterans who have received certain separation payments from the Department of Defense; to the Committee on Veterans' Affairs.

By Mr. HORN (for himself, Mr. CLINGER, Mr. DAVIS, Mrs. MALONEY, and Mr. PETERSON of Minnesota):

H.R. 3184. A bill to streamline and improve the effectiveness of chapter 75 of title 31, United States Code—commonly referred to as the Single Audit Act; to the Committee on Government Reform and Oversight.

By Mr. DINGELL (for himself, Mr. BENTSEN, and Mr. SPRATT):

H.R. 3185. A bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, to increase the deduction for health insurance costs of self-employed individuals, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and Economic and Educational Opportunities, 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.

By Mr. CLAY:

H.R. 3186. A bill to designate the Federal building located at 1655 Woodson Road in Overland, MO, as the ''Sammy L. Davis Federal Building''; to the Committee on Transportation and Infrastructure.

By Mr. CLYBURN:

H.R. 3187. A bill to amend title 49, United States Code, to provide protection for airline employees who provide certain air safety information; to the Committee on Transportation and Infrastructure.

By Mr. COMBEST:

H.R. 3188. A bill to amend title 49, United States Code, to limit the applicability of hazardous material transportation registration and fee requirements for persons who offer crude oil and condensate for transport in commerce, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. DAVIS (for himself, Mr. ENGLISH of Pennsylvania, and Mr. MORAN):

H.R. 3189. A bill to delay the privatization of the Office of Federal Investigations of the Office of Personnel Management in order to allow sufficient time for a thorough review to be conducted as to the feasibility and desirability of any such privatization, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. FRANKS of Connecticut:

H.R. 3190. A bill to prohibit Federal agencies to require or encourage preferences based on race, sex, or ethnic origin, in connection with Federal contracts; to the Committee on Government Reform and Oversight.

By Mr. KLINK:

H.R. 3191. A bill to authorize a program of grants to improve the quality of technical education in manufacturing and other vocational technologies; to the Committee on Economic and Educational Opportunities.

By Mr. MOORHEAD:

H.R. 3192. A bill to make amendments to section 119 of title 17 of the United States Code; to the Committee on the Judiciary.

By Ms. PELOSI:

H.R. 3193. A bill to recognize the significance of the AIDS Memorial Grove, located in Golden Gate Park in San Francisco, CA, and to direct the Secretary of the Interior to designate the AIDS Memorial Grove as a national memorial; to the Committee on Resources.

By Mr. PICKETT:

H.R. 3194. A bill to provide that the property of innocent owners is not subject to forfeiture under the laws of the United States; to the Committee on the Judiciary.

By Mr. SANFORD (for himself, Mr. BREWSTER, and Mr. LARGENT):

H.R. 3195. A bill to amend title 23, United States Code, to modify the minimum allocation formula under the Federal-aid highway program, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. SHAYS:

H.R. 3196. A bill to increase the penalty for trafficking in powdered cocaine to the same level as the penalty for trafficking in crack cocaine, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Commerce, 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.

By Mr. BARTON of Texas (for himself, Mr. PETE GEREN of Texas, Mr. ARCHER, Mr. SHADEGG, and Mr. HALL of Texas):

H.J. Res. 169. Joint resolution proposing an amendment to the Constitution of the United States relating to taxes; to the Committee on the Judiciary.

¶37.37 PRIVATE BILLS AND RESOLUTIONS

Under clause I of rule XXII,

Mr. PICKETT introduced a bill (H.R. 3197) for the relief of Emma W. Todd; which was referred to the Committee on the Judiciary.

¶37.38 ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 244: Mr. HOKE.

H.R. 452: Mr. INGLIS of South Carolina.

H.R. 580: Mr. COX.

H.R. 894: Mr. ACKERMAN.

H.R. 895: Mr. BONILLA, Mr. GENE GREEN of Texas, Mr. DUNCAN, Mr. HOEKSTRA, Mr. NEAL of Massachusetts, Mr. BONO, Mr. CUNNINGHAM, Mr. STUPAK, Ms. PRYCE, Mr. DEFAZIO, Mr. THORNBERRY, and Mr. VISCLOSKY.

H.R. 1044: Mrs. MYRICK.

H.R. 1363: Mr. BRYANT of Tennessee and Mr. HEINEMAN.

H.R. 1496: Mr. SAXTON.

H.R. 1560: Mr. MENENDEZ and Mrs. THURMAN.

H.R. 1619: Mr. TORRES.

H.R. 1625: Mr. QUILLEN.

H.R. 1627: Mrs. ROUKEMA.

H.R. 1755: Mr. CAMP and Mr. BARCIA of Michigan.

H.R. 1893: Mr. RAHALL, Mr. EVANS, Mr. EHRLICH, and Ms. DELAURO.

H.R. 1963: Mr. HILLIARD.

H.R. 2089: Mr. WHITE, Mr. MCDERMOTT, Mr. DICKS, and Mr. PETERSON of Minnesota.

H.R. 2200: Mr. ZELIFF, Mr. BONIOR, Mr. HOSTETTLER, and Mr. MONTGOMERY.

H.R. 2240: Mr. REED.

H.R. 2320: Mr. MARTINI, Mr. MCKEON, Mr. ENGLISH of Pennsylvania, Mr. NUSSLE, Mr. MATSUI, Mr. THOMAS, and Mr. MANTON.

H.R. 2471: Mr. BARRETT of Wisconsin.

H.R. 2508: Mr. KILDEE, Mr. LIVINGSTON, Mr. BARR, Mr. CALLAHAN, Mr. CANADY, and Mr. WISE.

H.R. 2531: Mr. WELLER and Mr. SCHAEFER.

H.R. 2566: Mr. KLECZKA.

H.R. 2579: Mr. SAWYER, Mr. BURR, and Mr. WHITE.

H.R. 2651: Mr. BILIRAKIS, Mr. MCHALE, and Mr. SOLOMON.

H.R. 2697: Mr. GUTIERREZ and Mr. ABERCROMBIE.

H.R. 2745: Mr. KASICH.

H.R. 2820: Mr. COLLINS of Georgia, Mr. LAUGHLIN, Mr. TALENT, and Mr. MCCRERY.

H.R. 2864: Mr. VENTO.

H.R. 2892: Mr. CLEMENT, Mr. CALVERT, Mr. OLVER, Mr. ABERCROMBIE, Mr. BAKER of Louisiana, and Mr. LIPINSKI.

H.R. 2912: Mr. KLECZKA, Mr. HILLIARD, Mr. RAHALL, Mrs. THURMAN, and Mr. KILDEE.

H.R. 2925: Mr. BONILLA.

H.R. 2928: Mr. METCALF, Mr. WELLER, and Mr. COBURN.

H.R. 2930: Mr. WATTS of Oklahoma.

H.R. 2938: Mr. DURBIN, Mr. EHLERS, Mr. SMITH of New Jersey, Mrs. JOHNSON of Connecticut, and Mr. BILBRAY.

H.R. 2959: Mr. LEACH.

H.R. 3011: Mr. TATE Mr. MCINTOSH, and Mr. FRANK, MASSACHUSETTS.

H.R. 3067: Mr. CONDIT, Mr. MANTON, Mrs. THURMAN, and Ms. DANNER.

H.R. 3095: Mr. KOLBE.

H.R. 3142: Mr. STEARNS, Mrs. SEASTRAND, Mr. SAWYER, Mr. GORDON, Mr. COX, Mr. DORNAN, Mr. FARR, Mr. OBERSTAR, and Mrs. SMITH of Washington.

H.R. 3159: Ms. BROWN of Florida.

H.J. Res. 70: Mr. TEJEDA, Mr. BERMAN, and Mr. SANDERS.

H. Con. Res. 26: Ms. MOLINARI.

H. Con. Res. 47: Mr. HUNTER.

H. Con. Res. 152: Mr. NETHERCUTT, Mr. ORTIZ, Mr. MCHUGH, Mr. BONILLA, and Mr. STUPAK.

H. Con. Res. 155: Mr. PAYNE of New Jersey, Mrs. CLAYTON, and Mr. GILMAN.

H. Res. 123: Mr. RAHALL,Mr. PACKARD, and Mr. DORNAN.

H. Res. 285: Mr. BONIOR.

H. Res. 359: Mr. FRAZER, Ms. MOLINARI, Mr. ANDREWS, Mrs. KENNELLY, Mrs. MEEK of Florida, Mr. VENTO, and Mr. MCINNIS.

H. Res. 381: Mr. DEFAZIO, Mr. KENNEDY of Rhode Island, Mr. UNDERWOOD, Mrs. SEASTRAND, Mr. HORN, and Mr. STOCKMAN.

H. Res. 385: Mrs. MORELLA, Mr. RANGEL, and Mr. ORTON.

FRIDAY, MARCH 29, 1996 (38)

¶38.1 DESIGNATION OF SPEAKER PRO TEMPORE

The House was called to order by the Speaker pro tempore, Mr. GUNDERSON, who laid before the House the following communication:

WASHINGTON, DC,
March 29, 1996.

I hereby designate the Honorable STEVE GUNDERSON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

¶38.2 APPROVAL OF THE JOURNAL

The SPEAKER pro tempore, Mr. GUNDERSON, announced he had examined and approved the Journal of the proceedings of Thursday, March 28, 1996.

Mr. GREEN, pursuant to clause 1, rule I, objected to the Chair's approval of the Journal.

The question being put, viva voce,

Will the House agree to the Chair's approval of said Journal?

The SPEAKER pro tempore, Mr. GUNDERSON, announced that the yeas had it.

Mr. GREEN objected to the vote on the ground that a quorum was not present and not voting.

The SPEAKER pro tempore, Mr. GUNDERSON, pursuant to clause 5, rule I, announced that the vote would be postponed until later today.

The point of no quorum was considered as withdrawn.

¶38.3 COMMUNICATIONS

Executive and other communications, pursuant to clause 2, rule XXIV, were referred as follows:

2316. A letter from the Director, Test, Systems Engineering and Evaluations, Department of Defense, transmitting a letter notifying Congress of the intent to obligate funds for fiscal year 1996 Foreign Comparative Testing [FCT] Program, pursuant to 10 U.S.C. 2350a(g); to the Committee on National Security.

2317. A letter from the Assistant Secretary for Legislative Affairs and Public Liaison, Department of the Treasury, transmitting a copy of the 11th monthly report as required by the Mexican Debt Disclosure Act, pursuant to Public Law 104–6, section 404(a) (109 Stat. 90); to the Committee on Banking and Financial Services.

2318. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Turkey (Transmittal No. 16–96), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

2319. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–238, ''Retirement Reform Temporary Amendment Act of 1996,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2320. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–233, ''Insurance Demutualization Act of 1996,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2321. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–238, ''Insurance Redomestication Act of 1996,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2322. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–237, ''Safe Streets Anti-Prostitution Amendment Act of 1996,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2323. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–236, ''Human Remains Decisions Amendment Act of 1996,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2324. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–232, ''Anatomical Gift Amendment Act of 1996,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2325. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–231, ''Learner's Permit Amendment Act 1996,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2326. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–230, ''Insurance Industry Material Transactions Disclosure Act of 1996,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2327. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–229, ''Merit Personnel Early Out Retirement Revisions Amendment Act of 1996,'' pursuant to D.C. Code, Section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2328. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–228, ''Insurance Confidentiality of Information Act of 1996,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2329. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–227, ''Henry J. Daly Building Designation Act of 1996,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2330. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–235, ''Insurance State of Entry Act of Act of 1996,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2331. A letter from the Secretary of Veterans Affairs transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2332. A letter from the Chairman, Federal Election Commission, transmitting proposed FEC form 5, the form to be used by persons other than political committees to report independent expenditures, pursuant to 2 U.S.C. 438(d); to the Committee on House Oversight.

2333. A letter from the Administrator, Federal Aviation Administration, transmitting a copy of the updated aviation system capital investment plan [CIP], pursuant to 49 U.S.C. app. 2203(b)(1); to the Committee on Transportation and Infrastructure.

2334. A letter from the Chairman, Federal Election Commission, transmitting the Commission's fiscal year 1997 budget request justification and its fiscal year 1996 supplemental appropriation request, pursuant to 2 U.S.C. 437d(d)(1); jointly, to the Committees on Appropriations and House Oversight.

¶38.4 MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1561), an act to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for U.S. foreign assistance programs for fiscal years 1996 and 1997, and for other purposes.

¶38.5 ORDER OF BUSINESS—CONSIDERATION OF H.J. RES. 170

On motion of Mr. LIVINGSTON, by unanimous consent,

Ordered, That the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 170) making further continuing appropriations for the fiscal year 1996, and for other purposes, when said joint resolution is called up; and

Ordered further, That it be in order at any time to consider the joint resolution in the House; that the joint resolution be debatable for not to exceed one hour, to be equally divided and controlled by Mr. Livingston and Mr. Obey; that all points of order against the joint resolution and against its consideration be waived; and that the previous question be considered as ordered on the joint resolution to final passage without intervening motion, except one motion to recommit, with or without instructions.

¶38.6 WAIVING POINTS OF ORDER AGAINST THE CONFERENCE REPORT ON H.R. 956

Mr. LINDER, by direction of the Committee on Rules, called up the following resolution (H. Res. 394):

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes. All points of order against the conference report and against its consideration are waived.