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# *In the Senate of the United States,*

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

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

# AMENDMENT:

Strike out all after the enacting clause and insert:

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

*This Act may be cited as the "Balanced Budget Act of 1995".*

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

*This Act is organized into titles as follows:*

*Title I—Agriculture and Related Provisions*
*Title II—Banking, Housing, and Related Provisions*
*Title III—Communication and Spectrum Allocation Provisions*
*Title IV—Education and Related Provisions*
*Title V—Energy and Natural Resources Provisions*
*Title VI—Federal Retirement and Related Provisions*
*Title VII—Medicaid*
*Title VIII—Medicare*
*Title IX—Transportation and Related Provisions*
*Title X—Veterans and Related Provisions*
*Title XI—Revenues*
*Title XII—Teaching hospitals and graduate medical education; asset sales; welfare; and other provisions*

# TITLE I—AGRICULTURE AND RELATED PROVISIONS

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

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

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

*Sec. 1001. Short title; table of contents.*

*Subtitle A—Agricultural Market Transition Program*

*Sec. 1101. Short title.*
*Sec. 1102. Definitions.*
*Sec. 1103. Production flexibility contracts.*
*Sec. 1104. Nonrecourse marketing assistance loans and loan deficiency payments.*
*Sec. 1105. Payment limitations.*
*Sec. 1106. Peanut program.*
*Sec. 1107. Sugar program.*
*Sec. 1108. Administration.*
*Sec. 1109. Elimination of permanent price support authority.*
*Sec. 1110. Effect of amendments.*

*Subtitle B—Conservation*

*Sec. 1201. Conservation.*

*Subtitle C—Agricultural Promotion and Export Programs*

*Sec. 1301. Market promotion program.*
*Sec. 1302. Export enhancement program.*

*Subtitle D—Miscellaneous*

*Sec. 1401. Crop insurance.*
*Sec. 1402. Collection and use of agricultural quarantine and inspection fees.*
*Sec. 1403. Commodity Credit Corporation interest rate.*

## Subtitle A—Agricultural Market Transition Program

**SEC. 1101. SHORT TITLE.**

*This subtitle may be cited as the "Agricultural Market Transition Act".*

***SEC. 1102. DEFINITIONS.***

*In this subtitle:*

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

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

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

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

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

*(6) 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 title V of the Agricultural Act of 1949 (as in effect prior to the amendment made by section 1109(b)(2)).*

*(7) LOAN COMMODITY.—The term 'loan commodity' means each contract commodity, extra long staple cotton, and oilseeds.*

*(8) 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.*

*(9) PROGRAM.—The term "program" means the agricultural market transition program established under this subtitle.*

*(10) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.*

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

*(a) CONTRACTS AUTHORIZED.—*

*(1) OFFER AND TERMS.—Beginning as soon as practicable after the date of the enactment of this subtitle, the Secretary shall offer to enter into a contract with an eligible owner or operator described in paragraph (2) on a farm containing eligible farmland.*

*Under the terms of a contract, the owner or operator shall agree, in exchange for annual contract payments, to comply with—*

*(A) the conservation plan for the farm prepared in accordance with section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812);*

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

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

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

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

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

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

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

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

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

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

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

*(3) TENANTS AND SHARECROPPERS.—In carrying out this section, the Secretary shall provide adequate safeguards to protect the interests of operators who are tenants and sharecroppers.*

*(b) ELEMENTS.—*

*(1) TIME FOR CONTRACTING.—*

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

*(B) CONSERVATION RESERVE LANDS.—*

*(i) IN GENERAL.—At the beginning of each fiscal year, the Secretary shall allow an eligible owner or operator 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 subparagraph (A) 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.*

*(ii) AMOUNT.—Contract payments made for contract acreage under this subparagraph shall be made at the rate and amount applicable to the annual contract payment level for the applicable crop.*

*(2) DURATION OF CONTRACT.—*

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

*(i) the 1996 crop of a contract commodity; or*

*(ii) in the case of acreage that was subject to a conservation reserve contract described in paragraph (1)(B), the date the production flexibility contract was entered into or expanded to cover the acreage.*

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

*(3) 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.*

*(c) ELIGIBLE FARMLAND DESCRIBED.—Land shall be considered to be farmland 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 (as in effect prior to the amendment made by section 1109(b)(2)) 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 subsection (b)(1)(A).*

*(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 operator, 50 percent of the contract payment for fiscal year 1996 shall be made not later than 60 days after the date on which the owner or operator enters into a contract.*

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

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

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

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

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

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

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

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

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

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

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

*(2) ALLOCATION.—The amount made available for a fiscal year under paragraph (1) shall be allocated as follows:*

*(A) For wheat, 26.26 percent.*

*(B) For corn, 46.22 percent.*

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

*(D) For barley, 2.16 percent.*

*(E) For oats, 0.15 percent.*

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

*(G) For rice, 8.47 percent.*

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

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

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

*(C) adding an amount equal to the sum of all contract payments withheld by the Secretary, at the request of producers, during the preceding fiscal year as an offset against producer repayments of deficiency payments otherwise required under section 114(a)(2) of the Act (as so in effect) for the commodity; and*

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

*(f) DETERMINATION OF CONTRACT PAYMENTS.—*

*(1) 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—*

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

*(B) the farm program payment yield.*

*(2) ANNUAL PAYMENT QUANTITY OF CONTRACT COMMODITIES.—The payment quantity of each contract commodity covered by all contracts for each fiscal year shall equal the sum of the amounts calculated under paragraph (1) for each individual contract.*

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

*(A) the amount made available under subsection (e) for the contract commodity for the fiscal year; divided by*

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

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

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

*(B) the payment rate in effect under paragraph (3).*

*(5) 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 subsection. The owner or operator making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require in the contract, of any assignment made under this paragraph.*

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

*(g) PAYMENT LIMITATION.—The total amount of contract payments made to a person under a contract during any fiscal year may not exceed the payment limitations established under section 1105.*

*(h) EFFECT OF VIOLATION.—*

*(1) TERMINATION OF CONTRACT.—Except as provided in paragraph (2), if an owner or operator subject to a contract violates the conservation plan for*

*the farm containing eligible farmland under the contract, wetland protection requirements applicable to the farm, or the planting flexibility requirements of subsection (j), the Secretary shall terminate the contract with respect to the owner or operator. On the termination, the owner or operator shall forfeit all rights to receive future contract payments and shall refund to the Secretary all contract payments received by the owner or operator during the period of the violation, together with interest on the contract payments as determined by the Secretary.*

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

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

*(B) 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.*

*(3) FORECLOSURE.—An owner or operator 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 in order to provide fair and equitable treatment. This paragraph shall not void the responsibilities of such an owner or operator under the contract if the owner or operator continues or resumes operation, or control, of the contract acreage. On the resumption of operation or control over the contract acreage by the owner or operator, the provisions of the contract in effect on the date of the foreclosure shall apply.*

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

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

*(1) EFFECT OF TRANSFER.—Except as provided in paragraph (2), the transfer by an owner or operator subject to a contract of the right and interest of the owner or operator in the contract acreage shall result in the termination of the contract with respect to*

*the acreage, effective on the date of the transfer, unless the transferee of the acreage agrees with the Secretary to assume all obligations of the contract. At the request of the transferee, the Secretary may modify the contract if the modifications are consistent with the objectives of this section as determined by the Secretary.*

*(2) EXCEPTION.—If an owner or operator who is entitled to a 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.*

*(j) PLANTING FLEXIBILITY.—*

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

*(2) LIMITATIONS.—*

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

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

*ities, lentils, mung beans, and dry peas on contract acreage.*

*(3) ALFALFA.—The planting of alfalfa on contract acreage is unlimited, except that the quantity of acreage on which the contract payment of the owner or operator would otherwise be based shall be reduced for each acre planted to alfalfa in excess of the limitation in effect under paragraph (2)(A) for the contract.*

*(4) HAYING AND GRAZING.—Subject to paragraphs (2) and (3), haying and grazing of contract acreage shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year. In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the contract acreage.*

***SEC. 1104. NONRECOURSE MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS.***

*(a) AVAILABILITY OF NONRECOURSE LOANS.—*

*(1) AVAILABILITY.—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 subsection (b) for the loan commodity.*

*(2) ELIGIBLE PRODUCTION.—The following production shall be eligible for a marketing assistance loan under this section:*

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

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

*(b) LOAN RATES.—*

*(1) WHEAT.—*

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

*(i) 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*

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

*(B) 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—*

*(i) 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;*

*(ii) 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*

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

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

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

*(2) FEED GRAINS.—*

*(A) LOAN RATE FOR CORN.—Subject to subparagraph (B), the loan rate for a marketing assistance loan for corn shall be—*

*(i) 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*

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

*(B) 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—*

*(i) 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;*

*(ii) 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*

*(iii) less than 12.5 percent the Secretary may not reduce the loan rate for corn for the corresponding crop.*

*(C) NO EFFECT ON FUTURE YEARS.—Any reduction in the loan rate for corn under subparagraph (B) shall not be considered in determining the loan rate for corn for subsequent years.*

*(D) OTHER FEED GRAINS.—The loan rate for a marketing assistance loan 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.*

*(3) UPLAND COTTON.—*

*(A) LOAN RATE.—Subject to subparagraph (B), the loan rate for a marketing assistance loan 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—*

*(i) 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 in the year in which the loan rate is announced, 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*

*(ii) 90 percent of the average, for the 15-week period beginning July 1 of the year in which the loan rate is announced, 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 in which the loan is announced 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.*

*(B) 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.*

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

*(A) 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 previous marketing years, 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 $0.7965 per pound.*

*(5) RICE.—The loan rate for a marketing assistance loan for rice shall be $6.50 per hundredweight.*

*(6) OILSEEDS.—*

*(A) SOYBEANS.—The loan rate for a marketing assistance loan for soybeans shall be $4.92 per bushel.*

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

*(C) OTHER OILSEEDS.—The loan rates for a marketing assistance loan 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.*

*(c) TERM OF LOAN.—In the case of each loan commodity (other than upland cotton or extra long staple cotton), a marketing assistance loan under subsection (a) 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. A marketing assistance loan for upland cotton or extra long staple cotton shall have a term of 10 months. The Secretary may not extend the term of a marketing assistance loan for any loan commodity.*

*(d) REPAYMENT.—*

*(1) REPAYMENT RATES GENERALLY.—The Secretary shall permit producers to repay a marketing assistance loan under subsection (a) for a loan commodity (other than extra long staple cotton) at a level that is the lesser of—*

*(A) the loan rate established for the commodity under subsection (b); or*

*(B) the prevailing world market price for the commodity (adjusted to United States quality and location), as determined by the Secretary.*

*(2) 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 subsection (b).*

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

*(A) a formula to determine the prevailing world market price for each loan commodity, adjusted to United States quality and location; and*

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

*(4) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE FOR UPLAND COTTON.—*

*(A) 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 paragraph (3) shall be further adjusted if—*

*(i) the adjusted prevailing world market price is less than 115 percent of the loan rate for upland cotton established under subsection (b), as determined by the Secretary; and*

*(ii) 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 subsection as the "Northern Europe price").*

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

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

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

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

*(iii) 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).*

*(C) LIMITATION ON FURTHER ADJUSTMENT.—The adjustment under subparagraph (B) may not exceed the difference between—*

*(i) 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*

*(ii) the Northern Europe price.*

*(e) LOAN DEFICIENCY PAYMENTS.—*

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

*ble to obtain a marketing assistance loan under subsection (a) with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for payments under this subsection.*

*(2) COMPUTATION.—A loan deficiency payment under this subsection shall be computed by multiplying—*

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

*(B) 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 subsection.*

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

*(A) the loan rate established under subsection (b) for the loan commodity; exceeds*

*(B) the rate at which a loan for the commodity may be repaid under subsection (d).*

*(4) EXCEPTION FOR EXTRA LONG STAPLE COTTON.—This subsection shall not apply with respect to extra long staple cotton.*

*(f) SPECIAL MARKETING LOAN PROVISIONS FOR UPLAND COTTON.—*

*(1) FIRST HANDLER MARKETING CERTIFICATES.—*

*(A) IN GENERAL.—During the period ending on July 31, 2003, if the repayment rates provided in subsection (d) for upland cotton or the availability of loan deficiency payments for upland cotton under subsection (e) fails to make United States upland cotton fully competitive in world markets and the prevailing world market price of upland cotton (adjusted to United States quality and location) is below the current loan repayment rate for upland cotton, to make United States upland cotton competitive in world markets and to maintain and expand domestic consumption and exports of upland cotton produced in the United States, the Secretary shall provide for the issuance of marketing certificates or cash payments in accordance with this paragraph.*

*(B) PAYMENTS.—The Commodity Credit Corporation, under such regulations as the Secretary may prescribe, shall make payments, through the issuance of marketing certificates or*

*cash payments, to first handlers of upland cotton (persons regularly engaged in buying or selling upland cotton) who have entered into an agreement with the Commodity Credit Corporation to participate in the program established under this paragraph. The payments shall be made in such amounts and subject to such terms and conditions as the Secretary determines will make upland cotton produced in the United States available at competitive prices, consistent with the purposes of this paragraph.*

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

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

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

*(D) REDEMPTION, MARKETING, OR EXCHANGE.—The Commodity Credit Corporation, under regulations prescribed by the Secretary, may assist any person receiving marketing certificates under this paragraph in the redemption*

*of certificates for cash, or marketing or exchange of the certificates for agricultural commodities or products owned by the Commodity Credit Corporation, at such times, in such manner, and at such price levels as the Secretary determines will best effectuate the purposes of the program established under this paragraph. Any price restrictions that may otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this paragraph.*

*(E) DESIGNATION OF COMMODITIES AND PRODUCTS; CHARGES.—Insofar as 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.*

*(F) DISPLACEMENT.—The Secretary shall take such measures as may be necessary to prevent the marketing or exchange of agricultural commodities and products for certificates under this subsection from adversely affecting the income of producers of the commodities or products.*

*(G) TRANSFERS.—Under regulations prescribed by the Secretary, certificates issued to cotton handlers under this paragraph may be transferred to other handlers and persons approved by the Secretary.*

*(2) COTTON USER MARKETING CERTIFICATES.—*

*(A) ISSUANCE.—Subject to subparagraph (D), 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—*

*(i) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Mid-*

*dling (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*

*(ii) 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 subsection (b).*

*(B) 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.*

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

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

*under subparagraph (A) 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 paragraph, exceeds the Northern Europe price by more than 1.25 cents per pound.*

*(E) LIMITATION ON EXPENDITURES.—Total expenditures under this paragraph shall not exceed $701,000,000 during fiscal years 1996 through 2002.*

*(3) SPECIAL IMPORT QUOTA.—*

*(A) 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 paragraph (2), exceeds the Northern Eu-*

*rope price by more than 1.25 cents per pound, there shall immediately be in effect a special import quota.*

*(B) 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.*

*(C) APPLICATION.—The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under subparagraph (A) and entered into the United States not later than 180 days after the date.*

*(D) OVERLAP.—A special quota period may be established that overlaps any existing quota period if required by subparagraph (A), except that a special quota period may not be established under this paragraph if a quota period has been established under subsection (g).*

*(E) PREFERENTIAL TARIFF TREATMENT.—The quantity under a special 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.*

*(F) DEFINITION.—In this paragraph, 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.*

*(g) 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 in 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.*

*(D) 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 (f)(3).*

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

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

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

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

*(1) LIMITATION.—The total amount of payments specified in paragraph (2) that a person shall be entitled to receive under section 1104 for contract commodities and oilseeds during any fiscal year may not exceed $75,000.*

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

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

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

*(c) APPLICABILITY OF OTHER PROVISIONS REGARDING PAYMENT LIMITATIONS.—Paragraphs (5), (6), and (7) of section 1001 and sections 1001A through 1001C of the Food Security Act of 1985 (7 U.S.C. 1308 et seq.) shall apply with respect to the application of payment limitations under this section.*

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

***SEC. 1106. 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 411 of the Agricultural Adjustment Act of 1938.*

*(b) ADDITIONAL PEANUTS.—*

*(1) IN GENERAL.—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 veg-*

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

*(2) 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. Bright hull and dark*

*hull Valencia peanuts shall be considered as separate types for the purpose of establishing the pools.*

*(B) 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) OTHER 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 export edible use.*

*(3) 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 subsection that the Secretary determines are not required to cover losses in area quota pools.*

*(4) 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.*

*(5) 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 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 of Agriculture 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 adjust-*

*ment in the Department of Agriculture 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, ½ 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 (f) shall be effective only for the 1996 through 2002 crops of peanuts.*

*(i) MARKETING 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"; and*

*(v) 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 Act (7 U.S.C. 1358–1(a)(1)) is amended by striking the second sentence.*

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

*(A) in subsection (a)(1), by striking "domestic edible, seed," and inserting "domestic edible use"; 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 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 Act 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 (1), by striking "(including any applicable under marketings)" both places it appears;*

*(ii) in paragraph (1)(A), by striking "of undermarketings and";*

*(iii) in paragraph (2), by striking "(including any applicable under marketings)"; and*

*(iv) in paragraph (3), by striking "(including any applicable undermarketings)".*

*(5) DISASTER TRANSFERS.—Section 358–1(b) of the Act (7 U.S.C. 1358–1(b)), as amended by paragraph (4)(A)(iii), is further 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 not more than 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.".*

***SEC. 1107. 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) TERM OF LOANS.—*

*(1) IN GENERAL.—Loans under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—*

*(A) the end of 9 months; or*

*(B) the end of the fiscal year.*

*(2) SUPPLEMENTAL LOANS.—In the case of loans 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.*

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

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

*(2) 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 obtain 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.*

*(e) 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.*

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

*(3) SUGAR BEETS.—The penalty for sugar beets shall bear the same relation to the penalty for sugarcane 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 of any sugar pledged as collateral for a nonrecourse loan shall be reduced in proportion to the loan forfeiture penalty incurred by the processor.*

*(g) 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.*

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

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

***SEC. 1108. ADMINISTRATION.***

*(a) COMMODITY CREDIT CORPORATION.—*

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

*(2) SALARIES AND EXPENSES.—No funds of the Corporation shall be used for any salary or expense of any officer or employee of the Department of Agriculture in connection with the administration of payments or loans under this subtitle.*

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

*(c) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this subtitle.*

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

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

*(1) in title III—*

*(A) in subtitle B—*

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

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

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

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

*(b) AGRICULTURAL ACT OF 1949.—*

*(1) TRANSFER OF CERTAIN SECTIONS.—The Agricultural Act of 1949 is amended—*

*(A) by transferring sections 106, 106A, and 106B (7 U.S.C. 1445, 1445–1, 1445–2) to appear after section 314A of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314–1) and redesig-*

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

*(B) by transferring sections 111, 201(c), and 204 (7 U.S.C. 1445f, 1446(c), 1446e) to appear after section 304 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1304) and redesignating the transferred sections as sections 305, 306, and 307, respectively;*

*(C) by transferring sections 403, 405, 407, 412, and 422 (7 U.S.C. 1423, 1425, 1427, 1429, 1431a) to appear after section 393 (7 U.S.C. 1393) and redesignating the transferred sections as sections 411, 412, 413, 414, and 415, respectively; and*

*(D) by transferring section 416 (7 U.S.C. 1431) to appear after section 415 of the Agricultural Adjustment Act of 1938 (as transferred and redesignated by subparagraph (C)).*

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

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

*(1) in section 306 (as transferred and redesignated by subsection (b)(1)(B)), by striking "204" and inserting "307"; and*

*(2) by striking section 411 (as transferred and redesignated by subsection (b)(1)(C)) and inserting the following:*

# *"TITLE IV—ADMINISTRATION OF LOANS*

### *"SEC. 411. ADJUSTMENTS FOR GRADE, TYPE, QUALITY, LOCATION, AND OTHER FACTORS.*

*"The Secretary may make such adjustments in the announced loan rate for a commodity as the Secretary considers appropriate to reflect differences in grade, type, quality, location, and other factors.".*

### *SEC. 1110. EFFECT OF AMENDMENTS.*

*(a) EFFECT ON PRIOR CROPS.—Except as otherwise specifically provided and notwithstanding any other provision of law, this subtitle and the amendments made by this subtitle 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 the enactment of this Act.*

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

## *Subtitle B—Conservation*

***SEC. 1201. CONSERVATION.***

*(a) FUNDING.—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*

***"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) LIVESTOCK ENVIRONMENTAL ASSISTANCE PROGRAM.—For each of fiscal years 1996 through 2002, $100,000,000 of the funds of the Commodity Credit Cor-*

*poration shall be available for providing technical assistance, cost-sharing payments, and incentive payments for practices relating to livestock production under the livestock environmental assistance program under chapter 4 of subtitle D.".*

*(b) LIVESTOCK ENVIRONMENTAL ASSISTANCE PROGRAM.—To carry out the programs funded under the amendment made by subsection (a), 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—LIVESTOCK ENVIRONMENTAL ASSISTANCE PROGRAM*

### *"SEC. 1240. DEFINITIONS.*

*"In this chapter:*

*"(1) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means a site-specific nutrient or manure management, irrigation management, tillage or residue management, grazing management, or other land management practice that the Secretary determines is needed to protect, in the most cost effective manner, water, soil, or related resources from degradation due to livestock production.*

*"(2) LARGE CONFINED LIVESTOCK OPERATION.—The term 'large confined livestock operation' means an operation that—*

*"(A) is a confined animal feeding operation; and*

*"(B) has more than—*

*"(i) 55 mature dairy cattle;*

*"(ii) 10,000 beef cattle;*

*"(iii) 30,000 laying hens or broilers (if the facility has continuous overflow watering);*

*"(iv) 100,000 laying hens or broilers (if the facility has a liquid manure system);*

*"(v) 55,000 turkeys;*

*"(vi) 15,000 swine; or*

*"(vii) 10,000 sheep or lambs.*

*"(3) LIVESTOCK.—The term 'livestock' means dairy cows, beef cattle, laying hens, broilers, turkeys, swine, sheep, lambs, and such other animals as determined by the Secretary.*

*"(4) OPERATOR.—The term 'operator' means a person who is engaged in livestock production (as defined by the Secretary).*

*"(5) STRUCTURAL PRACTICE.—The term 'structural practice' means the establishment of an animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, 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 due to livestock production.*

***"SEC. 1240A. ESTABLISHMENT AND ADMINISTRATION OF LIVESTOCK ENVIRONMENTAL ASSISTANCE PROGRAM.***

*"(a) ESTABLISHMENT.—*

*"(1) IN GENERAL.—During the 1996 through 2002 fiscal years, the Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators who enter into contracts with the Secretary, through a livestock environmental assistance program.*

*"(2) ELIGIBLE PRACTICES.—*

*"(A) STRUCTURAL PRACTICES.—An operator who implements a structural practice shall be eligible for technical assistance or cost-sharing payments, or both.*

*"(B) LAND MANAGEMENT PRACTICES.—An operator who performs a land management practice shall be eligible for technical assistance or incentive payments, or both.*

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

*threat to water, soil, or related resources exists, as determined by the Secretary, by reason of the soil types, terrain, climatic, soil, topographic, flood, or saline characteristics, or other factors or natural hazards.*

*"(4) SELECTION CRITERIA.—In providing technical assistance, cost-sharing payments, and incentive payments to operators in a region, watershed, or conservation priority area in which an agricultural operation is located, the Secretary shall consider—*

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

*"(B) the maximization of environmental benefits per dollar expended.*

*"(b) APPLICATION AND TERM.—*

*"(1) IN GENERAL.—A contract between an operator and the Secretary under this chapter may—*

*"(A) apply to 1 or more structural practices or 1 or more land management practices, or both; and*

*"(B) 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.*

*"(2) DUTIES OF OPERATORS AND SECRETARY.—To receive cost sharing or incentive payments, or*

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

*"(c) STRUCTURAL PRACTICES.—*

*"(1) COMPETITIVE OFFER.—The Secretary shall administer a competitive offer system for operators proposing to receive cost-sharing payments in exchange for the implementation of 1 or more structural practices by the operator. The competitive offer system shall consist of—*

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

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

*"(2) CONCURRENCE OF OWNER.—If the operator 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 operator 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 an operator in exchange for the performance of 1 or more land management practices by the operator.*

*"(e) COST-SHARING, INCENTIVE PAYMENTS, AND TECHNICAL ASSISTANCE.—*

*"(1) COST-SHARING PAYMENTS.—*

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

*"(B) LIMITATION.—An operator of a large confined livestock operation shall not be eligible for cost-sharing payments to construct an animal waste management facility.*

*"(C) OTHER PAYMENTS.—An operator shall not be eligible for cost-sharing payments for structural practices on eligible land under this chapter if the operator receives cost-sharing payments or other benefits for the same land under chapter 1, 2, 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 an operator 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 operator to receive technical assistance under other authorities of law available to the Secretary.*

*"(f) LIMITATION ON PAYMENTS.—*

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

*"(A) $10,000 for any fiscal year; or*

*"(B) $50,000 for any multiyear contract.*

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

*"(A) defining the term 'person' as used in paragraph (1); and*

*"(B) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this subsection.*

*"(g) REGULATIONS.—Not later than 180 days after the effective date of this subsection, the Secretary shall issue regulations to implement the livestock environmental assistance program established under this chapter.".*

*(c) CONFORMING AMENDMENTS.—*

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

*"(g) Carry out conservation functions and programs.".*

*(2) WETLANDS RESERVE PROGRAM.—*

*(A) IN GENERAL.—Section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended—*

*(i) in subsection (b)(2)—*

*(I) by striking "not less" and inserting "not more"; and*

*(II) by striking "2000" and inserting "2002"; and*

*(ii) in subsection (c), by striking "2000" and inserting "2002".*

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

*"(2) shall be for 15 years, but in no case shall be a permanent easement.".*

*(3) CONSERVATION RESERVE PROGRAM.—*

*(A) IN GENERAL.—Section 1231(d) of the Food Security Act of 1985 (16 U.S.C. 3831(d)) is amended by striking "total of" and all that follows through the period at the end of the subsection and inserting "total of 36,400,000 acres.".*

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

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

*"(e) TERMINATION BY OWNER OR OPERATOR.—*

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

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

*"(3) 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.*

*"(4) RENEWED ENROLLMENT.—The termination of a contract entered into under this subchapter shall not affect the ability of the owner or operator who requested the termination to submit a subsequent bid to*

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

*"(5) CONSERVATION REQUIREMENTS.—If land that was subject to a contract is returned to production of an agricultural commodity, the 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 that the requirements may not be more onerous that the requirements imposed on other lands.*

*"(6) REPAYMENT OF COST SHARE.—A person who terminates a contract entered into under this subchapter within less than 3 years after entering into the contract shall reimburse the Secretary for any cost share assistance provided under the contract.".*

*(C) LIMITATION.—Notwithstanding any other provision of law, no new acres shall be enrolled in the conservation reserve program established under 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.) in calendar year 1997.*

## *Subtitle C—Agricultural Promotion and Export Programs*

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

*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 $100,000,000 for each of fiscal years 1996 through 2002,".*

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

*Effective October 1, 1995, section 301(e)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)(1)) is amended to read as follows:*

*"(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) $350,000,000 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.".*

## *Subtitle D—Miscellaneous*

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

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

*(1) in paragraph (4), 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 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 as determined by the Secretary, only approved insurance providers may provide the coverage in the State.*

*"(iii) CURRENT POLICIES.—Subject to clause (ii), all catastrophic risk protection policies written by local offices of the Department shall be transferred (including all fees collected for the crop year in which the approved insurance provider will assume the policies) to the approved insurance provider for performance of all sales, service, and loss adjustment functions."; and*

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

*"(A) IN GENERAL.—Effective for the spring-planted 1996 and subsequent crops, to be eligible for any payment or loan under the Agricultural Market Transition Act, the conservation reserve program, or 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.".*

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

***SEC. 1402. COLLECTION AND USE OF AGRICULTURAL QUARANTINE AND INSPECTION FEES.***

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

*"(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 are 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 no-year 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 the 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 the 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. 1403. 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.*

# *TITLE II—BANKING, HOUSING, AND RELATED PROVISIONS*

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

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

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

*Sec. 2001. Table of contents.*

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

*Subtitle A—Financial Institutions*

*Sec. 2011. Special assessment to capitalize SAIF.*
*Sec. 2012. Financing Corporation assessments shared proportionally by all insured depository institutions.*
*Sec. 2013. Merger of BIF and SAIF.*
*Sec. 2014. Creation of SAIF Special Reserve.*
*Sec. 2015. Refund of amounts in deposit insurance fund in excess of designated reserve amount.*
*Sec. 2016. Assessment rates for SAIF members may not be less than assessment rates for BIF members.*
*Sec. 2017. Assessments authorized only if needed to maintain the reserve ratio of a deposit insurance fund.*
*Sec. 2018. Limitation on authority of Oversight Board to continue to employ more than 18 officers and employees.*
*Sec. 2019. Definitions.*

*Subtitle B—Housing*

*Sec. 2051. Annual adjustment factors for operating costs only; restraint on rent increases.*
*Sec. 2052. Foreclosure avoidance and borrower assistance.*

# TITLE II—BANKING, HOUSING, AND RELATED PROVISIONS

## Subtitle A—Financial Institutions

### SEC. 2011. SPECIAL ASSESSMENT TO CAPITALIZE SAIF.

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

*(b) FACTORS TO BE CONSIDERED.—In carrying out subsection (a), the Board of Directors shall base its determination on—*

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

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

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

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

*(d) DATE PAYMENT DUE.—The special assessment imposed under this section shall be—*

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

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

*(A) the first business day of January 1996; or*

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

*(e) ASSESSMENT DEPOSITED IN SAIF.—Notwithstanding any other provision of law, the proceeds of the special assessment imposed under this section shall be deposited in the Savings Association Insurance Fund.*

*(f) EXEMPTIONS FOR CERTAIN INSTITUTIONS.—*

*(1) EXEMPTION FOR WEAK INSTITUTIONS.—The Board of Directors may, by order, in its sole discretion, exempt any insured depository institution that the Board of Directors determines to be weak, from paying the special assessment imposed under this section if the Board of Directors determines that the ex-*

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

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

*(3) EXEMPTION FOR CERTAIN NEWLY CHARTERED AND OTHER DEFINED INSTITUTIONS.—*

*(A) IN GENERAL.—In addition to the institutions exempted from paying the special assessment under paragraph (1), the Board of Directors shall exempt any insured depository institution from payment of the special assessment if the institution—*

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

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

*(I) was established de novo in April 1994 in order to acquire the deposits of a savings association which was in default or in danger of default; and*

*(II) received minority interim capital assistance from the Resolution Trust Corporation under section 21A(w) of the Federal Home Loan Bank Act in connection with the acquisition of any such savings association; or*

*(iii) is a savings association, the deposits of which are insured by the Savings Association Insurance Fund, which—*

*(I) prior to January 1, 1987, was chartered as a Federal savings bank insured by the Federal Savings and Loan Insurance Corporation for the purpose of acquiring all or substantially all of the assets and assuming all or substantially all of the deposit liabilities of a national bank in a transaction consummated after July 1, 1986; and*

*(II) as of the date of that transaction, had assets of less than $150,000,000.*

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

*have held SAIF-assessable deposits prior to January 1, 1993, if—*

*(i) it directly held SAIF-assessable insured deposits prior to that date; or*

*(ii) it succeeded to, acquired, purchased, or otherwise holds any SAIF-assessable deposits as of the date of enactment of this Act that were SAIF-assessable deposits prior to January 1, 1993.*

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

*(A) PAYMENTS TO SAIF AND DIF.—Any insured depository institution that the Board of Directors exempts under this subsection from paying the special assessment imposed under this section shall pay semiannual assessments—*

*(i) during calendar years 1996 and 1997, into the Savings Association Insurance Fund, based on SAIF-assessable deposits of that institution, at assessment rates calculated under the schedule in effect for Savings Association Insurance Fund members on June 30, 1995; and*

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

*(I) into the Deposit Insurance Fund, based on SAIF-assessable deposits of that institution as of December 31, 1997, at assessment rates calculated under the schedule in effect for Savings Association Insurance Fund members on June 30, 1995; or*

*(II) in accordance with clause (i), if the Bank Insurance Fund and the Savings Association Insurance Fund are not merged into the Deposit Insurance Fund.*

*(B) OPTIONAL PRO RATA PAYMENT OF SPECIAL ASSESSMENT.—This paragraph shall not apply with respect to any insured depository institution (or successor insured depository institution) that has paid, during any calendar year from 1997 through 1999, upon such terms as the Corporation may announce, an amount equal to the product of—*

*(i) 12.5 percent of the special assessment that the institution would have been required to pay under subsection (a), if the Board of Directors had not exempted the institution; and*

*(ii) the number of full semiannual periods remaining between the date of the payment and December 31, 1999.*

*(g) SPECIAL ELECTION FOR CERTAIN INSTITUTIONS FACING HARDSHIP AS A RESULT OF THE SPECIAL ASSESSMENT.—*

*(1) ELECTION AUTHORIZED.—If—*

*(A) an insured depository institution, or any depository institution holding company which, directly or indirectly, controls such institution, is subject to terms or covenants in any debt obligation or preferred stock outstanding on September 13, 1995; and*

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

*the depository institution may elect, with the approval of the Corporation, to pay such special assessment in accordance with paragraphs (2) and (3) in lieu of paying such assessment in the manner required under subsection (a).*

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

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

*(3) 2D ASSESSMENT.—An insured depository institution which makes an election under paragraph (1) shall pay a 2d assessment, by the date established by the Board of Directors in accordance with paragraph (4), in an amount equal to the product of 51 percent of the rate determined by the Board of Directors under subsection (a) for determining the amount of the special assessment and the SAIF-assessable deposits of the institution on March 31, 1996, or such other date in calendar year 1996 as the Board of Directors determines to be appropriate.*

*(4) DUE DATE OF 2D ASSESSMENT.—The date established by the Board of Directors for the payment of the assessment under paragraph (3) by a depository institution shall be the earliest practicable date which the Board of Directors determines to be appropriate, which is at least 15 days after the date used by the Board of Directors under paragraph (3).*

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

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

*(A) 50 percent of the rate determined by the Board of Directors under subsection (a) for determining the amount of the special assessment; and*

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

*(h) ADJUSTMENT OF SPECIAL ASSESSMENT FOR CERTAIN BANK INSURANCE FUND MEMBER BANKS.—*

*(1) IN GENERAL.—For purposes of computing the special assessment imposed under this section with respect to a Bank Insurance Fund member bank, the amount of any deposits of any insured depository institution which section 5(d)(3) of the Federal Deposit Insurance Act treats as insured by the Savings Association Insurance Fund shall be reduced by 20 percent—*

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

*(B) if, as of June 30, 1995, the Bank Insurance Fund member—*

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

*(ii) had total assessable deposits greater than $5,000,000,000; and*

*(iii) was owned or controlled by a bank holding company that owned or controlled insured depository institutions having an aggregate amount of deposits insured or treated as insured by the Bank Insurance Fund greater than the aggregate amount of deposits insured or treated as insured by the Savings Association Insurance Fund.*

*(2) ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—For purposes of this subsection, the ''adjusted attributable deposit amount'' shall be deter-*

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

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

*(1) in subparagraph (C), by striking "The adjusted attributable deposit amount" and inserting "Except as provided in subparagraph (K), the adjusted attributable deposit amount"; and*

*(2) by adding at the end the following new subparagraph:*

*"(K) ADJUSTMENT OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—The amount determined under subparagraph (C)(i) for deposits acquired by March 31, 1995, shall be reduced by 20 percent for purposes of computing the adjusted attributable deposit amount for the payment of any assessment for any semiannual period after December 31, 1995 (other than the special assessment imposed under section 2011(a) of the Balanced Budget Act of 1995), for a Bank Insurance Fund member bank that, as of June 30, 1995—*

*"(i) had an adjusted attributable deposit amount that was less than 50 percent of the total deposits of that member bank; or*

*"(ii)(I) had an adjusted attributable deposit amount equal to less than 75 percent of the total assessable deposits of that member bank;*

*"(II) had total assessable deposits greater than $5,000,000,000; and*

*"(III) was owned or controlled by a bank holding company that owned or controlled insured depository institutions having an aggregate amount of deposits insured or treated as insured by the Bank Insurance Fund greater than the aggregate amount of deposits insured or treated as insured by the Savings Association Insurance Fund.".*

*(j) ADJUSTMENT OF SPECIAL ASSESSMENT FOR CERTAIN SAVINGS ASSOCIATIONS.—*

*(1) SPECIAL ASSESSMENT REDUCTION.—For purposes of computing the special assessment imposed under this section, in the case of any converted association, the amount of any deposits of such association which were insured by the Savings Association*

*Insurance Fund as of March 31, 1995, shall be reduced by 20 percent.*

*(2) CONVERTED ASSOCIATION.—For purposes of this subsection, the term "converted association" means—*

*(A) any Federal savings association—*

*(i) that is a member of the Savings Association Insurance Fund and that has deposits subject to assessment by that fund which did not exceed $4,000,000,000, as of March 31, 1995; and*

*(ii) that had been, or is a successor by merger, acquisition, or otherwise to an institution that had been, a State savings bank, the deposits of which were insured by the Federal Deposit Insurance Corporation prior to August 9, 1989, that converted to a Federal savings association pursuant to section 5(i) of the Home Owners' Loan Act prior to January 1, 1985;*

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

*(C) an insured bank that—*

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

*(ii) did not open for business before acquiring the deposits of such savings association; and*

*(iii) was a Savings Association Insurance Fund member as of the date of enactment of this Act; and*

*(D) an insured bank that—*

*(i) resulted from a savings association before December 19, 1991, in accordance with section 5(d)(2)(G) of the Federal Deposit Insurance Act; and*

*(ii) had an increase in its capital in conjunction with the conversion in an amount equal to more than 75 percent of the capital of the institution on the day before the date of the conversion.*

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

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

*(1) in subsection (f)(2)—*

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

*(i) by striking "Savings Association Insurance Fund member" and inserting "insured depository institution"; and*

*(ii) by striking "members" and inserting "institutions"; and*

*(B) by striking ", except that—" and all that follows through the end of the paragraph and inserting ", except that—*

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

*"(B) no limitation under clause (i) or (iii) of section 7(b)(2)(A) of the Federal Deposit Insurance Act shall apply for purposes of this paragraph."; and*

*(2) in subsection (k)—*

*(A) by striking "section—" and inserting "section, the following definitions shall apply:";*

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

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

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

*"(3) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".*

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

*(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on January 1, 1996.*

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

*(a) IN GENERAL.—*

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

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

*(3) NO SEPARATE EXISTENCE.—The separate existence of the Bank Insurance Fund and the Savings Association Insurance Fund shall cease.*

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

*(1) IN GENERAL.—Immediately before the merger of the Bank Insurance Fund and the Savings Association Insurance Fund, if the reserve ratio of the Savings Association Insurance Fund exceeds the designated reserve ratio, the amount by which that reserve ratio exceeds the designated reserve ratio shall be placed in the Special Reserve of the Deposit Insurance Fund, established under section 11(a)(5) of the Federal Deposit Insurance Act, as amended by this section.*

*(2) DEFINITION.—For purposes of this subsection, the term "reserve ratio" means the ratio of the net worth of the Savings Association Insurance Fund to aggregate estimated insured deposits held in all Savings Association Insurance Fund members.*

*(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on January 1, 1998, if no insured depository institution is a savings association on that date.*

*(d) TECHNICAL AND CONFORMING AMENDMENTS.—*

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

*(A) by redesignating subparagraph (B) as subparagraph (C);*

*(B) by striking subparagraph (A) and inserting the following:*

*"(A) ESTABLISHMENT.—There is established the Deposit Insurance Fund, which the Corporation shall—*

*"(i) maintain and administer;*

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

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

*"(B) USES.—The Deposit Insurance Fund shall be available to the Corporation for use with respect to Deposit Insurance Fund members."; and*

*(C) by striking "(4) GENERAL PROVISIONS RELATING TO FUNDS.—" and inserting the following:*

*"(4) ESTABLISHMENT OF THE DEPOSIT INSURANCE FUND.—".*

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

*this subsection) is amended by striking "Bank Insurance Fund and the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund".*

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

*"(D) DEPOSITS.—All amounts assessed against insured depository institutions by the Corporation shall be deposited in the Deposit Insurance Fund.".*

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

*"(5) SPECIAL RESERVE OF DEPOSIT INSURANCE FUND.—*

*"(A) ESTABLISHMENT.—*

*"(i) IN GENERAL.—There is established a Special Reserve of the Deposit Insurance Fund, which shall be administered by the Corporation and shall be invested in accordance with section 13(a).*

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

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

*"(B) EMERGENCY USE OF SPECIAL RESERVE.—Notwithstanding subparagraph (A)(ii), the Corporation may, in its sole discretion, transfer amounts from the Special Reserve to the Deposit Insurance Fund, for the purposes set forth in paragraph (4), only if—*

*"(i) the reserve ratio of the Deposit Insurance Fund is less than 50 percent of the designated reserve ratio; and*

*"(ii) the Corporation expects the reserve ratio of the Deposit Insurance Fund to remain at less than 50 percent of the designated reserve ratio for each of the next 4 calendar quarters.*

*"(C) EXCLUSION OF SPECIAL RESERVE IN CALCULATING RESERVE RATIO.—Notwithstanding any other provision of law, any amounts in the Special Reserve shall be excluded in calculating the reserve ratio of the Deposit Insurance Fund under section 7.".*

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

*(A) in subclause (I), by striking "to Savings Associations Insurance Fund members" and inserting "to insured depository institutions, and their successors, which were Savings Association Insurance Fund members on September 1, 1995"; and*

*(B) in subclause (II), by striking "to Savings Associations Insurance Fund members" and inserting "to insured depository institutions, and their successors, which were Savings Association Insurance Fund members on September 1, 1995".*

*(6) REPEALS.—*

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

*"(y) DEFINITIONS RELATING TO THE DEPOSIT INSURANCE FUND.—The term*

*"(1) DEPOSIT INSURANCE FUND.—The term 'Deposit Insurance Fund' means the fund established under section 11(a)(4).*

*"(2) RESERVE RATIO.—The term 'reserve ratio' means the ratio of the net worth of the Deposit Insurance Fund to aggregate estimated insured deposits held in all insured depository institutions.*

*"(3) DESIGNATED RESERVE RATIO.—The designated reserve ratio of the Deposit Insurance Fund for each year shall be—*

*"(A) 1.25 percent of estimated insured deposits; or*

*"(B) a higher percentage of estimated insured deposits that the Board of Directors determines to be justified for that year by circumstances raising a significant risk of substantial future losses to the fund.*

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

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

*(ii) by redesignating subsections (m) and (n) as subsections (l) and (m), respectively;*

*(iii) in subsection (b)(2), by striking subparagraphs (B) and (F), and by redesignating subparagraphs (C), (E), (G), and (H) as subparagraphs (B) through (E), respectively.*

*(C) SECTION 11.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended—*

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

*(ii) by redesignating paragraph (8) as paragraph (6).*

*(7) SECTION 5136 OF THE REVISED STATUTES.—Paragraph Eleventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the fifth sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".*

*(8) INVESTMENTS PROMOTING PUBLIC WELFARE; LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended in the fourth sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".*

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

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

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

*(A) by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and*

*(B) by striking "Federal Deposit Insurance Corporation, Savings Association Insurance Fund;".*

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

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

*(i) in the subsection heading, by striking "SAIF" and inserting "THE DEPOSIT INSURANCE FUND"; and*

*(ii) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";*

*(B) in section 21A(b)(4)(B) (12 U.S.C. 1441a(b)(4)(B)), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";*

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

*(i) in the subparagraph heading, by striking "SAIF-INSURED BANKS" and inserting "CHARTER CONVERSIONS"; and*

*(ii) by striking "Savings Association Insurance Fund member" and inserting "savings association";*

*(D) in section 21A(b)(10)(A)(iv)(II) (12 U.S.C. 1441a(b)(10)(A)(iv)(II)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";*

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

*(i) in paragraph (5), by inserting "as of the date of funding" after "Savings Association Insurance Fund members" each place such term appears;*

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

*(iii) by redesignating paragraph (8) as paragraph (7); and*

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

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

*(ii) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.*

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

*(A) in section 5 (12 U.S.C. 1464)—*

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

*(ii) in subsection (c)(6), by striking "As used in this subsection—" and inserting "For purposes of this subsection, the following definitions shall apply:";*

*(iii) in subsection (o)(1), by striking "that is a Bank Insurance Fund member";*

*(iv) in subsection (o)(2)(A), by striking "a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member" and inserting "insured by the Deposit Insurance Fund";*

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

*(vi) in subsection (t)(7)(C)(i)(I), by striking "affected deposit insurance fund"*

*and inserting "Deposit Insurance Fund"; and*

*(vii) in subsection (v)(2)(A)(i), by striking ", the Savings Association Insurance Fund" and inserting "or the Deposit Insurance Fund"; and*

*(B) in section 10 (12 U.S.C. 1467a)—*

*(i) in subsection (e)(1)(A)(iii)(VII), by adding "or" at the end;*

*(ii) in subsection (e)(1)(A)(iv), by adding "and" at the end;*

*(iii) in subsection (e)(1)(B), by striking "Savings Association Insurance Fund or Bank Insurance Fund" and inserting "Deposit Insurance Fund";*

*(iv) in subsection (e)(2), by striking "Savings Association Insurance Fund or the Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and*

*(v) in subsection (m)(3), by striking subparagraph (E), and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively.*

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

*(A) in section 317(b)(1)(B) (12 U.S.C. 1723i(b)(1)(B)), by striking "Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund"; and*

*(B) in section 526(b)(1)(B)(ii) (12 U.S.C. 1735f–14(b)(1)(B)(ii)), by striking "Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund".*

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

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

*"(B) includes any former savings association.";*

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

*Fund;" and inserting "Deposit Insurance Fund,";*

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

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

*(i) in subparagraph (A), by striking "reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund" and inserting "the reserve ratio of the Deposit Insurance Fund";*

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

*"(2) FEE CREDITED TO THE DEPOSIT INSURANCE FUND.—The fee paid by the depository institution under paragraph (1) shall be credited to the Deposit Insurance Fund.";*

*(iii) by striking "(1) UNINSURED INSTITUTIONS.—"; and*

*(iv) by redesignating subparagraphs (A) and (C) as paragraphs (1) and (3), respectively, and moving the margins 2 ems to the left;*

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

*(i) in paragraph (5)(A), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";*

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

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

*(F) in section 6(5) (12 U.S.C. 1816(5)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";*

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

*(i) in paragraph (1)(D), by striking "each deposit insurance fund" and inserting "the Deposit Insurance Fund";*

*(ii) in clauses (i)(I) and (iv) of paragraph (2)(A), by striking "each deposit insurance fund" each place such term appears and inserting "the Deposit Insurance Fund";*

*(iii) in paragraph (2)(A)(iii), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";*

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

*(v) in paragraph (2)(C) (as redesignated by paragraph (6)(B) of this subsection)—*

*(I) by striking "any deposit insurance fund" and inserting "the Deposit Insurance Fund"; and*

*(II) by striking "that fund" each place such term appears and inserting "the Deposit Insurance Fund";*

*(vi) in paragraph (2)(D) (as redesignated by paragraph (6)(B) of this subsection)—*

*(I) in the subparagraph heading, by striking "FUNDS ACHIEVE" and inserting "FUND ACHIEVES"; and*

*(II) by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";*

*(vii) in paragraph (3)—*

*(I) in the paragraph heading, by striking "FUNDS" and inserting "FUND";*

*(II) by striking "that fund" each place such term appears and inserting "the Deposit Insurance Fund";*

*(III) in subparagraph (A), by striking "Except as provided in paragraph (2)(F), if" and inserting "If";*

*(IV) in subparagraph (A), by striking "any deposit insurance fund" and inserting "the Deposit Insurance Fund"; and*

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

*"(C) AMENDING SCHEDULE.—The Corporation may, by regulation, amend a schedule promulgated under subparagraph (B)."; and*

*(viii) in paragraph (6)—*

*(I) by striking "any such assessment" and inserting "any such assessment is necessary";*

*(II) by striking "(A) is necessary—";*

*(III) by striking subparagraph (B);*

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

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

*(V) in subparagraph (C) (as redesignated), by striking "; and" and inserting a period;*

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

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

*(i) by striking subparagraph (B);*

*(ii) by redesignating subparagraph (C) as subparagraph (B); and*

*(iii) in subparagraph (B) (as redesignated), by striking "subparagraphs (A) and (B)" and inserting "subparagraph (A)";*

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

*(i) in paragraph (2), by striking "LIABILITIES.—" and all that follows through "Except" and inserting "LIABILITIES.—Except";*

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

*(iii) in paragraph (3), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "the Deposit Insurance Fund";*

*(K) in section 11A(b) (12 U.S.C. 1821a(b)), by striking paragraph (4);*

*(L) in section 11A(f) (12 U.S.C. 1821a(f)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";*

*(M) in section 13 (12 U.S.C. 1823)—*

*(i) in subsection (a)(1), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund, the Special Reserve of the Deposit Insurance Fund,";*

*(ii) in subsection (c)(4)(E)—*

*(I) in the subparagraph heading, by striking "FUNDS" and inserting "FUND"; and*

*(II) in clause (i), by striking "any insurance fund" and inserting "the Deposit Insurance Fund";*

*(iii) in subsection (c)(4)(G)(ii)—*

*(I) by striking "appropriate insurance fund" and inserting "Deposit Insurance Fund";*

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

*(III) by striking "each member's" and inserting "each insured depository institution's"; and*

*(IV) by striking "the member's" each place such term appears and inserting "the institution's";*

*(iv) in subsection (c), by striking paragraph (11);*

*(v) in subsection (h), by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund";*

*(vi) in subsection (k)(4)(B)(i), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and*

*(vii) in subsection (k)(5)(A), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";*

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

*(i) by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and*

*(ii) by striking "each such fund" and inserting "the Deposit Insurance Fund";*

*(O) in section 14(b) (12 U.S.C. 1824(b)), by striking "Bank Insurance Fund or Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";*

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

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

*(i) by striking "BIF" each place such term appears and inserting "DIF"; and*

*(ii) by striking "Bank Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";*

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

*(i) by striking "the Bank Insurance Fund or Savings Association Insurance Fund, respectively" each place such term*

*appears and inserting "the Deposit Insurance Fund"; and*

*(ii) in subparagraph (B), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund, respectively" and inserting "the Deposit Insurance Fund";*

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

*(i) in the subsection heading, by striking "BIF, SAIF," and inserting "THE DEPOSIT INSURANCE FUND"; and*

*(ii) in paragraph (1), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "the Deposit Insurance Fund";*

*(T) in section 17(d) (12 U.S.C. 1827(d)), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "the Deposit Insurance Fund";*

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

*(i) by striking "Savings Association Insurance Fund" each place such term ap-*

*pears and inserting "Deposit Insurance Fund"; and*

*(ii) in subparagraph (C), by striking "or the Bank Insurance Fund";*

*(V) in section 18(p) (12 U.S.C. 1828(p)), by striking "deposit insurance funds" and inserting "Deposit Insurance Fund";*

*(W) in section 24 (12 U.S.C. 1831a) in subsections (a)(1) and (d)(1)(A), by striking "appropriate deposit insurance fund" each place such term appears and inserting "Deposit Insurance Fund";*

*(X) in section 28 (12 U.S.C. 1831e), by striking "affected deposit insurance fund" each place such term appears and inserting "Deposit Insurance Fund";*

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

*(Z) in section 36(i)(3) (12 U.S.C. 1831m(i)(3)) by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";*

*(AA) in section 38(a) (12 U.S.C. 1831o(a)) in the subsection heading, by striking "FUNDS" and inserting "FUND";*

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

*(i) in paragraph (1), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund"; and*

*(ii) in paragraph (2)(A)—*

*(I) by striking "A deposit insurance fund" and inserting "The Deposit Insurance Fund"; and*

*(II) by striking "the deposit insurance fund's outlays" and inserting "the outlays of the Deposit Insurance Fund"; and*

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

*(i) by striking "ASSOCIATIONS.—" and all that follows through "Subsections (e)(2)" and inserting "ASSOCIATIONS.—Subsections (e)(2)";*

*(ii) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively, and moving the margins 2 ems to the left; and*

*(iii) in paragraph (1) (as redesignated), by redesignating clauses (i) and (ii)*

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

*(15) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—The Financial Institutions Reform, Recovery, and Enforcement Act (Public Law 101–73; 103 Stat. 183) is amended—*

*(A) in section 951(b)(3)(B) (12 U.S.C. 1833a(b)(3)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund"; and*

*(B) in section 1112(c)(1)(B) (12 U.S.C. 3341(c)(1)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund".*

*(16) AMENDMENT TO THE BANK ENTERPRISE ACT OF 1991.—Section 232(a)(1) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834(a)(1)) is amended by striking "section 7(b)(2)(H)" and inserting "section 7(b)(2)(G)".*

*(17) AMENDMENT TO THE BANK HOLDING COMPANY ACT.—Section 2(j)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)(2)) is amended by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund".*

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

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

*"(L) ESTABLISHMENT OF SAIF SPECIAL RESERVE.—*

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

*"(ii) AMOUNTS IN SPECIAL RESERVE.—If, on January 1, 1998, the reserve ratio of the Savings Association Insurance Fund exceeds the designated reserve ratio, the amount by which the reserve ratio exceeds the designated reserve ratio shall be placed in the Special Reserve of the Savings Association Insurance Fund established by clause (i).*

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

*"(iv) EMERGENCY USE OF SPECIAL RESERVE.—Notwithstanding clause (iii), the Corporation may, in its sole discretion, transfer amounts from the Special Reserve of the Savings Association Insurance Fund to the Savings Association Insurance Fund for the purposes set forth in paragraph (4), only if—*

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

*"(II) the Corporation expects the reserve ratio of the Savings Association Insurance Fund to remain at less than 50 percent of the designated reserve ratio for each of the next 4 calendar quarters.*

*"(v) EXCLUSION OF SPECIAL RESERVE IN CALCULATING RESERVE RATIO.—Notwithstanding any other provision of law, any amounts in the Special Reserve of the Savings Association Insurance Fund shall be excluded in calculating the reserve ratio of the Savings Association Insurance Fund.".*

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

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

*"(e) REFUNDS.—*

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

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

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

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

*"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), if, as of the end of any semiannual assessment period, the amount of the actual reserves in—*

*"(i) the Bank Insurance Fund (until the merger of such fund into the Deposit Insurance Fund pursuant to section 2013 of the Balanced Budget Act of 1995); or*

*"(ii) the Deposit Insurance Fund (after the establishment of such fund),*

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

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

*"(C) REFUND LIMITATION FOR CERTAIN INSTITUTIONS.—No refund may be made under this paragraph with respect to the amount of any assessment paid for any semiannual assessment period by any insured depository institution described in clause (v) of subsection (b)(2)(A)."*.

***SEC. 2016. ASSESSMENT RATES FOR SAIF MEMBERS MAY NOT BE LESS THAN ASSESSMENT RATES FOR BIF MEMBERS.***

*Section 7(b)(2)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(E), as redesignated by section 2013(d)(6) of this Act) is amended—*

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

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

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

*"(iii) notwithstanding any other provision of this subsection, during the period beginning on the date of enactment of the Balanced Budget Act of 1995, and ending on January 1, 1998, the assessment rate for a Savings Association Insurance Fund member may not be less than the assessment rate for a Bank Insurance Fund member that poses a comparable risk to the deposit insurance fund.".*

***SEC. 2017. ASSESSMENTS AUTHORIZED ONLY IF NEEDED TO MAINTAIN THE RESERVE RATIO OF A DEPOSIT INSURANCE FUND.***

*(a) IN GENERAL.—Section 7(b)(2)(A)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(i)) is*

*amended in the matter preceding subclause (I) by inserting "when necessary, and only to the extent necessary" after "insured depository institutions".*

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

*"(iii) LIMITATION ON ASSESSMENT.—Except as provided in clause (v), the Board of Directors shall not set semiannual assessments with respect to a deposit insurance fund in excess of the amount needed—*

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

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

*(c) EXCEPTION TO LIMITATION ON ASSESSMENTS.—Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)) is amended by adding at the end the following new clause:*

*"(v) EXCEPTION TO LIMITATION ON ASSESSMENTS.—The Board of Directors may set semiannual assessments in excess of the*

*amount permitted under clauses (i) and (iii) with respect to insured depository institutions that exhibit financial, operational, or compliance weaknesses ranging from moderately severe to unsatisfactory, or are not well capitalized, as that term is defined in section 38.".*

***SEC. 2018. LIMITATION ON AUTHORITY OF OVERSIGHT BOARD TO CONTINUE TO EMPLOY MORE THAN 18 OFFICERS AND EMPLOYEES.***

*(a) IN GENERAL.—Section 21A(a) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)) is amended by adding at the end the following new paragraph:*

*"(17) PHASED-DOWN OPERATION OF OVERSIGHT BOARD FOLLOWING TERMINATION OF CORPORATION.—*

*"(A) TERMINATION OF AUTHORITY TO EMPLOY STAFF.—Except as provided in subparagraph (B), the authority of the Thrift Depositor Protection Oversight Board under paragraph (5) to establish officer and employee positions, to compensate officers and employees of the Board, and to provide other benefits for officers and employees of the Board shall terminate as of December 31, 1995.*

*"(B) LIMITED AUTHORITY FOR EMPLOYING STAFF.—The Thrift Depositor Protection Oversight Board may employ not more than 18 individuals, excluding any employee of any other department or agency utilized by the Board, to carry out the functions of the Board during the period beginning on January 1, 1996 and ending on May 1, 1996, other than employees whose employment is in the process of being terminated in accordance with subparagraph (C).*

*"(C) TERMINATION OF EMPLOYMENT OF ADDITIONAL EMPLOYEES REQUIRED TO BE COMMENCED.—The Thrift Depositor Protection Oversight Board shall commence terminating, not later than December 31, 1995, and in accordance with title 5, United States Code, and applicable regulations of the Office of Personnel Management, the employment of any employee of the Board whose continued employment by the Board after such date is inconsistent with the requirement of subparagraph (B)."*.

*(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 21A(a)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(5)) is amended in subparagraphs (B), (C), (D), and (E), by inserting "subject to paragraph (17),"*

*after the closing parenthesis of the subparagraph designation in each such subparagraph.*

***SEC. 2019. DEFINITIONS.***

*For purposes of this subtitle—*

*(1) the term "Bank Insurance Fund" means the fund established pursuant to section (11)(a)(5)(A) of the Federal Deposit Insurance Act, as that section existed on the day before the date of enactment of this Act;*

*(2) the terms "Bank Insurance Fund member" and "Savings Association Insurance Fund member" have the same meanings as in section 7(l) of the Federal Deposit Insurance Act;*

*(3) the terms "bank", "Board of Directors", "Corporation", "insured depository institution", "Federal savings association", "savings association", "State savings bank", and "State depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act;*

*(4) the term "Deposit Insurance Fund" means the fund established under section 11(a)(4) of the Federal Deposit Insurance Act, as amended by section 2013(d) of this Act;*

*(5) the term "depository institution holding company" has the same meaning as in section 3 of the Federal Deposit Insurance Act;*

*(6) the term "designated reserve ratio" has the same meaning as in section 7(b)(2)(A)(iv) of the Federal Deposit Insurance Act;*

*(7) the term "Savings Association Insurance Fund" means the fund established pursuant to section 11(a)(6)(A) of the Federal Deposit Insurance Act, as that section existed on the day before the date of enactment of this Act; and*

*(8) the term "SAIF-assessable deposit" means—*

*(A) a deposit that is subject to assessment for purposes of the Savings Association Insurance Fund under the Federal Deposit Insurance Act; and*

*(B) a deposit that section 5(d)(3) of the Federal Deposit Insurance Act treats as insured by the Savings Association Insurance Fund.*

## *Subtitle B—Housing*

### *SEC. 2051. ANNUAL ADJUSTMENT FACTORS FOR OPERATING COSTS ONLY; RESTRAINT ON RENT INCREASES.*

*(a) ANNUAL ADJUSTMENT FACTORS FOR OPERATING COSTS ONLY.—Section 8(c)(2)(A) of the United States*

*Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended—*

*(1) by striking "(2)(A)" and inserting "(2)(A)(i)";*

*(2) by striking the second sentence and all that follows through the end of the subparagraph; and*

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

*"(ii) Each assistance contract under this section shall provide that—*

*"(I) if the maximum monthly rent for a unit in a new construction or substantial rehabilitation project to be adjusted using an annual adjustment factor exceeds 100 percent of the fair market rent for an existing dwelling unit in the market area, the Secretary shall adjust the rent using an operating costs factor that increases the rent to reflect increases in operating costs in the market area; and*

*"(II) if the owner of a unit in a project described in subclause (I) demonstrates that the adjusted rent determined under subclause (I) would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary, the Secretary shall use the otherwise applicable annual adjustment factor.".*

*(b) RESTRAINT ON SECTION 8 RENT INCREASES.—Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)), as amended by subsection (a), is amended by adding at the end the following new clause:*

*"(iii)(I) Subject to subclause (II), with respect to any unit assisted under this section that is occupied by the same family at the time of the most recent annual rental adjustment, if the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor, and if the rent for the unit is otherwise eligible for an adjustment based on the full amount of the annual adjustment factor, 0.01 shall be subtracted from the amount of the annual adjustment factor, except that the annual adjustment factor shall not be reduced to less than 1.0.*

*"(II) With respect to any unit described in subclause (I) that is assisted under the certificate program, the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area in which the unit is located.".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1995.*

***SEC. 2052. FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE.***

*(a) FORECLOSURE AVOIDANCE.—Except as provided in subsection (e), the last sentence of section 204(a) of the*

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

*(b) AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT.—Except as provided in subsection (e), section 230 of the National Housing Act (12 U.S.C. 1715u) is amended to read as follows:*

*"AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT*

*"SEC. 230. (a) PAYMENT OF PARTIAL CLAIM.—The Secretary may establish a program for payment of a partial insurance claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default. Any such payment under such program to the mortgagee shall be made in the*

*Secretary's sole discretion and on terms and conditions acceptable to the Secretary, except that—*

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

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

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

*"(b) ASSIGNMENT.—*

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

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

*"(A) the mortgage was in default;*

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

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

*"(3) PAYMENT OF INSURANCE BENEFITS.—Upon accepting assignment of a mortgage under the program under this subsection, the Secretary may pay insurance benefits to the mortgagee from the appropriate insurance fund in an amount that the Secretary determines to be appropriate, but which may not exceed the amount necessary to compensate the mortgagee for the assignment and any losses and expenses resulting from the mortgage modification.*

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

*"(d) SAVINGS PROVISION.—Any mortgage for which the mortgagor has applied to the Secretary, before the date*

*of the enactment of the Balanced Budget Act of 1995, for assignment pursuant to subsection (b) of this section as in effect before such date of enactment shall continue to be governed by the provisions of this section in effect immediately before such date of enactment.*

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

*(c) APPLICABILITY OF AMENDMENTS.—Except as provided in subsection (e), the amendments made by subsections (a) and (b) shall apply only with respect to mortgages insured under the National Housing Act that are originated on or after October 1, 1995.*

*(d) REGULATIONS.—Not later than the expiration of the 60-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue interim regulations to implement this section and the amendments made by this section.*

*(e) EFFECTIVENESS AND APPLICABILITY.—If this Act is enacted after the date of the enactment of the Departments of Veterans Affairs and Housing and Urban Develop-*

*ment, and Independent Agencies Appropriations Act, 1996—*

*(1) subsections (a), (b), (c), and (d) of this section shall not take effect; and*

*(2) subsection (c) of the section relating to foreclosure avoidance and borrower assistance in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996, is amended by striking "only with respect to mortgages insured under the National Housing Act that are originated before October 1, 1995" and inserting "to mortgages originated before, on, and after October 1, 1995".*

# *TITLE III—COMMUNICATIONS AND SPECTRUM ALLOCATION PROVISIONS*

***SEC. 3001. SPECTRUM AUCTIONS.***

*(a) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—*

*(1) AMENDMENTS.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—*

*(A) by striking paragraphs (1) and (2) and inserting the following:*

*"(1) GENERAL AUTHORITY.—If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.*

*"(2) EXEMPTIONS.—The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission—*

*"(A) that, as the result of the Commission carrying out the obligations described in paragraph (6)(E), are not mutually exclusive;*

*"(B) for public safety radio services, including non-Government uses the sole or principal purpose of which is to protect the safety of life, health, and property and which are not made commercially available to the public; or*

*"(C) for initial licenses or construction permits for new terrestrial digital television services assigned by the Commission to existing terrestrial broadcast licensees to replace their current television licenses, unless—*

*"(i) the Commission, not later than 180 days after the date of enactment of the Balanced Budget Act of 1995, after notice and public comment, submits to Congress a report on the use of the authority provided in this subsection for the assignment of initial licenses or construction permits for use of the electromagnetic spectrum allocated but not assigned as of the date of enactment of that Act for television broadcast services; and*

*"(ii) the Congress amends this subsection to authorize the use of the authority provided by this subsection for such licenses or permits.*

*Except as provided in this subparagraph, the Commission may not assign initial licenses or construction permits under this title to terrestrial commercial television broadcast licensees to replace their existing broadcast licenses before November 15, 1996."; and*

*(B) by striking "1998" in paragraph (11) and inserting "2002".*

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

*(3) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall not apply with respect to any license or permit for a terrestrial radio or television broadcast station for which the Federal Communications Commission has accepted mutually exclusive applications on or before the date of enactment of this Act.*

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

*(1) IN GENERAL.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) of licenses for the use of bands of frequencies that—*

*(A) individually span not less than 25 megahertz, unless a combination of smaller bands can, notwithstanding the provisions of paragraph (7) of such section, reasonably be expected to produce greater receipts;*

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

*(C) are located below 3 gigahertz; and*

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

*(i) been designated by Commission regulation for assignment pursuant to such section;*

*(ii) been identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act; or*

*(iii) been reserved for Federal Government use pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305).*

*The Commission shall conduct the competitive bidding for not less than one-half of such aggregate spectrum by September 30, 2000.*

*(2) CRITERIA FOR REASSIGNMENT.—In making available bands of frequencies for competitive bidding pursuant to paragraph (1), the Commission shall—*

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

*(B) take into account the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;*

*(C) take into account the needs of public safety radio services;*

*(D) comply with the requirements of international agreements concerning spectrum allocations; and*

*(E) take into account the costs to satellite service providers that could result from multiple auctions of like spectrum internationally for global satellite systems.*

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

*(A) the Commission is not able to provide for the effective relocation of incumbent licensees to bands of frequencies that are available to the Commission for assignment; and*

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

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

*(ii) allocated for Federal Government use, but that could be reallocated pursuant to part B of the National Telecommunications and Information Administration Organization Act (as amended by this section).*

*(c) IDENTIFICATION AND REALLOCATION OF FREQUENCIES.—The National Telecommunications and Infor-*

*mation Administration Organization Act (47 U.S.C. 901 et seq.) is amended—*

*(1) in section 113, by adding at the end the following new subsections:*

*"(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a notice from the Commission pursuant to section 3001(b)(3) of the Balanced Budget Act of 1995, the Secretary shall prepare and submit to the President and the Congress a report recommending for reallocation for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that are suitable for the uses identified in the Commission's notice.*

*"(g) RELOCATION OF FEDERAL GOVERNMENT STATIONS.—*

*"(1) IN GENERAL.—In order to expedite the efficient use of the electromagnetic spectrum and notwithstanding section 3302(b) of title 31, United States Code, any Federal entity which operates a Federal Government station may accept payment in advance or in-kind reimbursement of costs, or a combination of payment in advance and in-kind reimbursement, from any person to defray entirely the expenses of relocating the Federal entity's operations from one or more radio spectrum frequencies to an-*

*other frequency or frequencies, including, without limitation, the costs of any modification, replacement, or reissuance of equipment, facilities, operating manuals, regulations, or other expenses incurred by that entity. Any such payment shall be deposited in the account of such Federal entity in the Treasury of the United States. Funds deposited according to this paragraph shall be available, without appropriation or fiscal year limitation, only for the operations of the Federal entity for which such funds were deposited under this paragraph.*

*"(2) PROCESS FOR RELOCATION.—Any person seeking to relocate a Federal Government station that has been assigned a frequency within a band allocated for mixed Federal and non-Federal use may submit a petition for such relocation to NTIA. The NTIA shall limit or terminate the Federal Government station's operating license when the following requirements are met:*

*"(A) the person seeking relocation of the Federal Government station has guaranteed to defray entirely, through payment in advance, in-kind reimbursement of costs, or a combination thereof, all relocation costs incurred by the Federal entity, including all engineering, equipment,*

*site acquisition and construction, and regulatory fee costs;*

*"(B) the person seeking relocation completes all activities necessary for implementing the relocation, including construction of replacement facilities (if necessary and appropriate) and identifying and obtaining on the Federal entity's behalf new frequencies for use by the relocated Federal Government station (where such station is not relocating to spectrum reserved exclusively for Federal use);*

*"(C) any necessary replacement facilities, equipment modifications, or other changes have been implemented and tested to ensure that the Federal Government station is able to successfully accomplish its purposes; and*

*"(D) NTIA has determined that the proposed use of the spectrum frequency band to which the Federal entity will relocate its operations is—*

*"(i) consistent with obligations undertaken by the United States in international agreements and with United States national security and public safety interests; and*

*"(ii) suitable for the technical characteristics of the band and consistent with other uses of the band.*

*In exercising its authority under subparagraph (D)(i), NTIA shall consult with the Secretary of Defense, the Secretary of State, or other appropriate officers of the Federal Government.*

*"(3) RIGHT TO RECLAIM.—If within one year after the relocation the Federal Government station demonstrates to the Commission that the new facilities or spectrum are not comparable to the facilities or spectrum from which the Federal Government station was relocated, the person seeking such relocation must take reasonable steps to remedy any defects or pay the Federal entity for the costs of returning the Federal Government station to the spectrum from which such station was relocated.*

*"(h) FEDERAL ACTION TO EXPEDITE SPECTRUM TRANSFER.—Any Federal Government station which operates on electromagnetic spectrum that has been identified for reallocation for mixed Federal and non-Federal use in any reallocation report under subsection (a) shall, to the maximum extent practicable through the use of the authority granted under subsection (g) and any other applicable provision of law, take action to relocate its spectrum use*

*to other frequencies that are reserved for Federal use or to consolidate its spectrum use with other Federal Government stations in a manner that maximizes the spectrum available for non-Federal use. Subsection (c)(4) of this section shall not apply to the extent that a non-Federal user seeks to relocate or relocates a Federal power agency under subsection (g).*

*"(i) DEFINITION.—For purposes of this section, the term 'Federal entity' means any department, agency, or other instrumentality of the Federal Government that utilizes a Government station license obtained under section 305 of the 1934 Act (47 U.S.C. 305)."; and*

*(2) in section 114(a)(1), by striking "(a) or (d)(1)" and inserting "(a), (d)(1), or (f)".*

*(d) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—*

*(1) in section 113(b)—*

*(A) by striking the heading of paragraph (1) and inserting "INITIAL REALLOCATION REPORT.—";*

*(B) by inserting "in the first report required by subsection (a)" after "recommend for reallocation" in paragraph (1);*

*(C) by inserting "or (3)" after "paragraph (1)" each place it appears in paragraph (2); and*

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

*"(3) SECOND REALLOCATION REPORT.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), a single frequency band that spans not less than an additional 20 megahertz, that is located below 3 gigahertz, and that meets the criteria specified in paragraphs (1) through (5) of subsection (a)."; and*

*(2) in section 115—*

*(A) in subsection (b), by striking "the report required by section 113(a)" and inserting "the initial reallocation report required by section 113(a)"; and*

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

*"(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND REALLOCATION REPORT.—With respect to the frequencies made available for reallocation pursuant to section 113(b)(3), the Commission*

*shall, not later than 1 year after receipt of the second reallocation report required by such section, prepare, submit to the President and the Congress, and implement, a plan for the allocation and assignment under the 1934 Act of such frequencies. Such plan shall propose the immediate allocation and assignment of all such frequencies in accordance with section 309(j) of the 1934 Act (47 U.S.C. 309(j)).".*

# TITLE IV—EDUCATION AND RELATED PROVISIONS

**SEC. 4000. TABLE OF CONTENTS.**

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


*TITLE IV—EDUCATION AND RELATED PROVISIONS*

*Sec. 4000. Table of contents.*

*Subtitle A—Higher Education*

*Sec. 4001. Short title; references; and general effective date.*
*Sec. 4002. Participation of institutions and administration of loan programs.*
*Sec. 4003. Loan terms and conditions.*
*Sec. 4004. Amendments affecting guaranty agencies.*
*Sec. 4005. Amendments affecting FFELP lenders and loan holders.*
*Sec. 4006. Connie Lee privatization.*
*Sec. 4007. Extension of program duration.*

*Subtitle B—Provisions Relating to the Employee Retirement Income Security Act of 1974*

*Sec. 4101. Waiver of minimum period for joint and survivor annuity explanation before annuity starting date.*


## Subtitle A—Higher Education

**SEC. 4001. SHORT TITLE; REFERENCES; AND GENERAL EFFECTIVE DATE.**

*(a) SHORT TITLE.—This subtitle may be cited as the "Student Loan Reform Act of 1995".*

*(b) REFERENCES.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).*

*(c) GENERAL EFFECTIVE DATE.—Unless otherwise specified in this subtitle, the amendments made by this subtitle shall take effect on January 1, 1996.*

***SEC. 4002. PARTICIPATION OF INSTITUTIONS AND ADMINISTRATION OF LOAN PROGRAMS.***

*(a) LIMITATION ON PROPORTION OF LOANS MADE UNDER THE DIRECT LOAN PROGRAM.—Section 453(a) (20 U.S.C. 1087c(a)) is amended—*

*(1) by amending paragraph (2) to read as follows:*

*"(2) DETERMINATION OF NUMBER OF AGREEMENTS.—Notwithstanding any other provision of law, the Secretary may enter into agreements under subsections (a) and (b) of section 454 with institutions for participation in the direct loan program under this part, subject to the following:*

*"(A) For academic year 1994–1995, loans made under this part shall represent not more*

*than 5 percent of new student loan volume for such year.*

*"(B) For academic year 1995–1996, loans made under this part, including Federal Direct Consolidation Loans, shall represent not more than 30 percent of the new student loan volume for such year, except that the Secretary shall not enter into such an agreement with an eligible institution that has not applied and been accepted for participation in the direct loan program under this part on or before September 30, 1995.*

*"(C) For academic year 1996–1997 and for each succeeding academic year, loans made under this part, including Federal Direct Consolidation Loans, shall represent not more than 10 percent of the new student loan volume for such year, except that only the 102 eligible institutions that participated in the direct loan program under this part for academic year 1994–1995 shall be eligible to participate in such program for academic year 1996–1997 and for each succeeding academic year.";*

*(2) by striking paragraph (3);*

*(3) by redesignating paragraph (4) as paragraph (3); and*

*(4) in the second sentence of paragraph (3) (as redesignated by paragraph (3)), by striking "on the most recent program data available" and inserting "on data from the academic year preceding the academic year for which the estimate is made".*

*(b) ELIMINATION OF CONSCRIPTION.—Section 453(b)(2) (20 U.S.C. 1087c(b)(2)) is amended—*

*(1) by striking subparagraph (B); and*

*(2) in subparagraph (A)—*

*(A) in clause (ii)—*

*(i) by striking "beginning"; and*

*(ii) by striking "clause (i); and" and inserting "subparagraph (A).";*

*(B) by redesignating clause (ii) (as amended by subparagraph (A)) as subparagraph (B); and*

*(C) by striking "(i) categorizing" and inserting "categorizing".*

*(c) CONTROL OF ADMINISTRATIVE EXPENSES.—Section 458 (20 U.S.C. 1087h) is amended—*

*(1) by amending subsection (a) to read as follows:*

*"(a) EXPENSES.—*

*"(1) IN GENERAL.—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), each fiscal year there shall be available to the Secretary from funds not otherwise appropriated, funds to be obligated for subsidy costs under this part for the William D. Ford Federal Direct Loan Program. There shall also be available from funds not otherwise appropriated, funds to be obligated for indirect administrative expenses under this part and part B, not to exceed (from such funds not otherwise appropriated) $260,000,000 for fiscal year 1994, $345,000,000 for fiscal year 1995, $85,000,000 (and such sums as may be necessary for administrative cost allowances for guaranty agencies for costs accrued prior to January 1, 1996) for fiscal year 1996, and $85,000,000 for each of the fiscal years 1997 through 2002.*

*"(B) REDUCTION.—The amount authorized to be made available for fiscal year 1997 under subparagraph (A) shall be reduced by the amount of any unobligated unexpended funds available to carry out this subsection for any fiscal year prior to fiscal year 1996.*

*"(2) DIRECT AND INDIRECT ADMINISTRATIVE EXPENSES.—*

*"(A) DIRECT ADMINISTRATIVE EXPENSES.—*

*"(i) IN GENERAL.—For purposes of this subsection the term 'direct administrative expenses' means the cost under the William D. Ford Federal Direct Loan Program of—*

*"(I) activities related to credit extension, loan origination, loan servicing, management of contractors, and payments to contractors, other government entities, and program participants, under this part;*

*"(II) collection of delinquent loans under this part; and*

*"(III) write-off and closeout of loans under this part.*

*"(ii) CLARIFICATION WITH RESPECT TO CERTAIN EXPENSES.—Such term does not include the costs to the Department of personnel, training, rent, printing, or other administrative costs, associated with the activities described in subclause (I), (II), or (III) of clause (i).*

*"(B) INDIRECT ADMINISTRATIVE EXPENSES.—For purposes of this subsection the*

*term 'indirect administrative expenses' means the cost of—*

*"(i) personnel engaged in developing program regulations, policy and administrative guidance;*

*"(ii) audits of institutions and contractors;*

*"(iii) program reviews; and*

*"(iv) other oversight of the program under this part or under part B.*

*"(3) SUBSIDY COST.—The term 'subsidy cost' means the estimated long-term cost to the Federal Government of direct administrative expenses calculated on a net present value basis."; and*

*(2) by striking subsection (d).*

*(d) DEFAULT RATE LIMITATIONS ON DIRECT LENDING.—*

*(1) INSTITUTIONAL ELIGIBILITY BASED ON DEFAULT RATES.—The first sentence of section 435(a)(2)(A) (20 U.S.C. 1085(a)(2)(A)) is amended by inserting "or part D" after "under this part".*

*(2) COHORT DEFAULT RATE.—Section 435(m)(1) (20 U.S.C. 1085(m)(1)) is amended—*

*(A) in subparagraph (A)—*

*(i) by striking "428, 428A, or 428H" and inserting "428, 428A, 428H, or part D (other than Federal Direct PLUS Loans)"; and*

*(ii) by striking "428C" and inserting "428C or 455(g)";*

*(B) in subparagraph (B)—*

*(i) by striking "only"; and*

*(ii) by inserting "and loans made under part D determined by the Secretary to be in default," after "for insurance,"; and*

*(C) in subparagraph (C), by striking "428C" and inserting "428C or 455(g)".*

*(3) DEFAULT RATES AND INCOME CONTINGENT REPAYMENT.—Section 435(m) (20 U.S.C. 1085(m)) is amended by adding at the end the following new paragraph:*

*"(5) DEFAULT RATE AND INCOME CONTINGENT REPAYMENT.—The Secretary shall prescribe regulations for the calculation of default rates for loans that are repaid pursuant to income contingent repayment under this part, which regulations shall be comparable to regulations for the calculation of default*

*rates for loans that are repaid pursuant to income contingent repayment under part D.".*

*(4) TERMINATION OF INSTITUTIONAL PARTICIPATION.—Section 455 (20 U.S.C. 1087e) is amended by adding at the end the following new subsection:*

*"(l) TERMINATION OF INSTITUTIONS FOR HIGH DEFAULT RATES.—*

*"(1) METHODOLOGY AND CRITERIA.—The Secretary shall develop—*

*"(A) a methodology for the calculation of institutional default rates under the loan programs operated pursuant to this part;*

*"(B) criteria for the initiation of termination proceedings on the basis of such default rates; and*

*"(C) procedures for the conduct of such termination proceedings.*

*"(2) COMPARABILITY TO PART B.—In developing the methodology, criteria, and procedures required by paragraph (1), the Secretary, to the maximum extent possible, shall establish standards for the termination of institutions from participation in loan programs under this part that are comparable to the standards established for the termination of institutions from participation in the loan programs under part B.*

*Such procedures shall include provisions for the appeal of default rate calculations based on deficiencies in the servicing of loans under this part that are comparable to the provisions for such appeals based on deficiencies in the servicing of loans under part B.*

*"(3) PROMULGATION.—The methodology, criteria, procedures and standards required by paragraphs (1) and (2) shall be promulgated in final form not later than 120 days after the date of enactment of this paragraph.".*

*(e) ELIMINATION OF TRANSITION TO DIRECT LOANS.—The Act (20 U.S.C. 1001 et seq.) is further amended—*

*(1) in section 422(c)(7) (20 U.S.C. 1072(c)(7))—*

*(A) in subparagraph (A), by striking "during the transition" and all that follows through "part D of this title"; and*

*(B) in subparagraph (B), by striking "section 428(c)(10)(F)(v)" and inserting "section 428(c)(9)(F)(v)";*

*(2) in section 422(g)(1) (20 U.S.C. 1072(g)(1))—*

*(A) in the first sentence, by striking "or the program authorized by part D of this title"; and*

*(B) in the second sentence, by striking "or the program authorized by part D of this title";*

*(3) in section 428(c)(8) (20 U.S.C. 1078(c)(8))—*

*(A) by striking subparagraph (B); and*

*(B) by striking "(A) If" and inserting "If";*

*(4) in section 428(c)(9)(F)(vii) (20 U.S.C. 1078(c)(9)(F)(vii))—*

*(A) by inserting "and" before "to avoid disruption"; and*

*(B) by striking ", and to ensure an orderly transition" and all that follows through the end of such clause and inserting a period;*

*(5) in section 428(c)(9)(K) (20 U.S.C. 1078(c)(9)(K)), by striking "the progress of the transition from the loan programs under this part to" and inserting "the integrity and administration of";*

*(6) in section 428(e)(1)(B)(ii) (20 U.S.C. 1078(e)(1)(B)(ii)), by striking "during the transition" and all that follows through "under part D of this title";*

*(7) in section 428(e)(3) (20 U.S.C. 1078(e)(3)), by striking "costs of transition" and inserting "indirect administrative expenses";*

*(8) in section 428(j)(3) (20 U.S.C. 1078(j)(3))—*

*(A) in the heading for paragraph (3), by striking "DURING TRANSITION TO DIRECT LENDING"; and*

*(B) in subparagraph (A), by striking "during the transition" and all that follows through "part D of this title";*

*(9) in the heading for paragraph (2) of section 453(c) (20 U.S.C. 1087c(c)), by striking "TRANSITION" and inserting "INSTITUTIONAL";*

*(10) in the heading for paragraph (3) of section 453(c) (20 U.S.C. 1087c(c)), by striking "AFTER TRANSITION"; and*

*(11) in section 456(b) (20 U.S.C. 1087f(b))—*

*(A) in paragraph (3), by inserting "and" after the semicolon;*

*(B) by striking paragraph (4);*

*(C) by redesignating paragraph (5) as paragraph (4); and*

*(D) in paragraph (4) (as redesignated by subparagraph (C)), by striking "successful operation" and inserting "integrity and efficiency".*

*(f) FEES FOR ORIGINATION SERVICES.—Section 452 (20 U.S.C. 1087b) is amended—*

*(1) by striking subsection (b); and*

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

*(g) RISK SHARING.—Section 428(n) (20 U.S.C. 1078(n)) is amended by adding at the end the following new paragraph:*

*"(5) APPLICABILITY TO PART D LOANS.—The provisions of this subsection shall apply to institutions of higher education participating in direct lending under part D with respect to loans made under such part, and for the purposes of this paragraph, paragraph (4) shall be applied by inserting 'or part D' after 'this part'.".*

*(h) TECHNICAL AMENDMENT.—Section 428(b)(1)(X) (20 U.S.C. 1078(b)(1)(X)) is amended by striking "section 428(c)(10)" and inserting "section 428(c)(9)".*

***SEC. 4003. LOAN TERMS AND CONDITIONS.***

*(a) COMPARABILITY PROVISIONS.—*

*(1) IN GENERAL.—Paragraph (1) of section 455(a) (20 U.S.C. 1087e(a)) is amended to read as follows:*

*"(1) PARALLEL TERMS, CONDITIONS, ELIGIBILITY REQUIREMENTS, BENEFITS AND AMOUNTS.—Unless otherwise specified in this part, loans made to borrowers under this part shall have the same terms, conditions, deferments, forbearances, eligibility requirements, and benefits, be subject to the same administrative requirements for origination, payment*

*and processing of applications, be available in the same amounts, be subject to the same interest rates and same amount of fees, and have the same repayment plans, as the corresponding types of loans made to borrowers under sections 428, 428B, and 428H. The Secretary shall promulgate regulations implementing this paragraph not later than 120 days after the date of enactment of the Student Loan Reform Act of 1995.".*

*(2) CONFORMING AMENDMENTS.—Section 428(b)(1) (20 U.S.C. 1078(b)(1)) is amended—*

*(A) in subparagraph (D)(ii), by inserting "(except pursuant to a graduated, income-sensitive, or income contingent repayment schedule)" after "10 years"; and*

*(B) in subparagraph (E)(ii), by inserting "(except pursuant to a graduated, income-sensitive, or income contingent repayment schedule)" after "10 years".*

*(b) ABILITY OF PART D BORROWERS TO OBTAIN FEDERAL STAFFORD CONSOLIDATION LOANS.—Section 428C(a)(4) (20 U.S.C. 1078–3(a)(4)) is amended—*

*(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively; and*

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

*"(B) made under part D of this title;".*

*(c) ABILITY OF PART B BORROWERS TO OBTAIN FEDERAL DIRECT CONSOLIDATION LOANS.—Paragraph (5) of section 428C(b) (20 U.S.C. 1078–3(b)) is amended to read as follows:*

*"(5) DIRECT CONSOLIDATION LOANS FOR BORROWERS IN SPECIFIED CIRCUMSTANCES.—*

*"(A) Subject to subparagraphs (B) and (C) of section 453(a)(2), the Secretary may offer a borrower a Federal Direct Consolidation loan if such borrower is otherwise eligible for a consolidation loan pursuant to this section and such borrower is—*

*"(i) unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1) that holds one of such borrower's loans under this part; or*

*"(ii) unable to obtain a consolidation loan with income contingent repayment terms from a lender with an agreement under subsection (a)(1).*

*"(B) The Secretary shall establish appropriate certification procedures to verify the eligi-*

*bility of borrowers for consolidation loans under this paragraph.*

*"(C) The Secretary shall not offer consolidation loans under this paragraph if, in the Secretary's judgment, the Department does not have the necessary origination and servicing arrangements in place for such loans, or the projected volume in such loans will be destabilizing to the availability of loans otherwise available under this part.".*

*(d) INCOME CONTINGENT REPAYMENT IN THE FEDERAL FAMILY EDUCATION LOAN PROGRAM.—*

*(1) INSURANCE PROGRAM AGREEMENTS.—Section 428(b)(1)(E)(i) (20 U.S.C. 1078(b)(1)(E)(i)) is amended by striking "or income-sensitive repayment schedule" and inserting "repayment schedule or an income-sensitive repayment schedule, and may, at the discretion of the lender, offer the borrower the option of repaying the loan in accordance with an income contingent repayment schedule,".*

*(2) REPAYMENT SCHEDULES.—The matter preceding clause (i) of section 428C(c)(2)(A) (20 U.S.C. 1078–3(c)(2)(A)) is amended—*

*(A) in the first sentence, by striking "or income-sensitive repayment schedules" and insert-*

*ing "repayment schedules or income-sensitive repayment schedules, and may include, at the discretion of the lender, the establishment of income contingent repayment schedules"; and*

*(B) in the second sentence, by striking "income-sensitive" and inserting "graduated, income-sensitive, or income contingent".*

*(3) COMPARABLE TERMS AND CONDITIONS.—Section 428(m) (20 U.S.C. 1078(m)) is amended by adding at the end the following new paragraph:*

*"(3) INCOME CONTINGENT REPAYMENT SCHEDULES.—For the purpose of this part, income contingent repayment schedules established pursuant to subsection (b)(1)(E)(i) and section 428C(c)(2)(A) shall have terms and conditions comparable to the terms and conditions established by the Secretary pursuant to section 455(e)(4). The Secretary shall discharge or cancel the indebtedness of borrowers that repay pursuant to income contingent repayment under this part to the same extent, and under the same circumstances, as the Secretary discharges or cancels the indebtedness of borrowers that repay pursuant to income contingent repayment under part D.".*

*(e) PLUS PROGRAM REDUCTIONS.—Section 428B(b) (20 U.S.C. 1078–2(b)) is amended—*

*(1) by striking "(b) LIMITATION BASED ON NEED.—" and inserting the following:*

*"(b) ANNUAL LIMITS.—*

*"(1) LIMITATION BASED ON NEED.—";*

*(2) by inserting before the last sentence thereof the following:*

*"(3) LIMITATION COMPUTED ON BASIS OF ACTUAL PAYMENTS.—"; and*

*(3) by inserting before paragraph (3) (as designated by the amendment made by paragraph (2) of this section) the following new paragraph:*

*"(2) DOLLAR LIMITATION.—Subject to paragraph (1), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulations of the Secretary) is $15,000.".*

***SEC. 4004. AMENDMENTS AFFECTING GUARANTY AGENCIES.***

*(a) USE OF RESERVE FUNDS TO PURCHASE DEFAULTED LOANS.—Section 422 (20 U.S.C. 1072) is amended by adding at the end the following new subsection:*

*"(h) USE OF RESERVE FUNDS TO PURCHASE DEFAULTED LOANS.—*

*"(1) IN GENERAL.—Except as provided in paragraph (2), a guaranty agency shall use not less than 50 percent of such agency's reserve funds to purchase*

*and hold defaulted loans that are guaranteed by such agency and for which a claim for insurance is filed with such agency by an eligible lender. The amount of such purchases shall be considered as reserve funds under this section and used in the calculation of the minimum reserve level under section 428(c)(9).*

*"(2) SPECIAL RULE.—A guaranty agency shall not be required to use its reserve funds to purchase and hold defaulted loans in accordance with paragraph (1) to the extent that—*

*"(A) the dollar volume of insurance claims filed with such agency does not amount to 50 percent of such agency's available reserve funds;*

*"(B) such use is prohibited by State law; or*

*"(C) such use will compromise the ability of the guaranty agency to pay program expenses.".*

*(b) EXTENSION OF PERIOD A GUARANTY AGENCY MUST HOLD A DEFAULTED LOAN.—*

*(1) EXEMPTION FOR EXTENDED HOLDING PERIOD.—The last sentence of section 428(c)(1)(A) (20 U.S.C. 1078(c)(1)(A)) is amended by striking "A guaranty agency" and inserting "Except as provided in section 428K, a guaranty agency".*

*(2) NEW EXTENDED HOLDING PERIOD PROGRAM.—*

*(A) AMENDMENT.—Part B of title IV (20 U.S.C. 1071 et seq.) is amended by inserting after section 428J the following new section:*

***"SEC. 428K. GUARANTOR PURCHASE OF CLAIMS WITH RESERVE FUNDS.***

*"(a) LOANS SUBJECT TO EXTENDED HOLDING PERIOD.—Except as provided in subsection (b), a guaranty agency shall file a claim for reimbursement with respect to losses (resulting from the default of a borrower) subject to reimbursement by the Secretary pursuant to section 428(c)(1) not less than 180 days nor more than 225 days after the guaranty agency discharges such agency's insurance obligation on a loan insured under this part. Such claim shall include losses on the unpaid principal and accrued interest of any such loan, including interest accrued from the date of such discharge to the date such agency files the claim for reimbursement from the Secretary.*

*"(b) LOANS EXCLUDED FROM EXTENDED HOLDING.—A guaranty agency may file a claim with respect to losses subject to reimbursement by the Secretary pursuant to section 428(c)(1) prior to 180 days after the date the guaranty agency discharges such agency's insurance obligation on a loan insured under this part, if—*

*"(1) such agency used 50 percent or more of such agency's reserve funds to purchase or hold loans in accordance with section 422(h);*

*"(2) such claim is based on an inability to locate the borrower and the guaranty agency certifies to the Secretary that—*

*"(A) diligent attempts were made to locate the borrower through the use of reasonable skip-tracing techniques in accordance with section 428(c)(2)(G); and*

*"(B) such skip-tracing attempts to locate the borrower were unsuccessful; or*

*"(3) the guaranty agency determines that the borrower is unlikely to possess the financial resources to begin repaying the loan prior to 180 days after default by the borrower.*

*"(c) GUARANTY AGENCY EFFORTS DURING EXTENDED HOLDING PERIOD.—A guaranty agency shall attempt to bring a loan described in subsection (a) into repayment status during the period prior to 225 days after the date the guaranty agency discharges its insurance obligation on such loan, so that no claim for reimbursement by the Secretary is necessary. Upon securing payments satisfactory to the guaranty agency during such period, such agency shall, if practicable, sell such loan to an eligible lender.*

*Such loan shall not be sold to an eligible lender that the guaranty agency determines has substantially failed to exercise the due diligence required of lenders under this part.*

*"(d) REGULATION PROHIBITED.—The Secretary shall not promulgate regulations regarding the collection activity of a guaranty agency with respect to a loan described in subsection (a) for which reinsurance has not been paid under section 428(c)(1).".*

*(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply with respect to loans for which claims for insurance are filed by eligible lenders on or after January 1, 1996.*

*(c) ADMINISTRATIVE COST ALLOWANCE.—Section 428(f)(1) (20 U.S.C. 1078(f)(1)) is amended—*

*(1) in the matter preceding clause (i) of subparagraph (A), by striking "For a fiscal year prior to fiscal year 1994, the" and inserting "The"; and*

*(2) by amending subparagraph (B) to read as follows:*

*"(B)(i) The total amount of payments for any fiscal year prior to fiscal year 1994 made under this paragraph shall be equal to 1 percent of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such guaranty agency.*

*"(ii) For the period beginning January 1, 1996 and ending September 30, 1996, and for each fiscal year thereafter, each guaranty agency shall receive an administrative cost allowance, payable quarterly, for such fiscal year calculated on the basis of 0.85 percent of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such guaranty agency.*

*"(iii) The guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of this subparagraph. Payments shall be made promptly and without administrative delay to any guaranty agency submitting an accurate and complete application therefor under this subparagraph.*

*"(iv) Notwithstanding clauses (ii) and (iii)—*

*"(I) for each of the fiscal years 1996 through 1998, the Secretary shall pay an aggregate amount for such year of not more than $220,000,000 to all guaranty agencies receiving administrative cost allowances under this subparagraph; and*

*"(II) for each of the fiscal years 1999 through 2002, the Secretary shall pay an aggregate amount for such year of not more than*

*$180,000,000 to all guaranty agencies receiving administrative cost allowances under this subparagraph.".*

*(d) SECRETARY'S EQUITABLE SHARE OF COLLECTIONS ON CONSOLIDATED DEFAULTED LOANS.—Section 428(c)(6)(A) (20 U.S.C. 1078(c)(6)(A)) is amended—*

*(1) in the matter preceding clause (i)—*

*(A) by inserting "or on behalf of" after "made by"; and*

*(B) by inserting ", including payments made to discharge loans made under this title to obtain a consolidation loan pursuant to this part or part D," after "borrower"; and*

*(2) in clause (ii), by inserting after "an amount equal to" the following: "—*

*"(I) for defaulted loans consolidated pursuant to this part or part D on or after January 1, 1996, 18.5 percent of the balance of the principal, accrued interest, and collection costs, outstanding at the time of such consolidation; or*

*"(II) for all other loans,".*

*(e) RESERVE FUND REFORMS.—*

*(1) STRENGTHENING AND STABILIZING GUARANTY AGENCIES.—Section 428(c) (20 U.S.C. 1078(c)) is amended—*

*(A) in paragraph (9)(C)(ii), by striking "80 percent" and inserting "76 percent"; and*

*(B) in paragraph (9)(E)—*

*(i) in the matter preceding clause (i), by striking "The Secretary may terminate a" and inserting "After providing a guaranty agency notice and opportunity for a hearing on the record, the Secretary may terminate such";*

*(ii) in clause (iv), by inserting "or" after the semicolon;*

*(iii) by striking clause (vi); and*

*(iv) in clause (v), by striking "; or" and inserting a period.*

*(2) ADDITIONAL AMENDMENTS.—Section 422 (20 U.S.C. 1072) is further amended—*

*(A) in the last sentence of subsection (a)(2), by striking "Except as provided in section 428(c)(10)(E) or (F), such" and inserting "Except as provided in subparagraph (E) or (F) of section 428(c)(9), such"; and*

*(B) in subsection (g), by amending paragraph (4) to read as follows:*

*"(4) DISPOSITION OF FUNDS RETURNED TO OR RECOVERED BY THE SECRETARY.—Any funds that are returned to or otherwise recovered by the Secretary pursuant to this subsection shall be returned to the Treasury of the United States for purposes of reducing the Federal debt and shall be deposited into the special account under section 3113(d) of title 31, United States Code.".*

*(f) ELIMINATION OF SUPPLEMENTAL PRECLAIMS ASSISTANCE.—*

*(1) AMENDMENT.—Section 428(l) (20 U.S.C. 1078(l)) is amended—*

*(A) by striking paragraph (2); and*

*(B) by striking "(l) PRECLAIMS" and all that follows through "Upon receipt" and inserting the following:*

*"(l) PRECLAIMS ASSISTANCE AND SUPPLEMENTAL PRECLAIMS ASSISTANCE.—Upon receipt".*

*(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to loans for which the first delinquency occurs on or after January 1, 1996.*

*(g) RESERVE RATIOS.—Section 428(c)(9)(A) (20 U.S.C. 1078(c)(9)(A)) is amended—*

*(1) in clause (i), by inserting "and" after the semicolon;*

*(2) in clause (ii), by striking "; and" and inserting a period; and*

*(3) by striking clause (iii).*

*(h) GUARANTY AGENCY REIMBURSEMENT.—*

*(1) IN GENERAL.—Section 428(c)(1) (20 U.S.C. 1078(c)(1)) is amended—*

*(A) in subparagraph (A), by striking "98 percent" and inserting "96 percent"; and*

*(B) in subparagraph (B)—*

*(i) in clause (i), by striking "88 percent" and inserting "86 percent"; and*

*(ii) in clause (ii), by striking "78 percent" and inserting "76 percent".*

*(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.*

***SEC. 4005. AMENDMENTS AFFECTING FFELP LENDERS AND LOAN HOLDERS.***

*(a) RISK SHARING BY THE LOAN HOLDERS.—*

*(1) AMENDMENT.—Section 428(b)(1)(G) (20 U.S.C. 1078(b)(1)(G)) is amended by striking "not less than 98 percent" and inserting "95 percent".*

*(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.*

*(b) LENDERS-OF-LAST-RESORT.—Section 428(j)(2) (20 U.S.C. 1078(j)(2)) is amended—*

*(1) in subparagraph (A), by striking "60 days" and inserting "15 days"; and*

*(2) in subparagraph (B), by striking "two rejections from eligible lenders" and inserting "one rejection from an eligible lender".*

*(c) EXCEPTIONAL PERFORMANCE INSURANCE REDUCTION.—Section 428I(b)(1) (20 U.S.C. 1078–9(b)(1)) is amended—*

*(1) in the paragraph heading, by striking "100 PERCENT"; and*

*(2) by striking "100 percent" and inserting "95 percent (or 100 percent in the case of a lender-of-last-resort)".*

*(d) LOAN FEES FROM LENDERS.—*

*(1) AMENDMENT.—Section 438(d)(2) (20 U.S.C. 1087–1(d)(2)) is amended by striking "0.50 percent" and inserting "0.80 percent".*

*(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to loans for*

*which the first disbursement is made on or after January 1, 1996.*

*(e) LENDER AND HOLDER REBATE.—*

*(1) AMENDMENT.—Section 438 (20 U.S.C. 1078) is amended by adding at the end the following new subsection:*

*"(g) SUBSIDY REBATE ON STAFFORD AND PLUS LOANS.—*

*"(1) REBATE.—Each holder of a subsidized or unsubsidized Federal Stafford Loan under this part, or a Federal PLUS loan under section 428B, shall pay to the Secretary, on June 30 and December 31 of each year, a subsidy rebate in an amount equal to 0.035 percent of the unpaid principal amount of each such loan that such holder holds during the repayment period described in section 428(b)(7), except that, notwithstanding subparagraphs (A), (B), and (C) of section 428(b)(7), such holder shall pay a subsidy rebate under this paragraph with respect to such loan during any period of authorized forbearance.*

*"(2) PAYMENT OF REBATE.—The subsidy rebate shall be paid, to the extent possible, by subtracting from amounts owed such holder under section 438(b) (after deducting from such amounts any amount owed by such holder under section 438(d) for the quarters*

*ending June 30 and December 31, as appropriate) the amount of subsidy rebates owed by such holder. To the extent the amounts owed such holder under section 438(b) (after making the deduction described in the preceding sentence) are insufficient to pay in full the subsidy rebates due from such holder, such holder shall pay the insufficiency by check or wire transfer of funds, in a manner determined by the Secretary.*

*"(3) DEPOSIT.—The Secretary shall deposit all subsidy rebates collected under the second sentence of paragraph (2) into the insurance fund established in section 431.".*

*(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.*

*(f) SMALL LENDER AUDIT EXEMPTION.—Section 428(b)(1)(U)(iii) (20 U.S.C. 1078(b)(1)(U)(iii)) is amended—*

*(1) by inserting "in the case of any lender that originates or holds more than $5,000,000 in principal on loans made under this title in any fiscal year" before "for (I)";*

*(2) in subclause (I), by inserting "such" before "lender at least once";*

*(3) in subclause (II), by inserting "such" before "a lender that is audited"; and*

*(4) by striking "if the lender" and inserting "if such lender".*

***SEC. 4006. CONNIE LEE PRIVATIZATION.***

*(a) STATUS OF THE CORPORATION AND CORPORATE POWERS; OBLIGATIONS NOT FEDERALLY GUARANTEED.—*

*(1) STATUS OF THE CORPORATION.—The Corporation shall not be an agency, instrumentality, or establishment of the United States Government, nor a Government corporation nor a Government controlled corporation as such terms are defined in section 103 of title 5, United States Code. No action under section 1491 of title 28, United States Code (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.*

*(2) CORPORATE POWERS.—The Corporation shall be subject to the provisions of this section, and, to the extent not inconsistent with this section, to the District of Columbia Business Corporation Act (or the comparable law of another State, if applicable). The Corporation shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act (or such other applicable State law)*

*as from time to time in effect in order to conduct its affairs as a private, for-profit corporation and to carry out its purposes and activities incidental thereto. The Corporation shall have the power to enter into contracts, to execute instruments, to incur liabilities, to provide products and services, and to do all things as are necessary or incidental to the proper management of its affairs and the efficient operation of a private, for-profit business.*

*(3) LIMITATION ON OWNERSHIP OF STOCK.—*

*(A) SECRETARY OF THE TREASURY.—The Secretary of the Treasury, in completing the sale of stock pursuant to subsection (c), may not sell or issue the stock held by the Secretary of Education to an agency, instrumentality, or establishment of the United States Government, or to a Government corporation or a Government controlled corporation as such terms are defined in section 103 of title 5, United States Code, or to a government-sponsored enterprise as such term is defined in section 622 of title 2, United States Code.*

*(B) STUDENT LOAN MARKETING ASSOCIATION.—The Student Loan Marketing Association shall not increase its share of the ownership of*

*the Corporation in excess of 42 percent of the shares of stock of the Corporation outstanding on the date of enactment of this Act. The Student Loan Marketing Association shall not control the operation of the Corporation, except that the Student Loan Marketing Association may participate in the election of directors as a shareholder, and may continue to exercise its right to appoint directors under section 754 of the Higher Education Act of 1965 (20 U.S.C. 1132f–3) as long as that section is in effect.*

*(C) PROHIBITION.—Until such time as the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c), the Student Loan Marketing Association shall not provide financial support or guarantees to the Corporation.*

*(D) FINANCIAL SUPPORT OR GUARANTEES.—After the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c), the Student Loan Marketing Association may provide financial support or guarantees to the Corporation, if such support or guarantees are*

*subject to terms and conditions that are no more advantageous to the Corporation than the terms and conditions the Student Loan Marketing Association provides to other entities, including, where applicable, other monoline financial guaranty corporations in which the Student Loan Marketing Association has no ownership interest.*

*(4) NO FEDERAL GUARANTEE.—*

*(A) OBLIGATIONS INSURED BY THE CORPORATION.—*

*(i) FULL FAITH AND CREDIT OF THE UNITED STATES.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the full faith and credit of the United States.*

*(ii) STUDENT LOAN MARKETING ASSOCIATION.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the Student Loan Marketing Association.*

*(iii) SPECIAL RULE.—This paragraph shall not affect the determination of whether*

*such obligation is guaranteed for purposes of Federal income taxes.*

*(B) SECURITIES OFFERED BY THE CORPORATION.—No debt or equity securities of the Corporation shall be deemed to be guaranteed by the full faith and credit of the United States.*

*(5) DEFINITION.—The term "Corporation" as used in this section means the College Construction Loan Insurance Association as in existence on the day before the date of enactment of this Act, and to any successor corporation.*

*(b) RELATED PRIVATIZATION REQUIREMENTS.—*

*(1) NOTICE REQUIREMENTS.—*

*(A) IN GENERAL.—During the six-year period following the date of enactment of this Act, the Corporation shall include, in each of the Corporation's contracts for the insurance, guarantee, or reinsurance of obligations, and in each document offering debt or equity securities of the Corporation a prominent statement providing notice that—*

*(i) such obligations or such securities, as the case may be, are not obligations of the United States, nor are such obligations*

*guaranteed in any way by the full faith and credit of the United States; and*

*(ii) the Corporation is not an instrumentality of the United States.*

*(B) ADDITIONAL NOTICE.—During the five-year period following the sale of stock pursuant to subsection (c)(1), in addition to the notice requirements in subparagraph (A), the Corporation shall include, in each of the contracts and documents referred to in such subparagraph, a prominent statement providing notice that the United States is not an investor in the Corporation.*

*(2) CORPORATE CHARTER.—The Corporation's charter shall be amended as necessary and without delay to conform to the requirements of this section.*

*(3) CORPORATE NAME.—The name of the Corporation, or of any direct or indirect subsidiary thereof, may not contain the term "College Construction Loan Insurance Association", or any substantially similar variation thereof.*

*(4) ARTICLES OF INCORPORATION.—The Corporation shall amend its articles of incorporation without delay to reflect that one of the purposes of the Corporation shall be to guarantee, insure, and rein-*

*sure bonds, leases, and other evidences of debt of educational institutions, including Historically Black Colleges and Universities and other academic institutions which are ranked in the lower investment grade category using a nationally recognized credit rating system.*

*(5) REQUIREMENTS UNTIL STOCK SALE.—Notwithstanding subsection (d), the requirements of sections 754 and 760 of the Higher Education Act of 1965 (20 U.S.C. 1132f–3 and 1132f–9), as such sections were in effect on the day before the date of enactment of this Act, shall continue to be effective until the day immediately following the date of closing of the purchase of the Secretary of Education's stock (or the date of closing of the final purchase, in the case of multiple transactions) pursuant to subsection (c)(1) of this Act.*

*(c) SALE OF FEDERALLY OWNED STOCK.—*

*(1) SALE OF STOCK REQUIRED.—The Secretary of the Treasury shall sell, pursuant to section 324 of title 31, United States Code, the stock of the Corporation owned by the Secretary of Education as soon as possible after the date of enactment of this Act, but not later than six months after such date.*

*(2) PURCHASE BY THE CORPORATION.—In the event that the Secretary of the Treasury is unable to sell the stock, or any portion thereof, at a price acceptable to the Secretary of Education and the Secretary of the Treasury, the Corporation shall purchase, within 6 months after the date of enactment of this Act, such stock at a price determined by the Secretary of the Treasury and acceptable to the Corporation based on the independent appraisal of one or more nationally recognized financial firms, except that such price shall not exceed the value of the Secretary of Education's stock as determined by the Congressional Budget Office in House Report 104–153, dated June 22, 1995.*

*(3) REIMBURSEMENT OF COSTS OF SALE.—The Secretary of the Treasury shall be reimbursed from the proceeds of the sale of the stock under this subsection for all reasonable costs related to such sale, including all reasonable expenses relating to one or more independent appraisals under this subsection.*

*(4) ASSISTANCE BY THE CORPORATION.—The Corporation shall provide such assistance as the Secretary of the Treasury and the Secretary of Education may require to facilitate the sale of the stock under this subsection.*

*(d) REPEAL OF STATUTORY RESTRICTIONS AND RELATED PROVISIONS.—Part D of title VII of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is repealed.*

***SEC. 4007. EXTENSION OF PROGRAM DURATION.***

*Part B of title IV (20 U.S.C. 1071 et seq.) is amended—*

*(1) in section 424(a) (20 U.S.C. 1074(a)), by striking "1998" and inserting "2002";*

*(2) in section 428(a)(5) (20 U.S.C. 1078(a)(5))—*

*(A) by striking "1998" and inserting "2002"; and*

*(B) by striking "2002" and inserting "2006"; and*

*(3) in section 428C(e) (20 U.S.C. 1078–3(e)), by amending the first sentence to read as follows: "The authority to make loans under this section expires at the close of September 30, 2002.".*

## *Subtitle B—Provisions Relating to the Employee Retirement Income Security Act of 1974*

### *SEC. 4101. WAIVER OF MINIMUM PERIOD FOR JOINT AND SURVIVOR ANNUITY EXPLANATION BEFORE ANNUTIY STARTING DATE.*

*(a) GENERAL RULE.—For purposes of section 205(c)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(3)(A)), the minimum period prescribed by the Secretary of the Treasury between the date that the explanation referred to in such section is provided and the annuity starting date shall not apply if waived by the participant and, if applicable, the participant's spouse.*

*(b) EFFECTIVE DATE.—Subsection (a) shall apply to plan years beginning after December 31, 1995.*

# *TITLE V—ENERGY AND NATURAL RESOURCES PROVISIONS*

## *Subtitle A—Nuclear Regulatory Commission Annual Charges*

### *SEC. 5001. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.*

*Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by*

*striking "September 30, 1998" and inserting "September 30, 2002".*

# *Subtitle B—Department of Energy Assets*

## *CHAPTER 1—UNITED STATES ENRICHMENT CORPORATION*

### *SEC. 5201. SHORT TITLE.*

*This chapter may be cited as the "USEC Privatization Act".*

### *SEC. 5202. DEFINITIONS.*

*For purposes of this chapter:*

*(1) The term "AVLIS" means atomic vapor laser isotope separation technology.*

*(2) The term "Corporation" means the United States Enrichment Corporation and, unless the context otherwise requires, includes the private corporation and any successor thereto following privatization.*

*(3) The term "gaseous diffusion plants" means the Paducah Gaseous Diffusion Plant at Paducah, Kentucky and the Portsmouth Gaseous Diffusion Plant at Piketon, Ohio.*

*(4) The term "highly enriched uranium" means uranium enriched to 20 percent or more of the uranium–235 isotope.*

*(5) The term "low-enriched uranium" means uranium enriched to less than 20 percent of the uranium–235 isotope, including that which is derived from highly enriched uranium.*

*(6) The term "low-level radioactive waste" has the meaning given such term in section 2(9) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b(9)).*

*(7) The term "private corporation" means the corporation established under section 5205.*

*(8) The term "privatization" means the transfer of ownership of the Corporation to private investors.*

*(9) The term "privatization date" means the date on which 100 percent of the ownership of the Corporation has been transferred to private investors.*

*(10) The term "public offering" means an underwritten offering to the public of the common stock of the private corporation pursuant to section 5204.*

*(11) The "Russian HEU Agreement" means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993.*

*(12) The term "Secretary" means the Secretary of Energy.*

*(13) The "Suspension Agreement" means the Agreement to Suspend the Antidumping Investigation on Uranium from the Russian Federation, as amended.*

*(14) The term "uranium enrichment" means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.*

***SEC. 5203. SALE OF THE CORPORATION.***

*(a) AUTHORIZATION.—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer the interest of the United States in the United States Enrichment Corporation to the private sector in a manner that provides for the long-term viability of the Corporation, provides for the continuation by the Corporation of the operation of the Department of Energy's gaseous diffusion plants, provides for the protection of the public interest in maintaining a reliable and economical domestic source of uranium mining, enrichment and conversion services, and, to the extent not inconsistent with such purposes, secures the maximum proceeds to the United States.*

*(b) PROCEEDS.—Proceeds from the sale of the United States' interest in the Corporation shall be deposited in the general fund of the Treasury.*

***SEC. 5204. METHOD OF SALE.***

*(a) AUTHORIZATION.—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer ownership of the assets and obligations of the Corporation to the private corporation established under section 5205 (which may be consummated through a merger or consolidation effected in accordance with, and having the effects provided under, the law of the state of incorporation of the private corporation, as if the Corporation were incorporated thereunder).*

*(b) BOARD DETERMINATION.—The Board, with the approval of the Secretary of the Treasury, shall select the method of transfer and establish terms and conditions for the transfer that will provide the maximum proceeds to the Treasury of the United States and will provide for the long-term viability of the private corporation, the continued operation of the gaseous diffusion plants, and the public interest in maintaining reliable and economical domestic uranium mining and enrichment industries.*

*(c) ADEQUATE PROCEEDS.—The Secretary of the Treasury shall not allow the privatization of the Corporation unless before the sale date the Secretary of Treasury*

*determines that the method of transfer will provide the maximum proceeds to the Treasury consistent with the principles set forth in section 5203(a).*

*(d) APPLICATION OF SECURITIES LAWS.—Any offering or sale of securities by the private corporation shall be subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and the provisions of the Constitution and laws of any State, territory, or possession of the United States relating to transactions in securities.*

***SEC. 5205. ESTABLISHMENT OF PRIVATE CORPORATION.***

*(a) INCORPORATION.—(1) The directors of the Corporation shall establish a private for-profit corporation under the laws of a State for the purpose of receiving the assets and obligations of the Corporation at privatization and continuing the business operations of the Corporation following privatization.*

*(2) The directors of the Corporation may serve as incorporators of the private corporation and shall take all steps necessary to establish the private corporation, including the filing of articles of incorporation consistent with the provisions of this chapter.*

*(3) Employees and officers of the Corporation (including members of the Board of Directors) acting in accordance with this section on behalf of the private corporation shall*

*be deemed to be acting in their official capacities as employees or officers of the Corporation for purposes of section 205 of title 18, United States Code.*

*(b) STATUS OF THE PRIVATE CORPORATION.—(1) The private corporation shall not be an agency, instrumentality, or establishment of the United States, a Government corporation, or a Government-controlled corporation.*

*(2) Except as otherwise provided by this chapter, financial obligations of the private corporation shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.*

*(3) No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on actions of the private corporation.*

*(c) APPLICATION OF POST-GOVERNMENT EMPLOYMENT RESTRICTIONS.—Beginning on the privatization date, the restrictions stated in section 207 (a), (b), (c), and (d) of title 18, United States Code, shall not apply to the acts of an individual done in carrying out official duties as a director, officer, or employee of the private corporation, if the individual was an officer or employee of the Corporation (including a director) continuously during the 45 days prior to the privatization date.*

*(d) DISSOLUTION.—In the event that the privatization does not occur, the Corporation will provide for the dissolution of the private corporation within 1 year of the private corporation's incorporation unless the Secretary of the Treasury or his delegate, upon the Corporation's request, agrees to delay any such dissolution for an additional year.*

***SEC. 5206. TRANSFERS TO THE PRIVATE CORPORATION.***

*Concurrent with privatization, the Corporation shall transfer to the private corporation—*

*(1) the lease of the gaseous diffusion plants in accordance with section 5207,*

*(2) all personal property and inventories of the Corporation,*

*(3) all contracts, agreements, and leases under section 5208(a),*

*(4) the Corporation's right to purchase power from the Secretary under section 5208(b),*

*(5) such funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution as approved by the Secretary of the Treasury, and*

*(6) all of the Corporation's records, including all of the papers and other documentary materials, regardless of physical form or characteristics, made or received by the Corporation.*

***SEC. 5207. LEASING OF GASEOUS DIFFUSION FACILITIES.***

*(a) TRANSFER OF LEASE.—Concurrent with privatization, the Corporation shall transfer to the private corporation the lease of the gaseous diffusion plants and related property for the remainder of the term of such lease in accordance with the terms of such lease.*

*(b) RENEWAL.—The private corporation shall have the exclusive option to lease the gaseous diffusion plants and related property for additional periods following the expiration of the initial term of the lease.*

*(c) EXCLUSION OF FACILITIES FOR PRODUCTION OF HIGHLY ENRICHED URANIUM.—The Secretary shall not lease to the private corporation any facilities necessary for the production of highly enriched uranium but may, subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), grant the Corporation access to such facilities for purposes other than the production of highly enriched uranium.*

*(d) DOE RESPONSIBILITY FOR PREEXISTING CONDITIONS.—The payment of any costs of decontamination and decommissioning, response actions, or corrective actions with respect to conditions existing before July 1, 1993 at the gaseous diffusion plants shall remain the sole responsibility of the Secretary.*

*(e) ENVIRONMENTAL AUDIT.—For purposes of subsection (d), the conditions existing before July 1, 1993, at*

*the gaseous diffusion plants shall be determined from the environmental audit conducted pursuant to section 1403(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c–2(e)).*

*(f) TREATMENT UNDER PRICE-ANDERSON PROVISIONS.—Any lease executed between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, under this section shall be deemed to be a contract for purposes of section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)).*

*(g) WAIVER OF EIS REQUIREMENT.—The execution or transfer of the lease between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, shall not be considered a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).*

***SEC. 5208. TRANSFER OF CONTRACTS.***

*(a) TRANSFER OF CONTRACTS.—Concurrent with privatization, the Corporation shall transfer to the private corporation all contracts, agreements, and leases, including all uranium enrichment contracts, that were—*

*(1) transferred by the Secretary to the Corporation pursuant to section 1401(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c(b)), or*

*(2) entered into by the Corporation before the privatization date.*

*(b) NONTRANSFERABLE POWER CONTRACTS.—The Corporation shall transfer to the private corporation the right to purchase power from the Secretary under the power purchase contracts for the gaseous diffusion plants executed by the Secretary before July 1, 1993. The Secretary shall continue to receive power for the gaseous diffusion plants under such contracts and shall continue to resell such power to the private corporation at cost during the term of such contracts.*

*(c) EFFECT OF TRANSFER.—(1) Notwithstanding subsection (a), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred under subsection (a) for the performance of its obligations under such contracts, agreements, or leases during their terms. Performance of such obligations by the private corporation shall be considered performance by the United States.*

*(2) If a contract, agreement, or lease transferred under subsection (a) is terminated, extended, or materially amended after the privatization date—*

*(A) the private corporation shall be responsible for any obligation arising under such contract, agree-*

*ment, or lease after any extension or material amendment, and*

*(B) the United States shall be responsible for any obligation arising under the contract, agreement, or lease before the termination, extension, or material amendment.*

*(3) The private corporation shall reimburse the United States for any amount paid by the United States under a settlement agreement entered into with the consent of the private corporation or under a judgment, if the settlement or judgment—*

*(A) arises out of an obligation under a contract, agreement, or lease transferred under subsection (a), and*

*(B) arises out of actions of the private corporation between the privatization date and the date of a termination, extension, or material amendment of such contract, agreement, or lease.*

*(d) PRICING.—The Corporation may establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profit making corporation.*

***SEC. 5209. LIABILITIES.***

*(a) LIABILITY OF THE UNITED STATES.—(1) Except as otherwise provided in this chapter, all liabilities arising*

*out of the operation of the uranium enrichment enterprise before July 1, 1993, shall remain the direct liabilities of the Secretary.*

*(2) Except as provided in subsection (a)(3) or otherwise provided in a memorandum of agreement entered into by the Corporation and the Office of Management and Budget prior to the privatization date, all liabilities arising out of the operation of the Corporation between July 1, 1993, and the privatization date shall remain the direct liabilities of the United States.*

*(3) All liabilities arising out of the disposal of depleted uranium generated by the Corporation between July 1, 1993, and the privatization date shall become the direct liabilities of the Secretary.*

*(4) Any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising from any action taken by any agent or officer of the United States in connection with the privatization of the Corporation is hereby withdrawn.*

*(5) To the extent that any claim against the United States under this section is of the type otherwise required by Federal statute or regulation to be presented to a Federal agency or official for adjudication or review, such claim*

*shall be presented to the Department of Energy in accordance with procedures to be established by the Secretary. Nothing in this paragraph shall be construed to impose on the Department of Energy liability to pay any claim presented pursuant to this paragraph.*

*(6) The Attorney General shall represent the United States in any action seeking to impose liability under this subsection.*

*(b) LIABILITY OF THE CORPORATION.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered in breach, default, or violation of any agreement because of the transfer of such agreement to the private corporation under section 5208 or any other action the Corporation is required to take under this chapter.*

*(c) LIABILITY OF THE PRIVATE CORPORATION.—Except as provided in this chapter, the private corporation shall be liable for any liabilities arising out of its operations after the privatization date.*

*(d) LIABILITY OF OFFICERS AND DIRECTORS.—(1) No officer, director, employee, or agent of the Corporation shall be liable in any civil proceeding to any party in connection with any action taken in connection with the privatization if, with respect to the subject matter of the action, suit, or*

*proceeding, such person was acting within the scope of his employment.*

*(2) This subsection shall not apply to claims arising under the Securities Act of 1933 (15 U.S.C. 77a. et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a. et seq.), or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities.*

***SEC. 5210. EMPLOYEE PROTECTIONS.***

*(a) CONTRACTOR EMPLOYEES.—(1) Privatization shall not diminish the accrued, vested pension benefits of employees of the Corporation's operating contractor at the two gaseous diffusion plants.*

*(2) In the event that the private corporation terminates or changes the contractor at either or both of the gaseous diffusion plants, the plan sponsor or other appropriate fiduciary of the pension plan covering employees of the prior operating contractor shall arrange for the transfer of all plan assets and liabilities relating to accrued pension benefits of such plan's participants and beneficiaries from such plant to a pension plan sponsored by the new contractor or the private corporation or a joint-labor management plan, as the case may be.*

*(3) In addition to any obligations arising under the National Labor Relations Act (29 U.S.C. 151 et seq.), any*

*employer (including the private corporation if it operates a gaseous diffusion plant without a contractor or any contractor of the private corporation) at a gaseous diffusion plant shall—*

*(A) abide by the terms of any unexpired collective bargaining agreement covering employees in bargaining units at the plant and in effect on the privatization date until the stated expiration or termination date of the agreement; or*

*(B) in the event a collective bargaining agreement is not in effect upon the privatization date, have the same bargaining obligations under section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) as it had immediately before the privatization date.*

*(4) If the private corporation replaces its operating contractor at a gaseous diffusion plant, the new employer (including the new contractor or the private corporation if it operates a gaseous diffusion plant without a contractor) shall—*

*(A) offer employment to non-management employees of the predecessor contractor to the extent that their jobs still exist or they are qualified for new jobs, and*

*(B) abide by the terms of the predecessor contractor's collective bargaining agreement until the agreement expires or a new agreement is signed.*

*(5) In the event of a plant closing or mass layoff (as such terms are defined in section 2101(a)(2) and (3) of title 29, United States Code) at either of the gaseous diffusion plants, the Secretary of Energy shall treat any adversely affected employee of an operating contractor at either plant who was an employee at such plant on July 1, 1993, as a Department of Energy employee for purposes of sections 3161 and 3162 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h–7274i).*

*(6)(A) The Secretary and the private corporation shall cause the post-retirement health benefits plan provider (or its successor) to continue to provide benefits for eligible persons, as described under subparagraph (B), employed by an operating contractor at either of the gaseous diffusion plants in an economically efficient manner and at substantially the same level of coverage as eligible retirees are entitled to receive on the privatization date.*

*(B) Persons eligible for coverage under subparagraph (A) shall be limited to:*

*(i) persons who retired from active employment at one of the gaseous diffusion plants on or before the privatization date as vested participants in a pension*

*plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant; and*

*(ii) persons who are employed by the Corporation's operating contractor on or before the privatization date and are vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant.*

*(C) The Secretary shall fund the entire cost of post-retirement health benefits for persons who retired from employment with an operating contractor prior to July 1, 1993.*

*(D) The Secretary and the Corporation shall fund the cost of post-retirement health benefits for persons who retire from employment with an operating contractor on or after July 1, 1993, in proportion to the retired person's years and months of service at a gaseous diffusion plant under their respective management.*

*(7)(A) Any suit under this subsection alleging a violation of an agreement between an employer and a labor organization shall be brought in accordance with section 301 of the Labor Management Relations Act (29 U.S.C. 185).*

*(B) Any charge under this subsection alleging an unfair labor practice violative of section 8 of the National Labor Relations Act (29 U.S.C. 158) shall be pursued in accordance with section 10 of the National Labor Relations Act (29 U.S.C. 160).*

*(C) Any suit alleging a violation of any provision of this subsection, to the extent it does not allege a violation of the National Labor Relations Act, may be brought in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy or the citizenship of the parties.*

*(b) FORMER FEDERAL EMPLOYEES.—(1)(A) An employee of the Corporation that was subject to either the Civil Service Retirement System (referred to in this section as "CSRS") or the Federal Employees' Retirement System (referred to in this section as "FERS") on the day immediately preceding the privatization date shall elect—*

*(i) to retain the employee's coverage under either CSRS or FERS, as applicable, in lieu of coverage by the Corporation's retirement system, or*

*(ii) to receive a deferred annuity or lump-sum benefit payable to a terminated employee under CSRS or FERS, as applicable.*

*(B) An employee that makes an election under subparagraph (A)(ii) shall have the option to transfer the bal-*

*ance in the employee's Thrift Savings Plan account to a defined contribution plan under the Corporation's retirement system, consistent with applicable law and the terms of the Corporation's defined contribution plan.*

*(2) The Corporation shall pay to the Civil Service Retirement and Disability Fund—*

*(A) such employee deductions and agency contributions as are required by sections 8334, 8422, and 8423 of title 5, United States Code, for those employees who elect to retain their coverage under either CSRS or FERS pursuant to paragraph (1);*

*(B) such additional agency contributions as are determined necessary by the Office of Personnel Management to pay, in combination with the sums under subparagraph (A), the "normal cost" (determined using dynamic assumptions) of retirement benefits for those employees who elect to retain their coverage under CSRS pursuant to paragraph (1), with the concept of "normal cost" being used consistent with generally accepted actuarial standards and principles; and*

*(C) such additional amounts, not to exceed two percent of the amounts under subparagraphs (A) and (B), as are determined necessary by the Office of Personnel Management to pay the cost of administering*

*retirement benefits for employees who retire from the Corporation after the privatization date under either CSRS or FERS, for their survivors, and for survivors of employees of the Corporation who die after the privatization date (which amounts shall be available to the Office of Personnel Management as provided in section 8348(a)(1)(B) of title 5, United States Code).*

*(3) The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required by section 8432 of title 5, United States Code, for those employees who elect to retain their coverage under FERS pursuant to paragraph (1).*

*(4) Any employee of the Corporation who was subject to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain coverage under either CSRS or FERS pursuant to paragraph (1) shall have the option to receive health benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.*

*(5) The Corporation shall pay to the Employees Health Benefits Fund—*

*(A) such employee deductions and agency contributions as are required by section 8906(a)–(f) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4); and*

*(B) such amounts as are determined necessary by the Office of Personnel Management under paragraph (6) to reimburse the Office of Personnel Management for contributions under section 8906(g)(1) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4).*

*(6) The amounts required under paragraph (5)(B) shall pay the Government contributions for retired employees who retire from the Corporation after the privatization date under either CSRS or FERS, for survivors of such retired employees, and for survivors of employees of the Corporation who die after the privatization date, with said amounts prorated to reflect only that portion of the total service of such employees and retired persons that was performed for the Corporation after the privatization date.*

***SEC. 5211. OWNERSHIP LIMITATIONS.***

*(a) SECURITIES LIMITATIONS.—No director, officer, or employee of the Corporation may acquire any securities, or any rights to acquire any securities of the private corpora-*

*tion on terms more favorable than those offered to the general public—*

*(1) in a public offering designed to transfer ownership of the Corporation to private investors,*

*(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or*

*(3) before the election of the directors of the private corporation.*

*(b) OWNERSHIP LIMITATION.—Immediately following the consummation of the transaction or series of transactions pursuant to which 100 percent of the ownership of the Corporation is transferred to private investors, and for a period of three years thereafter, no person may acquire, directly or indirectly, beneficial ownership of securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation. The foregoing limitation shall not apply to—*

*(1) any employee stock ownership plan of the Corporation,*

*(2) members of the underwriting syndicate purchasing shares in stabilization transactions in connection with the privatization, or*

*(3) in the case of shares beneficially held in the ordinary course of business for others, any commercial bank, broker-dealer, or clearing agency.*

***SEC. 5212. URANIUM TRANSFERS AND SALES.***

*(a) TRANSFERS AND SALES BY THE SECRETARY.—The Secretary shall not provide enrichment services or transfer or sell any uranium (including natural uranium concentrates, natural uranium hexafluoride, or enriched uranium in any form) to any person except as consistent with this section.*

*(b) RUSSIAN HEU.—(1) On or before December 31, 1996, the United States Executive Agent under the Russian HEU Agreement shall transfer to the Secretary without charge title to an amount of uranium hexafluoride equivalent to the natural uranium component of low-enriched uranium derived from at least 18 metric tons of highly enriched uranium purchased from the Russian Executive Agent under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Secretary shall be based on a tails assay of 0.30 $U^{235}$. Uranium hexafluoride transferred to the Secretary pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.*

*(2) Within 7 years of the date of enactment of this Act, the Secretary shall sell, and receive payment for, the*

*uranium hexafluoride transferred to the Secretary pursuant to paragraph (1). Such uranium hexafluoride shall be sold—*

*(A) at any time for use in the United States for the purpose of overfeeding;*

*(B) at any time for end use outside the United States;*

*(C) in 1995 and 1996 to the Russian Executive Agent at the purchase price for use in matched sales pursuant to the Suspension Agreement; or,*

*(D) in calendar year 2001 for consumption by end users in the United States not prior to January 1, 2002, in volumes not to exceed 3,000,000 pounds* $U_3O_8$ *equivalent per year.*

*(3) With respect to all enriched uranium delivered to the United States Executive Agent under the Russian HEU Agreement on or after January 1, 1997, the United States Executive Agent shall, upon request of the Russian Executive Agent, enter into an agreement to deliver concurrently to the Russian Executive Agent an amount of uranium hexafluoride equivalent to the natural uranium component of such uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement.*

*The quantity of such uranium hexafluoride delivered to the Russian Executive Agent shall be based on a tails assay of 0.30 $U^{235}$. Title to uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall transfer to the Russian Executive Agent upon delivery of such material to the Russian Executive Agent, with such delivery to take place at a North American facility designated by the Russian Executive Agent. Uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall be deemed under U.S. law for all purposes to be of Russian origin. Such uranium hexafluoride may be sold to any person or entity for delivery and use in the United States only as permitted in subsections (b)(5), (b)(6) and (b)(7) of this section.*

*(4) In the event that the Russian Executive Agent does not exercise its right to enter into an agreement to take delivery of the natural uranium component of any low-enriched uranium, as contemplated in paragraph (3), within 90 days of the date such low-enriched uranium is delivered to the United States Executive Agent, or upon request of the Russian Executive Agent, then the United States Executive Agent shall engage an independent entity through a competitive selection process to auction an amount of uranium hexafluoride or $U_3O_8$ (in the event that the conversion component of such hexafluoride has previously been sold)*

*equivalent to the natural uranium component of such low-enriched uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. Such independent entity shall sell such uranium hexafluoride in one or more lots to any person or entity to maximize the proceeds from such sales, for disposition consistent with the limitations set forth in this subsection. The independent entity shall pay to the Russian Executive Agent the proceeds of any such auction less all reasonable transaction and other administrative costs. The quantity of such uranium hexafluoride auctioned shall be based on a tails assay of 0.30 U235. Title to uranium hexafluoride auctioned pursuant to this paragraph shall transfer to the buyer of such material upon delivery of such material to the buyer. Uranium hexafluoride auctioned pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.*

*(5) Except as provided in paragraphs (6) and (7), uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4), may not be delivered for consumption by end users in the United States either directly or indirectly prior to Jan-*

*uary 1, 1998, and thereafter only in accordance with the following schedule:*

***Annual maximum deliveries to end users***

| ***Year:*** | ***(millions lbs. $U_3O_8$ equivalent)*** |
|---|---|
| *1998* | *2* |
| *1999* | *4* |
| *2000* | *6* |
| *2001* | *8* |
| *2002* | *10* |
| *2003* | *12* |
| *2004* | *14* |
| *2005* | *16* |
| *2006* | *17* |
| *2007* | *18* |
| *2008* | *19* |
| *2009 and each year thereafter* | *20.* |

*(6) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time as Russian-origin natural uranium in a matched sale pursuant to the Suspension Agreement, and in such case shall not be counted against the annual maximum deliveries set forth in paragraph (5).*

*(7) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time for use in the United States for the purpose of overfeeding in the operations of enrichment facilities.*

*(8) Nothing in this subsection (b) shall restrict the sale of the conversion component of such uranium hexafluoride.*

*(9) The Secretary of Commerce shall have responsibility for the administration and enforcement of the limita-*

*tions set forth in this subsection. The Secretary of Commerce may require any person to provide any certifications, information, or take any action that may be necessary to enforce these limitations. The United States Customs Service shall maintain and provide any information required by the Secretary of Commerce and shall take any action requested by the Secretary of Commerce which is necessary for the administration and enforcement of the uranium delivery limitations set forth in this section.*

*(10) The President shall monitor the actions of the United States Executive Agent under the Russian HEU Agreement and shall report to the Congress not later than December 31 of each year on the effect the low-enriched uranium delivered under the Russian HEU Agreement is having on the domestic uranium mining, conversion, and enrichment industries, and the operation of the gaseous diffusion plants. Such report shall include a description of actions taken or proposed to be taken by the President to prevent or mitigate any material adverse impact on such industries or any loss of employment at the gaseous diffusion plants as a result of the Russian HEU Agreement.*

*(c) TRANSFERS TO THE CORPORATION.—(1) The Secretary shall transfer to the Corporation without charge up to 50 metric tons of enriched uranium and up to 7,000 met-*

*ric tons of natural uranium from the Department of Energy's stockpile, subject to the restrictions in subsection (c)(2).*

*(2) The Corporation shall not deliver for commercial end use in the United States—*

*(A) any of the uranium transferred under this subsection before January 1, 1998;*

*(B) more than 10 percent of the uranium (by uranium hexafluoride equivalent content) transferred under this subsection or more than 4,000,000 pounds, whichever is less, in any calendar year after 1997; or*

*(C) more than 800,000 separative work units contained in low-enriched uranium transferred under this subsection in any calendar year.*

*(d) INVENTORY SALES.—(1) In addition to the transfers authorized under subsections (c) and (e), the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium derived from highly enriched uranium) from the Department of Energy's stockpile.*

*(2) Except as provided in subsections (b), (c), and (e), no sale or transfer of natural or low-enriched uranium shall be made unless—*

*(A) the President determines that the material is not necessary to national security needs,*

*(B) the Secretary determines that the sale of the material will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and*

*(C) the price paid to the Secretary will not be less than the fair market value of the material.*

*(e) GOVERNMENT TRANSFERS.—Notwithstanding subsection (d)(2), the Secretary may transfer or sell enriched uranium—*

*(1) to a Federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications;*

*(2) to any person for national security purposes, as determined by the Secretary; or*

*(3) to any State or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.*

*(f) SAVINGS PROVISION.—Nothing in this chapter shall be read to modify the terms of the Russian HEU Agreement.*

***SEC. 5213. LOW-LEVEL WASTE.***

*(a) RESPONSIBILITY OF DOE.—(1) The Secretary, at the request of the generator, shall accept for disposal low-*

*level radioactive waste, including depleted uranium if it were ultimately determined to be low-level radioactive waste, generated by the Corporation as a result of the operations of the gaseous diffusion plants or as a result of the treatment of such wastes at a location other than a gaseous diffusion plant. The terms and conditions for such service shall be no more favorable than those the Secretary offers any other generator of such wastes generated by uranium enrichment plants licensed by the Nuclear Regulatory Commission.*

*(2) The Secretary shall recover the cost of providing the service in paragraph (1), including a pro rata share of any capital costs, by charging the Corporation a fee for such service in an amount equal to the price charged uranium enrichment plants licensed by the Nuclear Regulatory Commission, but in no event shall the Secretary charge any generator more than an amount equal to that which would be charged by commercial, state, regional, or interstate compact entities for disposal of such waste.*

*(b) AGREEMENTS WITH OTHER PERSONS.—The Corporation or any other generator may also enter into agreements for the disposal of low-level radioactive waste subject to subsection (a) with any person other than the Secretary that is authorized by applicable laws and regulations to dispose of such wastes, but shall have no authority under this*

*or any other law to require a State or interstate compact to treat, store, or dispose of such waste in a State or interstate compact facility without the State or compact's consent.*

***SEC. 5214. AVLIS.***

*(a) EXCLUSIVE RIGHT TO COMMERCIALIZE.—The Corporation shall have the exclusive commercial right to deploy and use any AVLIS patents, processes, and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Secretary.*

*(b) TRANSFER OF RELATED PROPERTY TO CORPORATION.—*

*(1) IN GENERAL.—To the extent requested by the Corporation and subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the President shall transfer without charge to the Corporation all of the right, title, or interest in and to property owned by the United States under control or custody of the Secretary that is directly related to and materially useful in the performance of the Corporation's purposes regarding AVLIS and alternative technologies for uranium enrichment, including—*

*(A) facilities, equipment, and materials for research, development, and demonstration activities; and*

*(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases.*

*(2) EXCEPTION.—Facilities, real estate, improvements, and equipment related to the gaseous diffusion, and gas centrifuge, uranium enrichment programs of the Secretary shall not transfer under paragraph (1)(B).*

*(3) EXPIRATION OF TRANSFER AUTHORITY.—The President's authority to transfer property under this subsection shall expire upon the privatization date.*

*(c) LIABILITY FOR PATENT AND RELATED CLAIMS.—With respect to any right, title, or interest provided to the Corporation under subsection (a) or (b), the Corporation shall have sole liability for any payments made or awards under section 157 b. (3) of the Atomic Energy Act of 1954 (42 U.S.C. 2187(b)(3)), or any settlements or judgments involving claims for alleged patent infringement. Any royalty agreement under subsection (a) of this section shall provide for a reduction of royalty payments to the Secretary to offset any payments, awards, settlements, or judgments under this subsection.*

***SEC. 5215. APPLICATION OF CERTAIN LAWS.***

*(a) OSHA.—(1) As of the privatization date, the private corporation shall be subject to and comply with the*

*Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).*

*(2) The Nuclear Regulatory Commission and the Occupational Safety and Health Administration shall, within 90 days after the date of enactment of this Act, enter into a memorandum of agreement to govern the exercise of their authority over occupational safety and health hazards at the gaseous diffusion plants, including inspection, investigation, enforcement, and rulemaking relating to such hazards.*

*(b) ANTITRUST LAWS.—For purposes of the antitrust laws, the performance by the private corporation of a "matched import" contract under the Suspension Agreement shall be considered to have occurred prior to the privatization date, if at the time of privatization, such contract had been agreed to by the parties in all material terms and confirmed by the Secretary of Commerce under the Suspension Agreement.*

*(c) ENERGY REORGANIZATION ACT REQUIREMENTS.—(1) The private corporation and its contractors and subcontractors shall be subject to the provisions of section 211 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) to the same extent as an employer subject to such section.*

*(2) With respect to the operation of the facilities leased by the private corporation, section 206 of the Energy Reor-*

*ganization Act of 1974 (42 U.S.C. 5846) shall apply to the directors and officers of the private corporation.*

***SEC. 5216. AMENDMENTS TO THE ATOMIC ENERGY ACT.***

*(a) REPEAL.—(1) Chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 2297–2297e-7) are repealed as of the privatization date.*

*(2) The table of contents of such Act is amended as of the privatization date by striking the items referring to sections repealed by paragraph (1).*

*(b) NRC LICENSING.—(1) Section 11v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014v.) is amended by striking "or the construction and operation of a uranium enrichment facility using Atomic Vapor Laser Isotope Separation technology".*

*(2) Section 193 of the Atomic Energy Act of 1954 (42 U.S.C. 2243) is amended by adding at the end the following:*

*"(f) LIMITATION.—No license or certificate of compliance may be issued to the United States Enrichment Corporation or its successor under this section or sections 53, 63, or 1701, if the Commission determines that—*

*"(1) the Corporation is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government; or*

*"(2) the issuance of such a license or certificate of compliance would be inimical to—*

*"(A) the common defense and security of the United States; or*

*"(B) the maintenance of a reliable and economical domestic source of enrichment services.".*

*(3) Section 1701(c)(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f(c)(2)) is amended to read as follows:*

*"(2) PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Commission, but not less than every 5 years. The Commission shall review any such application and any determination made under subsection (b)(2) shall be based on the results of any such review.".*

*(4) Section 1702(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f–1(a)) is amended—*

*(1) by striking "other than" and inserting "including", and*

*(2) by striking "sections 53 and 63" and inserting "sections 53, 63, and 193".*

*(c) JUDICIAL REVIEW OF NRC ACTIONS.—Section 189b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is amended to read as follows:*

*"b. The following Commission actions shall be subject to judicial review in the manner prescribed in chapter 158 of title 28, United States Code and chapter 7 of title 5, United States Code:*

*"(1) Any final order entered in any proceeding of the kind specified in subsection (a).*

*"(2) Any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license.*

*"(3) Any final order establishing by regulation standards to govern the Department of Energy's gaseous diffusion uranium enrichment plants, including any such facilities leased to a corporation established under the USEC Privatization Act.*

*"(4) Any final determination under section 1701(c) relating to whether the gaseous diffusion plants, including any such facilities leased to a corporation established under the USEC Privatization Act, are in compliance with the Commission's standards governing the gaseous diffusion plants and all applicable laws.".*

*(d) CIVIL PENALTIES.—Section 234 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2282(a)) is amended by—*

*(1) striking "any licensing provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109"*

*and inserting: "any licensing or certification provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, 109, or 1701"; and*

*(2) by striking "any license issued thereunder" and inserting: "any license or certification issued thereunder".*

*(e) REFERENCES TO THE CORPORATION.—Following the privatization date, all references in the Atomic Energy Act of 1954 to the United States Enrichment Corporation shall be deemed to be references to the private corporation.*

***SEC. 5217. AMENDMENTS TO OTHER LAWS.***

*(a) DEFINITION OF GOVERNMENT CORPORATION.—As of the privatization date, section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N) as added by section 902(b) of Public Law 102–486.*

*(b) DEFINITION OF THE CORPORATION.—Section 1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(1) is amended by inserting "or its successor" before the period.*

## *CHAPTER 2—DEPARTMENT OF ENERGY*

***SEC. 5221. SALE OF DOE ASSETS***

*(a) ASSET MANAGEMENT AND DISPOSITION PROGRAM.—*

*(1) IN GENERAL.—In order to maximize the use of Department of Energy assets and to reduce over-*

*head and other costs related to asset management at the Department's facilities and laboratories, the Secretary of Energy shall conduct an asset management and disposition program that will result in not less than $225,000,000 in receipts and savings by October 1, 2000.*

*(2) ITEMS TO BE INCLUDED.—The program shall include an inventory of assets in the care of the Department and its contractors; the recovery, reuse, and stewardship of assets; and disposition of a minimum of 1,139,000,000 pounds of fuel, 136,000 tons of chemicals and industrial gases, 557,000 tons of scrap metal, 14,000 radiation sources, 17,000 pieces of major equipment, 11,000 pounds of precious metals, and 91,000,000 pounds of base metals.*

*(b) FEDERAL PROPERTY AND ADMINSTRATIVE SERVICES ACT.—The disposition of assets under this section is not subject to section 202 or 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483, 484) or section 13 of the Surplus Property Act of 1944 (50 U.S.C. App. 1622). In order to avoid market disruptions, the Secretary shall consult with appropriate executive agencies with respect to dispositions under this section.*

*(c) DISPOSITION OF PROCEEDS.—After deduction of administrative costs of disposition under this section not*

*to exceed $7,000,000 per year, the remainder of the proceeds from dispositions under this subpart shall be returned to the Treasury as miscellaneous receipts. There shall be established a new receipt account in the Treasury for proceeds of asset sales under this section.*

***SEC. 5222. SALE OF WEEKS ISLAND OIL.***

*Notwithstanding section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241), the Secretary of Energy shall draw down and sell 32,000,000 barrels of oil contained in the Weeks Island Strategic Petroleum Reserve Facility. The Secretary shall, to the greatest extent practicable, sell oil from the reserve in a manner that minimizes the impact of such sale upon supply levels and market forces.*

***SEC. 5223. LEASE OF EXCESS STRATEGIC PETROLEUM RESERVE CAPACITY.***

*(a) AMENDMENT.—Part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231 et seq.) is amended by adding at the end the following:*

*"USE OF UNDERUTILIZED FACILITIES*

*"SEC. 168. (a) AUTHORITY.—Notwithstanding any other provision of this title, the Secretary, by lease or otherwise, for any term and under such other conditions as the Secretary considers necessary or appropriate, may store in underutilized Strategic Petroleum Reserve facilities petroleum product owned by a foreign government or its representative. Petroleum products stored under this section*

*are not part of the Strategic Petroleum Reserve and may be exported without license from the United States.*

*"(b) PROTECTION OF FACILITIES.—All agreements entered into pursuant to subsection (a) shall contain provisions providing for fees to fully compensate the United States for all costs of storage and removals of petroleum products, including the cost of replacement facilities necessitated as a result of any withdrawals.*

*"(c) ACCESS TO STORED OIL.—The Secretary shall ensure that agreements to store petroleum products for foreign governments or their representatives do not affect the ability of the United States to withdraw, distribute, or sell petroleum from the Strategic Petroleum reserve in response to an energy emergency or to the obligations of the United States under the Agreement on an International Energy Program.*

*"(d) AVAILABILITY OF FUNDS.—Beginning in fiscal year 2001 and in each fiscal year thereafter except for fiscal years 2003 and 2004, 50 percent of the funds resulting from the leasing of Strategic Petroleum Reserve facilities authorized by subsection (a) shall be available to the Secretary of Energy without further appropriation for the purchase of oil for the Strategic Petroleum Reserve.".*

*(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of part B of title I of the Energy Policy and Con-*

*servation Act is amended by adding at the end the following:*

*"Sec. 168. Use of underutilized facilities.".*

# *Subtitle C—Natural Resources*

## *CHAPTER 1—DEPARTMENT OF THE INTERIOR CONVEYANCES*

### *Subchapter A—California Directed Land Sale*

#### *SEC. 5301. CONVEYANCE OF PROPERTY.*

*All right, title and interest of the United States in the property depicted on a map designated USGS 7.5 minute quadrangle, west of Flattop Mtn, CA 1984, entitled "Location Map for Ward Valley Site", located in San Bernardino Meridian, Township 9 North, Range 19 East, and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed to the Department of Health Services of the State of California upon the tendering of $500,100 on behalf of the State of California and the release of the United States by the State of California from any liability for claims relating to the property described in this section and, as part of the consideration paid for such property, such conveyance is declared to meet and fully comply with any otherwise applicable provisions of section 7 of Endangered Species Act of 1973 (16 U.S.C. 1536) and the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Sec-*

*retary of the Interior shall issue evidence of title pursuant to this Act notwithstanding any other provision of law.*

## *Subchapter B—Helium Reserves*

### *SEC. 5311. SHORT TITLE.*

*This subchapter may be cited as the "Helium Act of 1995".*

### *SEC. 5312. AMENDMENT OF HELIUM ACT.*

*Except as otherwise expressly provided, whenever in this chapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Helium Act (50 U.S.C. 167 to 167n).*

### *SEC. 5313. AUTHORITY OF SECRETARY.*

*Sections 3, 4, and 5 are amended to read as follows:*

### *"SEC. 3. AUTHORITY OF SECRETARY.*

*"(a) EXTRACTION AND DISPOSAL OF HELIUM ON FEDERAL LANDS.—*

*"(1) IN GENERAL.—The Secretary may enter into agreements with private parties for the recovery and disposal of helium on Federal lands upon such terms and conditions as the Secretary deems fair, reasonable, and necessary.*

*"(2) LEASEHOLD RIGHTS.—The Secretary may grant leasehold rights to any such helium.*

*"(3) LIMITATION.—The Secretary may not enter into any agreement by which the Secretary sells such helium other than to a private party with whom the Secretary has an agreement for recovery and disposal of helium.*

*"(4) REGULATIONS.—Agreements under paragraph (1) may be subject to such regulations as may be prescribed by the Secretary.*

*"(5) EXISTING RIGHTS.—An agreement under paragraph (1) shall be subject to any rights of any affected Federal oil and gas lessee that may be in existence prior to the date of the agreement.*

*"(6) TERMS AND CONDITIONS.—An agreement under paragraph (1) (and any extension or renewal of an agreement) shall contain such terms and conditions as the Secretary may consider appropriate.*

*"(7) PRIOR AGREEMENTS.—This subsection shall not in any manner affect or diminish the rights and obligations of the Secretary and private parties under agreements to dispose of helium produced from Federal lands in existence on the date of enactment of the Helium Act of 1995 except to the extent that such agreements are renewed or extended after that date.*

*"(b) STORAGE, TRANSPORTATION AND SALE.—The Secretary may store, transport, and sell helium only in accordance with this Act.*

***"SEC. 4. STORAGE, TRANSPORTATION, AND WITHDRAWAL OF CRUDE HELIUM.***

*"(a) STORAGE, TRANSPORTATION AND WITHDRAWAL.—The Secretary may store, transport and withdraw crude helium and maintain and operate crude helium storage facilities, in existence on the date of enactment of the Helium Act of 1995 at the Bureau of Mines Cliffside Field, and related helium transportation and withdrawal facilities.*

*"(b) CESSATION OF PRODUCTION, REFINING, AND MARKETING.—Not later than 18 months after the date of enactment of the Helium Act of 1995, the Secretary shall cease producing, refining, and marketing refined helium and shall cease carrying out all other activities relating to helium which the Secretary was authorized to carry out under this Act before the date of enactment of the Helium Act of 1995, except activities described in subsection (a).*

*"(c) DISPOSAL OF FACILITIES.—*

*"(1) IN GENERAL.—Subject to paragraph (5), not later than 24 months after the cessation of activities referred to in section (b) of this section, the Secretary shall designate as excess property and dispose*

*of all facilities, equipment, and other real and personal property, and all interests therein, held by the United States for the purpose of producing, refining and marketing refined helium.*

*"(2) APPLICABLE LAW.—The disposal of such property shall be in accordance with the Federal Property and Administrative Services Act of 1949.*

*"(3) PROCEEDS.—All proceeds accruing to the United States by reason of the sale or other disposal of such property shall be treated as moneys received under this chapter for purposes of section 6(f).*

*"(4) COSTS.—All costs associated with such sale and disposal (including costs associated with termination of personnel) and with the cessation of activities under subsection (b) shall be paid from amounts available in the helium production fund established under section 6(f).*

*"(5) EXCEPTION.—Paragraph (1) shall not apply to any facilities, equipment, or other real or personal property, or any interest therein, necessary for the storage, transportation and withdrawal of crude helium or any equipment, facilities, or other real or personal property, required to maintain the purity, quality control, and quality assurance of crude helium in the Bureau of Mines Cliffside Field.*

*"(d) EXISTING CONTRACTS.—*

*"(1) IN GENERAL.—All contracts that were entered into by any person with the Secretary for the purchase by the person from the Secretary of refined helium and that are in effect on the date of the enactment of the Helium Act of 1995 shall remain in force and effect until the date on which the refining operations cease, as described in subsection (b).*

*"(2) COSTS.—Any costs associated with the termination of contracts described in paragraph (1) shall be paid from the helium production fund established under section 6(f).*

***"SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITHDRAWAL.***

*"(a) IN GENERAL.—Whenever the Secretary provides helium storage withdrawal or transportation services to any person, the Secretary shall impose a fee on the person to reimburse the Secretary for the full costs of providing such storage, transportation, and withdrawal.*

*"(b) TREATMENT.—All fees received by the Secretary under subsection (a) shall be treated as moneys received under this Act for purposes of section 6(f).".*

***SEC. 5314. SALE OF CRUDE HELIUM.***

*(a) Subsection 6(a) is amended by striking "from the Secretary" and inserting "from persons who have entered*

*into enforceable contracts to purchase an equivalent amount of crude helium from the Secretary".*

*(b) Subsection 6(b) is amended—*

*(1) by inserting "crude" before "helium"; and*

*(2) by adding the following at the end: "Except as may be required by reason of subsection (a), sales of crude helium under this section shall be in amounts as the Secretary determines, in consultation with the helium industry, necessary to carry out this subsection with minimum market disruption.".*

*(c) Subsection 6(c) is amended—*

*(1) by inserting "crude" after "Sales of"; and*

*(2) by striking "together with interest as provided in this subsection" and all that follows through the end of the subsection and inserting "all funds required to be repaid to the United States as of October 1, 1995 under this section (referred to in this subsection as 'repayable amounts'). The price at which crude helium is sold by the Secretary shall not be less than the amount determined by the Secretary by—*

*"(1) dividing the outstanding amount of such repayable amounts by the volume (in million cubic feet) of crude helium owned by the United States and stored in the Bureau of Mines Cliffside Field at the time of the sale concerned, and*

*"(2) adjusting the amount determined under paragraph (1) by the Consumer Price Index for years beginning after December 31, 1995.".*

*(d) Subsection 6(d) is amended to read as follows:*

*"(d) EXTRACTION OF HELIUM FROM DEPOSITS ON FEDERAL LANDS.—All moneys received by the Secretary from the sale or disposition of helium on Federal lands shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c).".*

*(e) Subsection 6(e) is repealed.*

*(f) Subsection 6(f) is amended—*

*(1) by striking "(f)" and inserting "(e)(1)"; and*

*(2) by adding the following at the end:*

*"(2)(A) Within 7 days after the commencement of each fiscal year after the disposal of the facilities referred to in section 4(c), all amounts in such fund in excess of $2,000,000 (or such lesser sum as the Secretary deems necessary to carry out this Act during such fiscal year) shall be paid to the Treasury and credited as provided in paragraph (1).*

*"(B) On repayment of all amounts referred to in subsection (c), the fund established under this section shall be terminated and all moneys received under this Act shall be deposited in the general fund of the Treasury.".*

***SEC. 5315. ELIMINATION OF STOCKPILE.***

*Section 8 is amended to read as follows:*

***"SEC. 8. ELIMINATION OF STOCKPILE.***

*"(a) STOCKPILE SALES.—*

*"(1) COMMENCEMENT.—Not later than January 1, 2005, the Secretary shall commence offering for sale crude helium from helium reserves owned by the United States in such amounts as would be necessary to dispose of all such helium reserves in excess of 600,000,000 cubic feet on a straight-line basis between such date and January 1, 2015.*

*"(2) TIMES OF SALE.—The sales shall be at such times during each year and in such lots as the Secretary determines, in consultation with the helium industry, to be necessary to carry out this subsection with minimum market disruption.*

*"(3) PRICE.—The price for all sales under paragraph (1), as determined by the Secretary in consultation with the helium industry, shall be such price as will ensure repayment of the amounts required to be repaid to the Treasury under section 6(c).*

*"(b) DISCOVERY OF ADDITIONAL RESERVES.—The discovery of additional helium reserves shall not affect the duty of the Secretary to make sales of helium under subsection (a).".*

***SEC. 5316. REPEAL OF AUTHORITY TO BORROW.***

*Sections 12 and 15 are repealed.*

***SEC. 5317. LAND CONVEYANCE IN POTTER COUNTY, TEXAS.***

*(a) IN GENERAL.—The Secretary of the Interior shall transfer all right, title, and interest of the United States in and to the parcel of land described in subsection (b) to the Texas Plains Girl Scout Council for consideration of $1, reserving to the United States such easements as may be necessary for pipeline rights-of-way.*

*(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is all those certain lots, tracts or parcels of land lying and being situated in the County of Potter and State of Texas, and being the East Three Hundred Thirty-One (E331) acres out of Section Seventy-eight (78) in Block Nine (9), B.S. & F. Survey, (some times known as the G.D. Landis pasture) Potter County, Texas, located by certificate No. 1/39 and evidenced by letters patents Nos. 411 and 412 issued by the State of Texas under date of November 23, 1937, and of record in Vol. 66A of the Patent Records of the State of Texas. The metes and bounds description of such lands is as follows:*

*(1) FIRST TRACT.—One Hundred Seventy-one (171) acres of land known as the North part of the East part of said survey Seventy-eight (78) aforesaid, described by metes and bounds as follows:*

*Beginning at a stone 20 x 12 x 3 inches marked X, set by W.D. Twichell in 1905, for the Northeast corner of this survey and the Northwest corner of Section 59;*

*Thence, South 0 degrees 12 minutes East with the West line of said Section 59, 999.4 varas to the Northeast corner of the South 160 acres of East half of Section 78;*

*Thence, North 89 degrees 47 minutes West with the North line of the South 150 acres of the East half, 956.8 varas to a point in the East line of the West half Section 78;*

*Thence, North 0 degrees 10 minutes West with the East line of the West half 999.4 varas to a stone 18 x 14 x 3 inches in the middle of the South line of Section 79;*

*Thence, South 89 degrees 47 minutes East 965 varas to the place of beginning.*

*(2) SECOND TRACT.—One Hundred Sixty (160) acres of land known as the South part of the East part of said survey No. Seventy-eight (78) described by metes and bounds as follows:*

*Beginning at the Southwest corner of Section 59, a stone marked X and a pile of stones; Thence, North 89 degrees 47 minutes West with the North line of*

*Section 77, 966.5 varas to the Southeast corner of the West half of Section 78; Thence, North 0 degrees 10 minutes West with the East line of the West half of Section 78;*

*Thence, South 89 degrees 47 minutes East 965.8 varas to a point in the East line of Section 78;*

*Thence, South 0 degrees 12 minutes East 934.6 varas to the place of beginning.*

*Containing an area of 331 acres, more or less.*

## *CHAPTER 2—ARCTIC COASTAL PLAIN LEASING AND REVENUE ACT*

### *SEC. 5312. SHORT TITLE.*

*This chapter may be cited as the 'Arctic Coastal Plain Leasing and Revenue Act of 1995".*

### *SEC. 5322. DEFINITIONS.*

*When used in this chapter the term—*

*(1) "Coastal Plain" means that area identified as such in the map entitled "Arctic National Wildlife Refuge", dated August 1980, as referenced in section 1002(b) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142(b)(1)) comprising approximately 1, 549,000 acres; and*

*(2) "Secretary" except as otherwise provided, means the Secretary of the Interior or the Secretary's designee.*

***SEC. 5333. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.***

*(a) AUTHORIZATION.—The Congress hereby authorizes and directs the Secretary, acting through the Bureau of Land Management in consultation with the Fish and Wildlife Service and other appropriate Federal officers and agencies, to take such actions as are necessary to establish and implement a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain and to administer the provisions of this chapter through regulations, lease terms, conditions, restrictions, prohibitions, stipulations and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, and shall require the application of the best commercially available technology for oil and gas exploration, development, and production, on all new exploration, development, and production operations, and whenever practicable, on existing operations, and in a manner to ensure the receipt of fair market value by the public for the mineral resources to be leased.*

*(b) REPEAL.—The prohibitions and limitations contained in section 1003 of the Alaska National Interest*

*Lands Conservation Act of 1980 (16 U.S.C. 3143) are hereby repealed.*

*(c) COMPATIBILITY.—Congress hereby determines that the oil and gas leasing program and activities authorized by this section in the Coastal Plain are compatible with the purposes for which the Arctic National Wildlife Refuge was established, and that no further findings or decisions are required to implement this determination.*

*(d) SOLE AUTHORITY.—This chapter shall be the sole authority for leasing on the Coastal Plain. Provided, That nothing in this chapter shall be deemed to expand or limit state and local regulatory authority.*

*(e) FEDERAL LAND.—The Coastal Plain shall be considered "Federal land" for the purposes of the Federal Oil and Gas Royalty Management Act of 1982 .*

*(f) SPECIAL AREAS.—The Secretary, after consultation with the State of Alaska, City of Kaktovik, and the North Slope Borough, is authorized to designate up to a total of 45,000 acres of the Coastal Plain as Special Areas and close such areas to leasing if the Secretary determines that these Special Areas are of such unique character and interest so as to require special management and regulatory protection. The Secretary may, however, permit leasing of all or portions of any Special Areas within the Coastal Plain by setting lease terms that limit or condition surface use and*

*occupancy by lessees of such lands but permit the use of horizontal drilling technology from sites on leases located outside the designated Special Areas.*

*(g) LIMITATION ON CLOSED AREAS.—The Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this subtitle.*

*(h) CONVEYANCE.—In order to maximize federal revenues by removing clouds on title of lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), is authorized and directed to convey (1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 2 of Public Land Order 6959, to the extent necessary to fulfill the corporation's entitlement under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611), and (2) to the Arctic Slope Regional Corporation the subsurface estate beneath such surface estate pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.*

***SEC. 5334. RULES AND REGULATIONS.***

*(a) PROMULGATION.—The Secretary shall prescribe such rules and regulations as may be necessary to carry*

*out the purposes and provisions of this chapter, including rules and regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and the environment of the Coastal Plain. Such rules and regulations shall be promulgated no later than fourteen months after the date of enactment of this chapter and shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this chapter and all operations on the Coastal Plain related to the leasing, exploration, development and production of oil and gas.*

*(b) REVISION OF REGULATIONS.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) of this section to reflect any significant biological, environmental, or engineering data which come to the Secretary's attention.*

***SEC. 5335. ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.***

*The "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is hereby found by the Con-*

*gress to be adequate to satisfy the legal and procedural requirements of the National Environmental Policy Act of 1969 with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of the leasing program authorized by this chapter, to conduct the first lease sale and any subsequent lease sale authorized by this chapter, and to grant rights-of-way and easements to carry out the purposes of this chapter.*

***SEC. 5336. LEASE SALES.***

*(a) LEASE SALES.—Lands may be leased pursuant to the provisions of this chapter to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act, as amended (30 U.S.C. 181).*

*(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—*

*(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale; and*

*(2) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.*

*(c) LEASE SALES ON COASTAL PLAIN.—The Secretary shall, by regulation, provide for lease sales of lands on the*

*Coastal Plain. When lease sales are to be held, they shall occur after the nomination process provided for in subsection (b) of this section. For the first lease sale, the Secretary shall offer for lease those acres receiving the greatest number of nominations, but no less than two hundred thousand acres and no more than three hundred thousand acres shall be offered. If the total acreage nominated is less than two hundred thousand acres, the Secretary shall include in such sale any other acreage which he believes has the highest resource potential, but in no event shall more than three hundred thousand acres of the Coastal Plain be offered in such sale. With respect to subsequent lease sales, the Secretary shall offer for lease no less than two hundred thousand acres of the Coastal Plain. The initial lease sale shall be held within twenty months of the date of enactment of this chapter. The second lease sale shall be held no later than twenty-four months after the initial sale, with additional sales conducted no later than twelve months thereafter so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.*

***SEC. 5337. GRANT OF LEASES BY THE SECRETARY.***

*(a) IN GENERAL.—The Secretary is authorized to grant to the highest responsible qualified bidder by sealed competitive cash bonus bid any lands to be leased on the*

*Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary and of such royalty as may be fixed in the lease, which shall be not less than 12½ per centum in amount or value of the production removed or sold from the lease.*

*(b) ANTITRUST REVIEW.—Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids, the Secretary shall allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to perform an antitrust review of the results of such lease sale on the likely effects the issuance of such leases would have on competition and the Attorney General shall advise the Secretary with respect to such review, including any recommendation for the nonacceptance of any bid or the imposition of terms or conditions on any lease, as may be appropriate to prevent any situation inconsistent with the antitrust laws.*

*(c) SUBSEQUENT TRANSFERS.—No lease issued under this chapter may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.*

*(d) IMMUNITY.—Nothing in this chapter shall be deemed to convey to any person, association, corporation,*

*or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.*

*(e) DEFINITIONS.—As used in this section, the term—*

*(1) "antitrust review" shall be deemed an "antitrust investigation" for the purposes of the Antitrust Civil Process Act (15 U.S.C. 1311); and*

*(2) "antitrust laws" means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12) as amended.*

***SEC. 5338. LEASE TERMS AND CONDITIONS.***

*An oil or gas lease issued pursuant to this chapter shall—*

*(1) be for a tract consisting of a compact area not to exceed five thousand seven hundred sixty acres, or nine surveyed or protracted sections which shall be as compact in form as possible.*

*(2) be for an initial period of ten years and shall be extended for so long thereafter as oil or gas is produced in paying quantities from the lease or unit area to which the lease is committed or for so long as drilling or reworking operations, as approved by the Secretary, are conducted on the lease or unit area;*

*(3) require the payment of royalty as provided for in section 5337 of this chapter;*

*(4) require that exploration activities pursuant to any lease issued or maintained under this chapter shall be conducted in accordance with an exploration plan or a revision of such plan approved by the Secretary;*

*(5) require that all development and production pursuant to a lease issued or maintained pursuant to this chapter shall be conducted in accordance with development and production plans approved by the Secretary;*

*(6) require posting of bond as required by section 5339 of this chapter;*

*(7) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife;*

*(8) contain such provisions relating to rental and other fees as the Secretary may prescribe at the time of offering the area for lease;*

*(9) provide that the Secretary may direct or assent to the suspension of operations and production under any lease granted under the terms of this chapter in the interest of conservation of the resource or where there is no available system to transport the re-*

*source. If such a suspension is directed or assented to by the Secretary, any payment of rental prescribed by such lease shall be suspended during such period of suspension of operations and production, and the term of the lease shall be extended by adding any such suspension period thereto;*

*(10) provide that whenever the owner of a nonproducing lease fails to comply with any of the provisions of this chapter, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this chapter, such lease may be canceled by the Secretary if such default continues for more than thirty days after mailing of notice by registered letter to the lease owner at the lease owner's record post office address of record;*

*(11) provide that whenever the owner of any producing lease fails to comply with any of the provisions of this chapter, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this chapter, such lease may be forfeited and canceled by any appropriate proceeding brought by the Secretary in any United States district court having jurisdiction under the provisions of this chapter;*

*(12) provide that cancellation of a lease under this chapter shall in no way release the owner of the lease from the obligation to provide for reclamation of the lease site;*

*(13) allow the lessee, at the discretion of the Secretary, to make written relinquishment of all rights under any lease issued pursuant to this chapter. The Secretary shall accept such relinquishment by the lessee of any lease issued under this chapter where there has not been surface disturbance on the lands covered by the lease;*

*(14) provide that for the purpose of conserving the natural resources of any oil or gas pool, field, or like area, or any part thereof, and in order to avoid the unnecessary duplication of facilities, to protect the environment of the Coastal Plain, and to protect correlative rights, the Secretary shall require that, to the greatest extent practicable, lessees unite with each other in collectively adopting and operating under a cooperative or unit plan of development for operation of such pool, field, or like area, or any part thereof, and the Secretary is also authorized and directed to enter into such agreements as are necessary or appropriate for the protection of the United States against drainage;*

*(15) require that the holder of a lease or leases on lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands adversely affected in connection with exploration, development, production or transportation activities on a lease within the Coastal Plain by the holder of a lease or as a result of activities conducted on the lease by any of the leaseholder's subcontractors or agents;*

*(16) provide that the holder of a lease may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another party without the express written approval of the Secretary;*

*(17) provide that the standard of reclamation for lands required to be reclaimed under this chapter be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as approved by the Secretary;*

*(18) contain the terms and conditions relating to protection of fish and wildlife, their habitat, and the environment, as required by section 5333(a) of this chapter;*

*(19) provide that the holder of a lease, its agents, and contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing Section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State; and*

*(20) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this chapter and the regulations issued under this chapter.*

***SEC. 5339. BONDING REQUIREMENTS TO ENSURE FINANCIAL RESPONSIBILITY OF LESSEE AND AVOID FEDERAL LIABILITY.***

*(a) REQUIREMENT.—The Secretary shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. Such bond, surety, or*

*financial arrangement is in addition to, and not in lieu, of any bond, surety, or financial arrangement required by any other regulatory authority or required by any other provision of law.*

*(b) AMOUNT.—The bond, surety, or financial arrangement shall be in an amount—*

*(1) to be determined by the Secretary to provide for reclamation of the lease site in accordance with an approved or revised exploration or development and production plan; plus*

*(2) set by the Secretary consistent with the type of operations proposed, to provide the means for rapid and effective cleanup, and to minimize damages resulting from an oil spill, the escape of gas, refuse, domestic wastewater, hazardous or toxic substances, or fire caused by oil and gas activities.*

*(c) ADJUSTMENT.—In the event that an approved exploration or development and production plan is revised, the Secretary may adjust the amount of the bond, surety, or other financial arrangement to conform to such modified plan.*

*(d) DURATION.—The responsibility and liability of the lessee and its surety under the bond, surety, or other financial arrangement shall continue until such time as the Sec-*

*retary determines that there has been compliance with the terms and conditions of the lease and all applicable law.*

*(e) TERMINATION.—Within sixty days after determining that there has been compliance with the terms and conditions of the lease and all applicable laws, the Secretary, after consultation with affected Federal and State agencies, shall notify the lessee that the period of liability under the bond, surety, or other financial arrangement has been terminated.*

***SEC. 5340. OIL AND GAS INFORMATION.***

*(a) IN GENERAL.—(1) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this chapter shall provide the Secretary access to all data and information from any lease granted pursuant to this chapter (including processed and analyzed) obtained from such activity and shall provide copies of such data and information as the Secretary may request. Such data and information shall be provided in accordance with regulations which the Secretary shall prescribe.*

*(2) If processed and analyzed information provided pursuant to paragraph (1) is provided in good faith by the lessee or permittee, such lessee or permittee shall not be responsible for any consequence of the use or of reliance upon such processed and analyzed information.*

*(3) Whenever any data or information is provided to the Secretary, pursuant to paragraph (1)—*

*(A) by a lessee or permittee, in the form and manner of processing which is utilized by such lessee or permittee in the normal conduct of business, the Secretary shall pay the reasonable cost of reproducing such data and information; or*

*(B) by a lessee or permittee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay the reasonable cost of processing and reproducing such data and information.*

*(b) REGULATIONS.—The Secretary shall prescribe regulations to: (1) assure that the confidentiality of privileged or proprietary information received by the Secretary under this section will be maintained; and (2) set forth the time periods and conditions which shall be applicable to the release of such information.*

***SEC. 5341. EXPEDITED JUDICIAL REVIEW.***

*(a) Any complaint seeking judicial review of any provision in this chapter, or any other action of the Secretary under this chapter may be filed in any appropriate district court of the United States, and such complaint must be filed within ninety days from the date of the action being chal-*

*lenged, or after such date if such complaint is based solely on grounds arising after such ninetieth day, in which case the complaint must be filed within ninety days after the complainant knew or reasonably should have known of the grounds for the complaint: Provided, That any complaint seeking judicial review of an action of the Secretary in promulgating any regulation under this chapter may be filed only in the United States Court of Appeals for the District of Columbia.*

*(b) Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.*

***SEC. 5342. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.***

*Notwithstanding Title XI of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3161 et seq.), the Secretary is authorized and directed to grant, in accordance with the provisions of Section 28(c) through (t) and (v) through (y) of the Mineral Leasing Act of 1920 (30 U.S.C. 185), rights-of-way and easements across the Coastal Plain for the transportation of oil and gas under such terms and conditions as may be necessary so as not to result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain. Such terms and conditions shall include re-*

*quirements that facilities be sited or modified so as to avoid unnecessary duplication of roads and pipelines. The regulations issued as required by section 5334 of this chapter shall include provisions granting rights-of-way and easements across the Coastal Plain.*

***SEC. 5343. ENFORCEMENT OF SAFETY AND ENVIRONMENTAL REGULATIONS TO ENSURE COMPLIANCE WITH TERMS AND CONDITIONS OF LEASE.***

*(a) RESPONSIBILITY OF THE SECRETARY.—The Secretary shall diligently enforce all regulations, lease terms, conditions, restrictions, prohibitions, and stipulations promulgated pursuant to this chapter.*

*(b) RESPONSIBILITY OF HOLDERS OF LEASE.—It shall be the responsibility of any holder of a lease under this chapter to—*

*(1) maintain all operations within such lease area in compliance with regulations intended to protect persons and property on, and fish and wildlife, their habitat, subsistence resources, and the environment of, the Coastal Plain; and*

*(2) allow prompt access at the site of any operations subject to regulation under this chapter to any appropriate Federal or State inspector, and to provide such documents and records which are pertinent*

*to occupational or public health, safety, or environmental protection, as may be requested.*

*(c) ON-SITE INSPECTION.—The Secretary shall promulgate regulations to provide for—*

*(1) scheduled onsite inspection by the Secretary, at least twice a year, of each facility on the Coastal Plain which is subject to any environmental or safety regulation promulgated pursuant to this chapter or conditions contained in any lease issued pursuant to this chapter to assure compliance with such environmental or safety regulations or conditions; and*

*(2) periodic onsite inspection by the Secretary at least once a year without advance notice to the operator of such facility to assure compliance with all environmental or safety regulations.*

***SEC. 5344. NEW REVENUES.***

*(a) DISTRIBUTION OF REVENUES.—(1) Notwithstanding any other provision of law, all revenues received by the Federal Government from competitive bids, sales, bonuses, royalties, rents, fees, or interest derived from the leasing of oil and gas within the Coastal Plain shall be deposited into the Treasury of the United States, solely as provided in this subsection.*

*(2) Fifty percent of all revenues referred to in paragraph (1) shall be paid by the Secretary of the Treasury*

*semiannually to the State of Alaska, on March 30 and September 30 of each year.*

*(3)(A) The Secretary of the Treasury is directed to monitor the revenues deposited into the Treasury from oil and gas leases issued under the authority of this chapter. Except as provided in subparagraph (B), all monies deposited into the Treasury from such oil and gas leases in excess of $2,600,000,000 shall be distributed as follows:*

*(i) Fifty percent shall be paid to the State of Alaska in the manner provided in this subsection; and*

*(ii) Fifty percent shall be deposited into a special fund established in the Treasury of the United States known as the "National Park, Refuge, and Fish and Wildlife Renewal and Protection Fund (hereinafter in this section referred to as the "renewal fund").*

*(B) Deposits into the renewal fund shall not exceed $250,000,000 over the life of the renewal fund. Monies in excess of such amount shall be deposited as miscellaneous receipts in the Treasury of the United States.*

*(C) Deposits into the renewal fund shall remain available until expended. The Secretary of the Treasury is directed to develop procedures for use of the renewal fund to ensure accountability and demonstrated results.*

*(b) USE OF RENEWAL FUND.—Monies from the renewal fund shall be made available to the Secretary of the Interior, without further appropriation, at the beginning of each fiscal year in which funds are available, and shall be expended by the Secretary as follows:*

*(1) Twenty-five percent shall be used for infrastructure needs at units of the National Park System, including but not limited to, facility refurbishment, repair and replacement, interpretive media and exhibit repair and replacement, and Infrastructure projects associated with park resource protection;*

*(2) Twenty-five percent shall be used for infrastructure needs at units of the National Wildlife Refuge System, including but not limited to, facility refurbishment, repair and replacement, interpretive media and exhibit repair and replacement, and infrastructure projects associated with refuge resource protection;*

*(3) Twenty-five percent shall be used for acquisition of important habitat lands for threatened or endangered species from owners of private property. Such lands shall be acquired solely on a willing seller basis and shall be managed by the Secretary for the conservation of such species pursuant to the terms of*

*section 5 of the Endangered Species Act of 1973 (16 U.S.C. 1534); and*

*(4) Twenty-five percent shall be available for wetlands projects in accordance with the applicable provision of the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.).*

*(c) COMMUNITY ASSISTANCE.—There is hereby established a Community Assistance Fund in the Treasury into which shall be deposited $30,000,000 from revenues derived from the federal share of the first lease sale authorized under this chapter. The Secretary of the Treasury shall invest the funds in the Community Assistance Fund in interest bearing government securities. No more than $5,000,000 per year from the Community Assistance Fund, shall be available to the Secretary for distribution, upon application and without further appropriation, to organized boroughs, other municipal subdivisions of the State of Alaska, and recognized Indian Reorganization Act entities which are directly impacted by the exploration and production of oil and gas on the Coastal Plain authorized by this chapter to provide public and social services and facilities required in connection with such activities.*

## *CHAPTER 3—WATER PROJECTS*

### *Subchapter A—Irrigation Prepayment*

***SEC. 5351. AUTHORIZATION FOR PREPAYMENT OF CONSTRUCTION CHARGES.***

*Subsection 213(a) of the Reclamation Reform Act of 1982 (96 Stat. 1269, 43 U.S.C. 390mm(a)) is amended:*

*(1) by adding at the beginning:*

*"Notwithstanding any provision of Reclamation law or limitation contained in any repayment or water service contract, any person or district holding such a contract or receiving water under such a contract with the United States may prepay the construction costs referred to in this section either through accelerated or lump sum payments. For the purposes of such prepayment only, the project to which such contract applies is declared to be complete and the Secretary shall determine the repayment obligations associated with the construction costs of the project facilities so that accelerated payments or a lump sum payment may be made. The amount of any prepayment shall be calculated by discounting the remaining payments due under a contract in accordance with the guidelines set forth in Circular A-129 issued by the Office of Management and Budget: Provided, That the discount shall be adjusted by any amounts necessary to compensate the Federal Government for the direct or indirect loss of future tax revenues if the individual*

*or district plans to use federally tax-exempt financing for such prepayment.";*

*(2) by striking "lands in a district" and inserting: "lands in a district, or lands owned or leased by a person";*

*(3) by striking "obligation of a district" and inserting: "obligation of a district or a person";*

*(4) by striking "enactment of this Act." and inserting: "enactment of this Act or as otherwise provided for in this section. Any additional capital costs incurred after the date of such prepayment shall be recoverable as a separate obligation and shall not be considered to be a new or supplemental benefit for the purposes of this act nor cause the full cost pricing limitation of this Act or the ownership limitations contained in any provision of federal reclamation law to apply to the lands to which such capital costs apply.".*

***SEC. 5352. CONFORMING AMENDMENT.***

*Subsection 213 (c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390 mm (c)) is repealed.*

## ***Subchapter B—Hetch Hetchy***

***SEC. 5353. HETCH HETCHY DAM.***

*Section 7 of the Act of December 19, 1913 (38 Stat. 242, chapter 4), is amended—*

*(1) by striking "$30,000" in the first sentence and inserting "$2,000,000"; and*

*(2) by amending the second and third sentences to read as follows: "These funds shall be placed in a separate fund by the United States and, notwithstanding any other provision of law, shall not be available for obligation or expenditure until appropriated by the Congress. The highest priority use of the funds shall be for annual operation of Yosemite National Park, with the remainder of any funds to be used to fund operations of other national parks in the State of California.".*

## *Subchapter C—Collbran Project*

***SEC. 5355. COLLBRAN PROJECT.***

*(a) SHORT TITLE.—This subchapter may be cited as the "Collbran Project Unit Conveyance Act".*

*(b) DEFINITIONS.—For purposes of this subchapter:*

*(1) DISTRICTS.—The term "Districts" means the Ute Water Conservancy District and the Collbran Conservancy District (including their successors and assigns), which are political subdivisions of the State of Colorado.*

*(2) FEDERAL RECLAMATION LAWS.—The term "Federal reclamation laws" means the Act of June 17, 1902 and Acts amendatory thereof or supple-*

*mentary thereto (32 Stat. 388, chapter 1093; 43 U.S.C. 371 et seq.) (including regulations adopted pursuant to those Acts).*

*(3) PROJECT.—The term "Project" means the Collbran Reclamation Project, as constructed and operated under the Act of July 3, 1952 (66 Stat. 325, chapter 565), including all property, equipment, and assets of or relating to the Project that are owned by the United States, including—*

*(A) Vega Dam and Reservoir (but not including The Vega Recreation Facilities);*

*(B) Leon-Park Dams and Feeder Canal;*

*(C) Southside Canal;*

*(D) East Fork Diversion Dam and Feeder Canal;*

*(E) Bonham-Cottonwood Pipeline;*

*(F) Snowcat Shed and Diesel Storage;*

*(G) Upper Molina Penstock and Power Plant;*

*(H) Lower Molina Penstock and Power Plant;*

*(I) the diversion structure in the tailrace of the Lower Molina Power Plant;*

*(J) all substations and switchyards;*

*(K) a non-exclusive easement for the use of existing easements or rights-of-way owned by the United States on or across nonfederal lands which are necessary for access to Project facilities;*

*(L) title to lands reasonably necessary for all Project facilities except for land described in subparagraph (K) or subsection (c)(1)(B) or (C);*

*(M) all permits and contract rights held by the Bureau of Reclamation, including, without limitation, contract or other rights relating to the operation, use, maintenance, repair, or replacement of the water storage reservoirs located on the Grand Mesa which are operated as a part of the Project;*

*(N) all equipment, parts inventories, and tools;*

*(O) all additions, replacements, betterments, and appurtenances to any of the above; and*

*(P) a copy of all data, plans, designs, reports, records, or other materials, whether in writing or in any form of electronic storage relating specifically to the Project.*

*(4) VEGA RECREATION FACILITIES.—The term "Vega Recreation Facilities" includes, but is not lim-*

*ited to, buildings, campgrounds, picnic areas, parking lots, fences, boat docks and ramps, electrical lines, water and sewer systems, trash and toilet facilities, roads and trails, and other structures and equipment used for State park purposes at and near Vega Reservoir such as recreation, maintenance and daily and overnight visitor use, and lands above the high water level of Vega Reservoir within the area previously defined by the Department of the Interior as the "Reservoir Area Boundary" which have not historically been utilized for Collbran Project water storage and delivery facilities, together with an easement for public access for recreational purposes to Vega Reservoir and the water surface thereof, and construction, operation, maintenance and replacement of such recreation facilities below the high water line. Such facilities shall also include improvements constructed or added as a result of the agreements referred to in section (c)(6).*

*(c) CONVEYANCE OF THE COLLBRAN PROJECT.—*

*(1) IN GENERAL.—*

*(A) CONVEYANCE TO DISTRICTS.—The Secretary of the Interior shall convey to the Districts all right, title, and interest of the United States in and to the Project, as described in sub-*

*section (b)(3), by quitclaim deed and bill of sale, without warranties, in the last quarter of fiscal year 2000, subject only to the requirements of this section. Until such conveyance occurs, the Bureau of Reclamation shall continue to provide for the operation, maintenance, repair, and replacement of Project facilities and the storage reservoirs on the Grand Mesa to the extent such responsibilities are the responsibility of the Bureau of Reclamation and have not been delegated to the Districts prior to the date of enactment of this Act or are delegated or transferred to the Districts by agreement thereafter, so that at the time of conveyance such facilities are in the same condition as, or better condition than, the condition of the facilities on the date of enactment of this Act.*

*(B) EASEMENTS ON NATIONAL FOREST SYSTEM LANDS.—The Secretary of Agriculture shall grant, in the last quarter of fiscal year 2000, subject only to the requirements of this section; (i) a non-exclusive easement on and across National Forest System lands to the Districts for ingress and egress on existing access routes to each existing component of the Project and to the*

*existing storage reservoirs on the Grand Mesa which are operated as a part of the Project; (ii) a non-exclusive easement on National Forest System lands for the operation, use, maintenance, repair, and replacement, but not enlargement, of the existing storage reservoirs on the Grand Mesa to the owners and operators of such reservoirs which are operated as a part of the Project; which easement may be exercised in the event that the existing land use authorizations for such storage reservoirs are restricted, terminated, relinquished, or abandoned, and which easement shall not be subject to conditions or requirements that interfere with or limit the use of such reservoirs for water supply or power purposes; and (iii) a non-exclusive easement to the Districts for the operation, use, maintenance, repair, and replacement, but not enlargement, of those components of Project facilities which are located on National Forest System lands, subject to the requirement that the Districts shall provide reasonable notice to and the opportunity for consultation with the designated representative of the Secretary of Agriculture for non-routine,*

*non-emergency activities that occur on such easements.*

*(C) EASEMENTS TO DISTRICTS FOR SOUTHSIDE CANAL.—The Secretary of the Interior shall grant to the Districts, in the last quarter of fiscal year 2000, subject only to the requirements of this section, (i) a non-exclusive easement on and across lands administered by agencies within the Department of the Interior for ingress and egress on existing access routes to and along the Southside Canal, and (ii) a non-exclusive easement for the operation, use, maintenance, repair, and replacement of the Southside Canal, subject to the requirement that the Districts shall provide reasonable notice to and the opportunity for consultation with the designated representative of the Secretary of the Interior for non-routine, non-emergency activities that occur on such easements.*

*(2) RESERVATION.—The transfer of rights and interests pursuant to paragraphs (1)(A), (B), and (C) shall reserve to the United States all minerals, including hydrocarbons, and a perpetual right of public access over, across, under, and to the portions of the Project which on the date of enactment of this Act*

*were open to public use for fishing, boating, hunting, and other outdoor recreation purposes and other public uses such as grazing, mineral development and logging: Provided, That the United States may allow for continued public use and enjoyment of such portions of the Project for recreational activities and other public uses conducted as of the date of enactment of this Act.*

*(3) CONVEYANCE TO STATE OF COLORADO.—All right, title, and interest in the Vega Recreation Facilities shall remain in the United States until the terms of the agreements referred to in paragraph (6) have been fulfilled by the United States. At such time, all right, title, and interest in the Vega Recreation Facilities shall be conveyed by the Secretary of the Interior to the State of Colorado, Division of Parks and Outdoor Recreation.*

*(4) PAYMENT.—*

*(A) IN GENERAL.—At the time of transfer, the Districts shall pay to the United States $12,900,000 ($12,300,000 of which represents the net present value of the outstanding repayment obligations for the Project), of which—*

*(i) $12,300,000 shall be deposited in the general fund of the United States Treasury; and*

*(ii) $600,000 shall be deposited in a special account in the United States Treasury and shall be available to the United States Fish and Wildlife Service, Region 6, without further appropriation, for use in funding Colorado operations and capital expenditures associated with the Grand Valley Water Management Project for the purpose of recovering endangered fish in the Upper Colorado River Basin, as identified in the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin, or such other component of the Recovery Implementation Program within Colorado that is selected with the concurrence of the Governor of the State of Colorado.*

*(B) SOURCE OF FUNDS.—Funds for the payment to the extent of the amount specified in subparagraph (A) shall not be derived from the issuance or sale, prior to the conveyance, of State or local bonds the interest on which is exempt*

*from taxation under section 103 of the Internal Revenue Code of 1986.*

*(5) OPERATION OF PROJECT.—*

*(A) IN GENERAL.—The Project was authorized and constructed to place water to beneficial use for authorized purposes within the State of Colorado. The Project shall be operated and used by the Districts for a period of 40 years after the date of enactment of this Act for the purposes for which the Project was authorized under the Act of July 3, 1952 (66 Stat. 325, chapter 565). The Districts shall attempt to the extent practicable, taking into consideration historic Project operations, to notify the State of Colorado of changes in historic Project operations which may adversely affect State park operations.*

*(B) REQUIREMENTS.—During the 40-year period described in subparagraph (A)—*

*(i) the Districts shall annually submit to the Secretary of Agriculture and the Colorado Department of Natural Resources a plan for operation of the Project, which plan shall—*

*(I) report on Project operations for the previous year;*

*(II) provide a description of the manner of Project operations anticipated for the forthcoming year, which shall be prepared after consultation with the designated representatives of the Secretary of Agriculture, the Board of County Commissioners of Mesa County, Colorado, and the Colorado Department of Natural Resources; and*

*(III) certify that the Districts have operated and will operate and maintain the Project facilities in accordance with sound engineering practices; and*

*(ii) subject to subsection (d), all electric power generated by operation of the Project shall be made available to and be marketed by the Western Area Power Administration (including its successors or assigns).*

*(6) AGREEMENTS.—Conveyance of the Project shall be subject to the agreements between the United States and the State of Colorado dated August 22, 1994, and September 23, 1994, relating to the construction and operation of recreational facilities at*

*Vega Reservoir, which agreements shall continue to be performed by the parties thereto according to the terms of the agreements.*

*(d) OPERATION OF THE POWER COMPONENT.—*

*(1) CONFORMITY TO HISTORIC OPERATIONS.—The power component and facilities of the Project shall be operated in substantial conformity with the historic operations of the power component and facilities (including recent operations in a peaking mode).*

*(2) POWER MARKETING.—*

*(A) EXISTING MARKETING ARRANGEMENT.—The Post-1989 Marketing Criteria, which provide for the marketing of power generated by the power component of the Project as part of the output of the Salt Lake City Area Integrated Projects, shall no longer be binding on the Project upon conveyance of the Project under subsection (c)(1).*

*(B) AFTER TERMINATION OF EXISTING MARKETING ARRANGEMENT.—*

*(i) IN GENERAL.—After the conveyance, the Districts shall offer all power produced by the power component of the Project to the Western Area Power Administration or its successors or assigns (referred to in*

*this section as "Western"), which, in consultation with its affected preference customers, shall have the first right to purchase such power at the rates established in accordance with clause (ii). If Western declines to purchase the power after consultation with its affected preference customers, such power shall then be offered at the same rates first to Western's preference customers located in the Salt Lake City Area Integrated Projects marketing area (referred to in this section as the "SLCAIP preference customers"). Thereafter, such power may be sold to any other party: Provided, however, That no such sale may occur at rates less than rates established in accordance with clause (ii) unless such power is first offered at such lesser rate first to Western and then to its SLCAIP preference customers.*

*(ii) The rate for power initially offered to Western and its SLCAIP preference customers under this paragraph shall not exceed that required to produce revenues sufficient to provide for*

*(I) annual debt service and/or recoupment of the cost of capital for the amount specified in subsection (c)(4)(A)(i) of this section, less the sum of $310,000 (which is the net present value of the outstanding repayment obligation of the Collbran Conservancy District), and*

*(II) the cost of operation, maintenance, and replacement of the power component of the Project.*

*Such costs and rate shall be determined in a manner consistent with the current principles followed by the Secretary of the Interior and by Western in its annual power and repayment study.*

*(e) LICENSE.—*

*(1) Prior to the conveyance of the Project to the Districts, the Commission shall issue to the Districts a license or licenses as appropriate under part I of the Federal Power Act, as amended, (16 U.S.C. 791 et seq.), authorizing for a term of 40 years the continued operation and maintenance of the power component of the Project.*

*(2) The license issued pursuant to subsection (1):*

*(A) shall be for the purpose of operating, using, maintaining, repairing, and replacing the power component of the Project as authorized by the Act of July 3, 1952 (66 Stat. 325, chapter 565);*

*(B) shall be conditioned upon the requirement that the power component of the project continue to be operated and maintained in accordance with the authorized purposes of the project;*

*(C) shall be subject only to the provisions of Part I of the Federal Power Act, except the word "constructed" in section 3(10); the four provisos of section 4(e); section 6 to the extent it requires the licensee's acceptance of those terms and conditions of the Act that this subsection waives; section 10(e) as concerns annual charges for the use and occupancy of federal lands and facilities; section 10(f); section 10(j); section 18; section 19; section 20; and section 22 of the Federal Power Act, 16 U.S.C. 796(10), 797(e), 799, 803(e), 803(f), 803(j), 811, 812, 813, and 815; and shall not be subject to the standard "L-Form" license conditions, published at 54 FPC 1792-1928 (1975), the Federal Land Policy and Manage-*

*ment Act (43 U.S.C. 1701 et seq.), as amended, section 2402 of the Energy Policy Act of 1992 (16 U.S.C. 797c), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.), the Federal Water Pollution Control Act (commonly known as the "Clean Water Act") (33 U.S.C. 1251 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), or any other Act otherwise applicable to the licensing of the project.*

*(3) The license issued under paragraph (1) is deemed to meet the licensing standards of the Federal Power Act, including section 10(a) and the last sentence of section 4(e), 16 U.S.C. 797(e).*

*(4) Any power site reservation established by the President, the Secretary of the Interior, or pursuant to section 24 of the Federal Power Act (16 U.S.C. 818) or any other law, which exists on any lands, whether federally or privately owned, that are included within the boundaries of the project shall be*

*vacated by operation of law upon issuance of the license for the project.*

*(5) All requirements of Part I of the Federal Power Act and of any other Act applicable to the licensing of a hydroelectric project shall apply to the project upon expiration of the license issued under this section.*

*(6) For purposes of this section, "Commission" means the Federal Energy Regulatory Commission.*

*(7) The operation of the Project shall be subject to all applicable state and federal laws subsequent to the issuance of the license pursuant to paragraph (1).*

*(f) INAPPLICABILITY OF NEPA.—Neither the conveyance of the Project nor the issuance of easements pursuant to this section constitutes a major Federal action within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including any regulations issued under such Act.*

*(g) INAPPLICABILITY OF PRIOR AGREEMENTS AND OF FEDERAL RECLAMATION LAWS.—On conveyance of the Project to the Districts—*

*(1) the Repayment Contract dated May 27, 1957, as amended April 12, 1962, between the Collbran Conservancy District and the United States, and the Contract for use of Project facilities for Di-*

*version of Water dated January 11, 1962, as amended November 10, 1977, between the Ute Water Conservancy District and the United States, shall be terminated and of no further force or effect; and*

*(2) the Project shall no longer be subject to or governed by the Federal reclamation laws.*

*(h) DISTRICTS' LIABILITY.—The Districts shall be liable, to the extent allowed under State law, for all acts or omissions relating to the operation and use of the Project by the Districts that occur subsequent to the conveyance under section (c), including damages to Federal lands or facilities which result from the failure of Project facilities.*

*(i) EFFECT ON STATE LAW.—Nothing in this section shall be construed to impair the effectiveness of any State or local law (including regulations) relating to land use.*

*(j) TREATMENT OF SALES FOR PURPOSES OF CERTAIN LAWS.—The sales of assets under this subchapter shall not be considered a disposal of Federal surplus property under the following provisions of law:*

*(1) Section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484).*

*(2) Section 13 of the Surplus Property Act of 1944 (50 U.S.C. App. 1622).*

## *Subchapter D—Sly Park*

***SEC. 5356. SLY PARK.***

*(a) SHORT TITLE.—This subchapter may be cited as the "Sly Park Unit Conveyance Act".*

*(b) DEFINITIONS.—For purposes of this subchapter:*

*(1) The term "El Dorado Irrigation District" or "District" means a political subdivision of the State of California duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in the city of Placerville, El Dorado County, California.*

*(2) The term "Secretary" means the Secretary of the Interior.*

*(3) The term "Sly Park Unit" means the Sly Park Dam and Reservoir, Camp Creek Diversion Dam and Tunnel and conduits and canals as authorized under the Act entitled "An Act to authorize the American River Basin development, California, for irrigation and reclamation, and for other purposes", approved October 14, 1949 (63 Stat. 852 chapter 690), together with all other facilities owned by the United States including those used to convey and store water delivered from Sly Park, as well as all recreation facilities associated thereto.*

*(c) SALE OF THE SLY PARK UNIT.—*

*(1) IN GENERAL.—The Secretary shall, on or before December 31, 1997, and upon receipt of the payment for the original construction debt described in paragraph (2), sell and convey to the El Dorado Irrigation District all right, title, and interest of the United States in and to the Sly Park Unit. At the time the Sly Park Unit is conveyed, the Secretary shall also transfer and assign to the District the water rights relating to the Sly Park Unit held in trust by the Secretary for diversion and storage under California State permits numbered 2631, 5645A, 10473, and 10474.*

*(2) SALE PRICE.—The sale price for the Sly Park Unit shall be $3,993,982, which is the outstanding balance for the original construction of the Sly Park Unit payable to the United States. Payment shall be deposited as miscellaneous receipts in the Treasury and credited to the Central Valley Project Restoration Fund. Payment of such price shall extinguish all payment obligations under contract numbered 14-06-200-949 between the District and the Secretary.*

*(d) NO ADDITIONAL ENVIRONMENTAL IMPACT.—The Congress specifically finds that (A) the sale, conveyance and assignment of the Sly Park Unit and water rights under*

*this section involves the transfer of the ownership and operation of an existing ongoing water project, (B) the Sly Park Unit operation, facilities, and water rights have been, and after the sale and transfer will continue to be, committed to maximum reasonable and beneficial use for existing services, and (C) the sale, conveyance and assignment of the Sly Park Unit and water rights does not involve any additional growth or expansion of the project or other environmental impacts. Consequently, the sale, conveyance and assignment of the Sly Park Unit and water rights shall not be subject to environmental review pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4332) or endangered species review or consultation pursuant to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536).*

*(e) CERTAIN CONTRACT OBLIGATIONS NOT AFFECTED.—The sale of the Sly Park Unit under this section shall not affect the payment obligations of the District under the contract between the District and the Secretary numbered 14-06-200-7734, as amended by contracts numbered 14-06-200-4282A and 14-06-200-8536A.*

*(f) TREATMENT OF SALES FOR PURPOSES OF CERTAIN LAWS.—The sales of assets under this subchapter part shall not be considered a disposal of Federal surplus property under the following provisions of law:*

*(1) Section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484).*

*(2) Section 13 of the Surplus Property Act of 1944 (50 U.S.C. App. 1622).*

## *Subchapter E—Central Utah Project*

### *SEC. 5357. PREPAYMENT OF CERTAIN REPAYMENT CONTRACTS BETWEEN THE UNITED STATES AND THE CENTRAL UTAH WATER CONSERVANCY DISTRICT.*

*The second sentence of section 210 of the Central Utah Project Completion Act (106 Stat. 4624) is amended to read as follows: "The Secretary shall allow for prepayment of the repayment contract between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and supplemented on November 26, 1985, providing for repayment of municipal and industrial water delivery facilities for which repayment is provided pursuant to such contract, under terms and conditions similar to those contained in the supplemental contract that provided for the prepayment of the Jordan Aqueduct dated October 28, 1993. The prepayment may be provided in several installments to reflect substantial completion of the delivery facilities being prepaid and may not be adjusted on the basis of the type of prepayment financing utilized by the District: Provided That the District shall complete all payments au-*

*thorized pursuant to this section by the end of fiscal year 2002.".*

## *CHAPTER 4—FEDERAL OIL AND GAS ROYALTIES*

***SEC. 5361. DEFINITIONS.***

*Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended—*

*(1) by amending paragraph (7) to read as follows:*

*"(7) 'lessee' means any person to whom the United States issues an oil and gas lease or any person to whom operating rights in a lease have been assigned;"; and*

*(2) by striking "and" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting a semicolon, and by adding at the end the following:*

*"(17) 'adjustment' means an amendment to a previously filed report on an obligation, and any additional payment or credit, if any, applicable thereto, to rectify an underpayment or overpayment on a lease;*

*"(18) 'administrative proceeding' means any Department of the Interior agency process in which a demand, decision or order issued by the Secretary or*

*a delegated State is subject to appeal or has been appealed;*

*"(19) 'assessment' means any fee or charge levied or imposed by the Secretary or a delegated State other than—*

*"(A) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;*

*"(B) any interest; or*

*"(C) any civil or criminal penalty;*

*"(20) 'commence' means—*

*"(A) with respect to a judicial proceeding, the service of a complaint, petition, counterclaim, crossclaim, or other pleading seeking affirmative relief or seeking credit or recoupment; or*

*"(B) with respect to a demand, the receipt by the Secretary or a delegated State or a lessee of the demand;*

*"(21) 'credit' means the application of an overpayment (in whole or in part) against an obligation which has become due to discharge, cancel or reduce the obligation;*

*"(22) 'delegated State' means a State which, pursuant to an agreement or agreements under sec-*

*tion 205, performs authorities, duties, responsibilities, or activities of the Secretary which may be performed by a State under the Constitution of the United States for all lands within the State, including, but not limited to—*

*"(A) activities under sections 111 and 115;*

*"(B) collection, audit, lease and post-lease management activities, and applicable enforcement activities;*

*"(C) inspections (including activities described in section 108;*

*"(D) approval of pooling, unitization, and communitization agreements; and*

*"(E) investigations;*

*"(23) 'demand' means—*

*"(A) an order to pay issued by the Secretary or the applicable delegated State that has a reasonable basis to conclude that the obligation in the amount of the demand is due and owing; or*

*"(B) a separate written request by a lessee which asserts an obligation due the lessee that has a reasonable basis to conclude that the obligation in the amount of the demand is due and owing, but does not mean any royalty or produc-*

*tion report, or any information contained therein, required by the Secretary or a delegated State;*

*"(24) 'obligation' means—*

*"(A) any duty of the Secretary or, if applicable, a delegated State—*

*"(i) to take oil or gas royalty in kind at or near the lease (unless the lease expressly provides for delivery at a different location); or*

*"(ii) to pay, refund, offset, or credit monies including but not limited to)—*

*"(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale; or*

*"(II) any interest;*

*"(B) any duty of a lessee—*

*"(i) to deliver oil or gas royalty in kind at or near the lease (unless the lease expressly provides for delivery at a different location); or*

*"(ii) to pay, offset or credit monies including but not limited to—*

*"(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;*

*"(II) any interest;*

*"(III) any penalty; or*

*"(IV) any assessment, which arises from or relates to any lease administered by the Secretary for, or any mineral leasing law related to, the exploration, production and development of oil or gas on Federal lands or the Outer Continental Shelf;*

*"(25) 'order to pay' means a written order issued by the Secretary or the applicable delegated State which—*

*"(A) asserts a specific, definite, and quantified obligation claimed to be due, and*

*"(B) specifically identifies the obligation by lease, production month and monetary amount of such obligation claimed to be due and ordered to be paid, as well as the reason or reasons such obligation is claimed to be due, but such term does not include any other communication or ac-*

*tion by or on behalf of the Secretary or a delegated State;*

*"(26) 'overpayment' means any payment by a lessee in excess of an amount legally required to be paid on an obligation and includes the portion of any estimated payment for a production month that is in excess of the royalties due for that month;*

*"(27) 'payment' means satisfaction, in whole or in part, of an obligation;*

*"(28) 'penalty' means a statutorily authorized civil fine levied or imposed for a violation of this Act, any mineral leasing law, or a term or provision of a lease administered by the Secretary;*

*"(29) 'refund' means the return of an overpayment;*

*"(30) 'State concerned' means, with respect to a lease, a State which receives a portion of royalties or other payments under the mineral leasing laws from such lease;*

*"(31) 'underpayment' means any payment or nonpayment by a lessee that is less than the amount legally required to be paid on an obligation; and*

*"(32) 'United States' means the United States Government and any department, agency, or instru-*

*mentality thereof, the several States, the District of Columbia, and the territories of the United States.".*

***SEC. 5362. MAXIMIZING RECEIPTS THROUGH STATE EFFORTS.***

*(a) GENERAL AUTHORITY.—Section 205(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735(a)) is amended to read as follows:*

*"(a) In order to provide incentives to States to maximize the amount of oil and gas receipts collected on lease obligations within the six-year period of limitations, and consequently to maximize the Federal share of such receipts to the United States Treasury, upon written request of a State, the State, pursuant to an agreement or agreements and consistent with subsection (c), may perform all or part of the authorities, duties, responsibilities, and activities of the Secretary under this Act which may be delegated to a State under the Constitution of the United States for all Federal lands within the State. The delegated State shall assume and perform the authorities, duties, responsibilities, or activities delegated under this section. To avoid duplication of effort, any authority, duty, responsibility, or activity delegated to a State under this Act with respect to all Federal lands within the State may not be carried out by the Secretary. Under any such agreement, the Secretary shall share oil or gas royalty management information.".*

*(b) DETERMINATION.—Section 205(b) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735(b)) is amended by striking "is authorized to" and inserting "shall".*

*(c) FEDERAL-STATE ROYALTY COLLECTION EFFORTS.—Subsection (c) section 205 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735) is amended by striking "which define" and all that follows and inserting "within 18 months after the date of enactment of section 115, under which States may perform the authorities, duties, responsibilities, and activities under this title which are subject to delegation, based on the recommendations of the States concerned following consultation with affected persons. If the Secretary decides not to follow any recommendations supported by all States concerned, the Secretary shall justify such decision within 30 days after making such decision. In carrying out this section the Secretary shall provide for reasonable flexibility to a State to perform any authority, duty, responsibility or activity delegated hereunder in a more efficient and cost-effective manner and provide the States concerned a direct role in determining such requirements, procedures and policies. To ensure efficient and timely collections of royalties pursuant to this Act, the delegated States shall provide—*

*"(1) for the effective and efficient performance of any authority, duty, responsibility or activity delegated under this Act;*

*"(2) for the consistent and uniform performance among the delegated States of any authority, duty, responsibility or activity delegated under this Act;*

*"(3) for valuation under the terms of the leases and applicable Federal statutes; and*

*"(4) for uniform reporting form and reporting requirements for all Federal lessees, unless the State and all affected parties otherwise agree.".*

*(d) PERFORMANCE.—Subsection (d) of section 205 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735) is amended by striking ", pertaining" and all that follows and inserting the following: "for requirements pertaining to records and accounts to be maintained and reporting procedures to be required by delegated States under this section. The records and accounts under such reporting procedures shall be sufficient to allow the Secretary to monitor the performance of any delegated State under this section. The applicable delegated State and the Secretary shall agree to terms and conditions for inclusion into an agreement to perform all or part of the authorities, duties, responsibilities, and activities under this title consistent with subsection (c).".*

*(e) STATE ACTIONS.—Section 204 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1734) is amended by adding at the end the following:*

*"(d) With respect to enforcement of an obligation under this Act, a State bringing an action under this section shall enjoy no greater rights than the Secretary enjoys under this Act.".*

*(f) SAVINGS PROVISION.—Nothing in the amendments made by this section shall impair any agreement, or any extension thereof, existing under section 205 as in effect on the day before the date of enactment of this Act. Following enactment of this Act, any State which is a party to an existing agreement under such section under which the State has been delegated audit or inspection responsibility, may issue orders to pay, subpoenas, or notices to perform restructured accounting and may continue to perform audits or inspections under terms and conditions consistent with the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), as amended by this chapter.*

*(g) RECEIPTS.—Section 205(f) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735(f)) is amended by adding at the end the following: "Such costs shall be allocable for the purposes of section 35(b) of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain",*

*approved February 25, 1920 (commonly known as the "Mineral Leasing Act") (30 U.S.C. 191(b)) to the administration and enforcement of laws providing for the leasing of any onshore lands or interests in land owned by the United States. The Secretary shall compensate any State in the next succeeding fiscal year for the aggregate amount of such costs incurred but not compensated due to such allocation for the current fiscal year. All money received from sales, bonuses, royalties, and interest, including money claimed to be due and owing pursuant to a delegation under this section, shall be payable and paid to the Treasury of the United States.".*

***SEC. 5363. SECRETARIAL AND DELEGATED STATES' ACTIONS AND LIMITATION PERIODS.***

*(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 114 the following new section:*

***"SEC. 115. SECRETARIAL AND DELEGATED STATES' ACTIONS AND LIMITATION PERIODS.***

*"(a) IN GENERAL.—All duties, responsibilities, and activities with respect to a lease shall be performed by the Secretary, delegated States, and lessees in a timely manner.*

*"(b) LIMITATION PERIOD.—*

*"(1) A judicial proceeding or demand which arises from, or relates to an obligation, shall be com-*

*menced within six years from the date on which the obligation becomes due and if not so commenced shall be barred. The Secretary, a delegated State, or a lessee (A) shall not take any other or further action regarding that obligation, including (but not limited to) the issuance of any order, request, demand or other communication seeking any document, accounting, determination, calculation, recalculation, payment, principal, interest, assessment, or penalty or the initiation, pursuit or completion of an audit with respect to that obligation; and (B) shall not pursue any other equitable or legal remedy, whether under statute or common law, with respect to an action on or an enforcement of said obligation.*

*"(2) The limitations set forth in sections 2401, 2415, 2416, and 2462 of title 28, United States Code and section 42 of the Mineral Leasing Act (30 U.S.C. 226-2) shall not apply to any obligation to which this Act applies. Section 3716 of title 31, United States Code, may be applied to an obligation the enforcement of which is not barred by this Act, but may not be applied to any obligation the enforcement of which is barred by this Act.*

*"(c) OBLIGATION BECOMES DUE.—*

*"(1) IN GENERAL.—For purposes of this Act, an obligation becomes due when the right to enforce the obligation is fixed.*

*"(2) ROYALTY OBLIGATIONS.—The right to enforce any royalty obligation for any given production month for a lease is fixed for purposes of this Act on the last day of the calendar month following the month in which oil or gas is produced.*

*"(d) TOLLING OF LIMITATION PERIOD.—The running of the limitation period under subsection (b) shall not be suspended, tolled, extended, or enlarged for any obligation for any reason by any action, including an action by the Secretary or a delegated State, other than the following:*

*"(1) TOLLING AGREEMENT.—A written agreement executed during the limitation period between the Secretary or a delegated State and a lessee which tolls the limitation period for the amount of time during which the agreement is in effect.*

*"(2) SUBPOENA.—*

*"(A) The issuance of a subpoena to a lessee in accordance with the provisions of subsection (B)(i) shall toll the limitation period with respect to the obligation which is the subject of a subpoena only for the period beginning on the date the lessee receives the subpoena and ending*

*on the date on which (i) the lessee has produced such subpoenaed records for the subject obligation, (ii) the Secretary or a delegated State receives written notice that the subpoenaed records for the subject obligation are not in existence or are not in the lessee's possession or control, or (iii) a court has determined in a final decision that such records are not required to be produced, whichever occurs first.*

*"(B)(i) A subpoena for the purposes of this section which requires a lessee to produce records necessary to determine the proper reporting and payment of an obligation due the Secretary may be issued only by an Assistant Secretary of the Interior or an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205, the State, acting through the highest elected State official having ultimate authority over the collection of royalties from leases on Federal lands within the state, may issue such subpoena, but may not delegate such authority to any other person.*

*"(ii) A subpoena described in clause (i) may only be issued against a lessee during the limitation period provided in this section and only after the Secretary or a delegated State has in writing requested the records from the lessee related to the obligation which is the subject of the subpoena and has determined that—*

*"(I) the lessee has failed to respond within a reasonable period of time to the Secretary's or the applicable delegated State's written request for such records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or such delegated State's responsibilities under this Act; or*

*"(II) the lessee has in writing denied the Secretary's or the applicable delegated State's written request to produce such records in the lessee's possession or control necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or such delegated State's responsibilities under this Act; or*

*"(III) the lessee has unreasonably delayed in producing records necessary for an*

*audit, investigation or other inquiry made in accordance with the Secretary's or the applicable delegated State's responsibilities under this Act after the Secretary's or such delegated State's written request.*

*"(C) In seeking records, the Secretary or the applicable delegated State shall afford the lessee a reasonable period of time after a written request by the Secretary or such delegated State in which to provide such records prior to the issuance of any subpoena.*

*"(3) MISREPRESENTATION OR CONCEALMENT.—The intentional misrepresentation or concealment of a material fact for the purpose of evading the payment of an obligation in which case the limitation period shall be tolled for the period of such misrepresentation or such concealment.*

*"(4) ORDER TO PERFORM A RESTRUCTURED ACCOUNTING.—(A) The issuance of a notice under subsection (D) that the lessee has not adequately performed a restructured accounting shall toll the limitation period with respect to the obligation which is the subject of the notice only for the period beginning on the date the lessee receives the notice and ending 120 days after the date on which (i) the Secretary or the*

*applicable delegated State receives written notice the accounting or other requirement has been performed, or (ii) a court has determined in a final decision that the lessee is not required to perform the accounting, whichever occurs first.*

*"(B)(i) The Secretary or the applicable delegated State may issue an order to perform a restructured accounting to a lessee when the Secretary or such delegated State determines during an in-depth audit of a lessee that the lessee should recalculate royalty due on an obligation based upon the Secretary's or the delegated State's finding that the lessee has made identified underpayments or overpayments which are demonstrated by the Secretary or the delegated State to be based upon repeated, systemic reporting errors for a significant number of leases or a single lease for a significant number of reporting months with the same type of error which constitutes a pattern of violations and which are likely to result in either significant underpayments or overpayments.*

*"(ii) The power of the Secretary to issue an order to perform a restructured accounting may not be delegated below the most senior career*

*professional position having responsibility for the royalty management program, which position is currently designated as the 'Associate Director for Royalty Management', and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205, the State, acting through the highest ranking State official having ultimate authority over the collection of royalties from leases on Federal lands within the state, may issue such order to perform, which may not be delegated to any other person. An order to perform a restructured accounting shall—*

*"(I) be issued within a reasonable period of time from when the audit identifies the systemic, reporting errors;*

*"(II) specify the reasons and factual bases for such order; and*

*"(III) be specifically identified as an 'order to perform a restructured accounting'.*

*"(C) An order to perform a restructured accounting shall not mean or be construed to include any other communication or action by or on behalf of the Secretary or a delegated State.*

*"(D) If a lessee fails to adequately perform a restructured accounting pursuant to this subsection, a notice shall be issued to the lessee that the restructured accounting has not been adequately performed. A lessee shall be given a reasonable time within which to perform the restructured accounting. Such notice may be issued under this section only by an Assistant Secretary of the Interior or an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205, the State, acting through the highest elected State official having ultimate authority over the collection of royalties from leases on Federal lands within the state, may issue such notice, which may not be delegated to any other person.*

*"(e) TERMINATION OF LIMITATIONS PERIOD.—An action or an enforcement of an obligation by the Secretary or delegated State or a lessee shall be barred under this section prior to the running of the six-year period provided in subsection (b) in the event—*

*"(1) the Secretary or a delegated State has notified the lessee in writing that a time period is closed to further audit; or*

*"(2) the Secretary or a delegated State and a lessee have so agreed in writing.*

*"(f) RECORDS REQUIRED FOR DETERMINING COLLECTIONS.—Records required pursuant to section 103 by the Secretary or any delegated State for the purpose of determining obligations due and compliance with any applicable mineral leasing law, lease provision, regulation or order with respect to oil and gas leases from Federal lands or the Outer Continental Shelf shall be maintained for the same period of time during which a judicial proceeding or demand may be commenced under subsection (b). If a judicial proceeding or demand is timely commenced, the record holder shall maintain such records until the final nonappealable decision in such judicial proceeding is made, or with respect to that demand is rendered, unless the Secretary or the applicable delegated State authorizes in writing an earlier release of the requirement to maintain such records. Notwithstanding anything herein to the contrary, under no circumstance shall a record holder be required to maintain or produce any record relating to an obligation for any time period which is barred by the applicable limitation in this section. Records required for administrative*

*actions and investigations (including, but not limited to, accounting collection and audits) under this Act involving obligations shall not be duplicated pursuant to section 3518(c)(1)(B) of title 44, United States Code.*

*"(g) TIMELY COLLECTIONS.—In order to most effectively utilize resources available to the Secretary to maximize the collection of oil and gas receipts from lease obligations to the Treasury within the six-year period of limitations, and consequently to maximize the State share of such receipts, the Secretary shall not perform or require accounting, reporting, or audit activities if the Secretary and the State concerned determines that the cost of conducting or requiring the activity exceeds the expected amount to be collected by the activity, based on the most current 12 months of activity. To the maximum extent possible, the Secretary and delegated States shall reduce costs to the United States Treasury and the States by discontinuing requirements for unnecessary or duplicative data and other information, such as separate allowances and payor information, relating to obligations due. If the Secretary and the State concerned determine that collection will result sooner, the Secretary or the applicable delegated State may waive or forego interest in whole or in part.*

*"(h) APPEALS AND FINAL AGENCY ACTION.—*

*"(1) 30-MONTH PERIOD.—All orders issued by the Secretary or a delegated State are subject to appeal to the Secretary. No State shall impose any conditions which would hinder a lessee's immediate appeal of an order to the Secretary or the Secretary's designee. The Secretary shall issue a final decision in any administrative proceeding, including any administrative proceedings pending on the date of enactment of this section, within 30 months from the date such proceeding was commenced or 30 months from the date of such enactment, whichever is later. The 30-month period may be extended by any period of time agreed upon in writing by the Secretary and the lessee.*

*"(2) EFFECT OF FAILURE TO ISSUE DECISION.—If no such decision has been issued by the Secretary within the 30-month period referred to in paragraph (1)—*

*"(A) the Secretary shall be deemed to have issued and granted a decision in favor of the lessee or lessees as to any nonmonetary obligation and any monetary obligation the principal amount of which is less than $2,500; and*

*"(B) the Secretary shall be deemed to have issued a final decision in favor of the Secretary,*

*which decision shall be deemed to affirm those issues for which the agency rendered a decision prior to the end of such period, as to any monetary obligation the principal amount of which is $2,500 or more, and the lessee shall have a right to a de novo judicial review of such deemed final decision.*

*"(i) COLLECTIONS OF DISPUTED AMOUNTS DUE.—To expedite collections relating to disputed obligations due within the six-year period beginning on the date the obligation became due, the parties shall hold not less than one settlement consultation and the Secretary and the State concerned may take such action as is appropriate to compromise and settle a disputed obligation, including waiving or reducing interest and allowing offsetting of obligations among leases.*

*"(j) ENFORCEMENT OF A CLAIM FOR JUDICIAL REVIEW.—In the event a demand subject to this section is properly and timely issued, the obligation which is the subject of the demand may be enforced beyond the six year limitations period without being barred by this statute of limitations. In the event a demand subject to this section is properly and timely commenced, a judicial proceeding challenging the final agency action with respect to such demand shall be deemed timely so long as such judicial proceeding*

*is commenced within 180 days from receipt of notice by the lessee of the final agency action.*

*"(k) IMPLEMENTATION OF FINAL DECISION.—In the event a judicial proceeding or demand subject to this section is timely commenced and thereafter the limitation period in this section lapses during the pendency of such proceeding, any party to such proceeding shall not be barred from taking such action as is required or necessary to implement a final unappealable judicial or administrative decision, including any action required or necessary to implement such decision by the recovery or recoupment of an underpayment or overpayment by means of refund or credit.*

*"(l) STAY OF PAYMENT OBLIGATION PENDING REVIEW.—Any party ordered by the Secretary or a delegated State to pay any obligation (other than an assessment) shall be entitled to a stay of such payment without bond or other surety instrument pending an administrative or judicial proceeding if the party periodically demonstrates to the satisfaction of the Secretary that such party is financially solvent or otherwise able to pay the obligation. In the event the party is not able to so demonstrate, the Secretary may require a bond or other surety instrument satisfactory to cover the obligation. Any party ordered by the Secretary or a delegated State to pay an assessment shall*

*be entitled to a stay without bond or other surety instrument.".*

*(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701) is amended by inserting after the item relating to section 114 the following new item:*

*"Sec. 115. Limitation periods and agency actions.".*

***SEC. 5364. ADJUSTMENT AND REFUNDS.***

*(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by inserting after section 111 the following:*

***"SEC. 111A. ADJUSTMENTS AND REFUNDS.***

*"(a) ADJUSTMENTS TO ROYALTIES PAID TO THE SECRETARY OR A DELEGATED STATE.—*

*"(1) If, during the adjustment period, a lessee determines that an adjustment or refund request is necessary to correct an underpayment or overpayment of an obligation, the lessee shall make such adjustment or request a refund within a reasonable period of time and only during the adjustment period. The filing of a royalty report which reflects the underpayment or overpayment of an obligation shall constitute prior written notice to the Secretary or the applicable delegated State of an adjustment.*

*"(2)(A) For any adjustment, the lessee shall calculate and report the interest due attributable to such*

*adjustment at the same time the lessee adjusts the principal amount of the subject obligation, except as provided by subparagraph (B).*

*"(B) In the case of a lessee who determines that subparagraph (A) would impose a hardship, the Secretary or such delegated State shall calculate the interest due and notify the lessee within a reasonable time of the amount of interest due, unless such lessee elects to calculate and report interest in accordance with subparagraph (A).*

*"(3) An adjustment or a request for a refund for an obligation may be made after the adjustment period only upon written notice to and approval by the Secretary or the applicable delegated State, as appropriate, during an audit of the period which includes the production month for which the adjustment is being made. If an overpayment is identified during an audit, then the Secretary or the applicable delegated State, as appropriate, shall allow a credit or refund in the amount of the overpayment.*

*"(4) For purposes of this section, the adjustment period for any obligation shall be the five-year period following the date on which an obligation became due. The adjustment period shall be suspended, tolled, ex-*

*tended, enlarged, or terminated by the same actions as the limitation period in section 115.*

*"(b) REFUNDS.—*

*"(1) IN GENERAL.—A request for refund is sufficient if it—*

*"(A) is made in writing to the Secretary and, for purposes of section 115, is specifically identified as a demand;*

*"(B) identifies the person entitled to such refund;*

*"(C) provides the Secretary information that reasonably enables the Secretary to identify the overpayment for which such refund is sought; and*

*"(D) provides the reasons why the payment was an overpayment.*

*"(2) NOTICE.—The Secretary shall promptly notify each State concerned of a request for refund.*

*"(3) PAYMENT BY SECRETARY OF THE TREASURY.—The Secretary shall certify the amount of the refund to be paid under paragraph (1) to the Secretary of the Treasury who shall make such refund. Such refund shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and*

*rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such refund attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any recipient prescribed by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.*

*"(4) PAYMENT PERIOD.—A refund under this subsection shall be paid or denied (with an explanation of the reasons for the denial) within 120 days of the date on which the request for refund is received by the Secretary. Such refund shall be subject to later audit by the Secretary or the applicable delegated State and subject to the provisions of this Act.*

*"(5) PROHIBITION AGAINST REDUCTION OF REFUNDS OR CREDITS.—In no event shall the Secretary or any delegated State directly or indirectly claim or offset any amount or amounts against, or reduce any refund or credit (or interest accrued thereon) by the*

*amount of any obligation the enforcement of which is barred by section 115.".*

*(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701) is amended by inserting after the item relating to section 111 the following new item:*

*"Sec. 111A. Adjustments and refunds.".*

***SEC. 5365. ROYALTY TERMS AND CONDITIONS, INTEREST, AND PENALTIES.***

*(a) LESSEE INTEREST.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding after subsection (g) the following:*

*"(h) Interest shall be allowed and paid or credited on any overpayment, with such interest to accrue from the date such overpayment was made, at the rate obtained by applying the provisions of subparagraphs (A) and (B) of section 6621(a)(1) of the Internal Revenue Code of 1986, but determined without regard to the matter following subparagraph (B) of section 6621(a)(1). Interest which has accrued on any overpayment may be applied to reduce an underpayment. This subsection applies to overpayments made later than six months after the date of enactment of this subsection or September 1, 1996, whichever is later. Such interest shall be paid from amounts received as current receipts from sales, bonuses, royalties (including inter-*

*est charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act, and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such interest payment attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any other recipient designated by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.".*

*(b) LIMITATION ON INTEREST.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982, as amended by subsection (a), is further amended by adding at the end the following:*

*"(i) Upon a determination by the Secretary that an excessive overpayment (based upon all obligations of a lessee for a given reporting month) was made for the sole purpose of receiving interest, interest shall not be paid on the excessive amount of such overpayment. For purposes of this Act, an 'excessive overpayment' shall be the amount that any overpayment a lessee pays for a given reporting month (excluding payments for demands for obligations determined to be due as a result of judicial or administrative proceedings or agreed to be paid pursuant to settlement agree-*

*ments) for the aggregate of all of its Federal leases exceeds 10 percent of the total royalties paid that month for those leases.".*

*(c) ESTIMATED PAYMENT.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by subsections (a) and (b), is further amended by adding at the end the following:*

*"(j) A lessee may make a payment for the approximate amount of royalties (hereinafter in this subsection 'estimated payment') that would otherwise be due for such lease to avoid underpayment or nonpayment interest charges. When an estimated payment is made, actual royalties are due and payable at the end of the month following the month in which the estimated payment is made. If the lessee makes a payment for such actual royalties, the lessee may apply the estimated payment to future royalties. Any estimated payment may be adjusted, recouped, or reinstated at any time by the lessee.".*

*(d) VOLUME ALLOCATION OF OIL AND GAS PRODUCTION.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by subsections (a) through (c), is amended by adding at the end the following:*

*"(k)(1) Except as otherwise provided by this subsection—*

*"(A) a lessee of a lease in a unit or communitization agreement which contains only Federal leases with the same royalty rate and funds distribution shall report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee;*

*"(B) a lessee of a lease in any other unit or communitization agreement shall report and pay royalties on oil and gas production for each production month based on the volume of oil and gas produced from such agreement and allocated to the lease in accordance with the terms of the agreement; and*

*"(C) a lessee of a lease that is not contained in a unit or communitization agreement shall report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee.*

*"(2) This subsection applies only to requirements for reporting and paying royalties. Nothing in this subsection is intended to alter a lessee's liability for royalties on oil or gas production based on the share of production allocated to the lease in accordance with the terms of the lease, a unit or communitization agreement, or any other agreement.*

*"(3) For any unit or communitization agreement, if all lessees contractually agree to an alternative method of royalty reporting and payment, the lessees may submit such alternative method to the Secretary or the delegated State for approval and make payments in accordance with such approved alternative method so long as such alternative method does not reduce the amount of the royalty obligation.*

*"(4) The Secretary or the delegated State shall grant an exception from the reporting and payment requirements for marginal properties by allowing for any calendar year or portion thereof royalties to be paid each month based on the volume of production sold. Interest shall not accrue on the difference for the entire calendar year or portion thereof between the amount of oil and gas actually sold and the share of production allocated to the lease until the beginning of the month following calendar year or portion thereof. Any additional royalties due or overpaid royalties and associated interest shall be paid, refunded, or credited within six months after the end of each calendar year in which royalties are paid based on volumes of production sold. For the purpose of this subsection, the term 'marginal property' means a lease that produces on average the combined equivalent of less than 15 barrels of oil per day or 90 thousand cubic feet of gas per day, or a combination thereof, deter-*

*mined by dividing the average daily production of crude oil and natural gas from producing wells on such lease by the number of such wells, unless the Secretary, together with the State concerned, determines that a different production is more appropriate.*

*"(5) Not later than two years after the date of the enactment of this subsection, the Secretary shall issue any appropriate demand for all outstanding royalty payment disputes regarding who is required to report and pay royalties on production from units and communitization agreements outstanding on the date of the enactment of this subsection, and collect royalty amounts owed on such production.".*

*"(e) PRODUCTION ALLOCATION.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by subsections (a) through (d), is amended by adding at the end the following:*

*"(l) The Secretary or the delegated State shall issue all determinations of allocations of production for units and communitization agreements within 120 days of a request for determination. If the Secretary or the delegated State fails to issue a determination within such 120-day period, the Secretary shall waive interest due on obligations subject to the determination until the end of the month following the month in which the determination is made.".*

*(f) NEW ASSESSMENT TO ENCOURAGE PROPER ROYALTY PAYMENTS.—*

*(1) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by this section, is further amended by adding at the end the following:*

***"SEC. 116. ASSESSMENTS.***

*"Beginning eighteen months after the date of enactment of this section, to encourage proper royalty payment the Secretary or the delegated State shall impose assessments on lessees who chronically submit erroneous reports under this Act. Assessments under this Act may only be issued as provided for in this section.".*

*(2) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 115 the following new item:*

*"Sec. 116. Assessments.".*

*(g) LIABILITY FOR ROYALTY PAYMENTS.—Section 102(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1712(a)) is amended to read as follows:*

*"(a) In order to increase receipts and achieve effective collections of royalty and other payments, a lessee who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make such*

*payments in the time and manner as may be specified by the Secretary or the applicable delegated State. A lessee may designate a person to make all or part of the payments due under a lease on the lessee's behalf and shall notify the Secretary or the applicable delegated State in writing of such designation, in which event said designated person may, in its own name, pay, offset or credit monies, make adjustments, request and receive refunds and submit reports with respect to payments required by the lessee. The person owning operating rights in a lease shall be primarily liable for its pro rata share of payment obligations under the lease. If the person owning the legal record title in a lease is other than the operating rights owner, the person owning the legal record title shall be secondarily liable for its pro rata share of such payment obligations under the lease.".*

*(h) CLERICAL AMENDMENT.—The heading of section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended to read as follows:*

*"ROYALTY TERMS AND CONDITIONS, INTEREST, AND PENALTIES".*

***SEC. 5366. ALTERNATIVES FOR MARGINAL PROPERTIES.***

*(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), as amended by section 5365 of this chapter, is further amended by adding at the end the following:*

***"SEC. 117. ALTERNATIVES FOR MARGINAL PROPERTIES.***

*"(a) DETERMINATION OF BEST INTERESTS OF STATE CONCERNED AND THE UNITED STATES.—The Secretary and the State concerned, acting in the best interests of the United States and the State concerned to promote production, reduce administrative costs, and increase net receipts to the United States and the States, shall jointly determine, on a case by case basis, the amount of what marginal production from a lease or leases or well or wells, or parts thereof, shall be subject to a prepayment under subsection (b) or regulatory relief under subsection (c). If the State concerned does not consent, such prepayments or regulatory relief shall not be made available under this section for such marginal production, provided that if royalty payments from a lease or leases, or well or wells is not shared with any State, such determination shall be made solely by the Secretary.*

*"(b) PREPAYMENT OF ROYALTY.—*

*"(1) I GENERAL.—Notwithstanding the provisions of any lease to the contrary, for any lease or leases or well or wells identified by the Secretary and the State concerned pursuant to subsection (a), the Secretary is authorized to accept a prepayment for royalties in lieu of monthly royalty payments under the lease for the remainder of the lease term if the affected lessee so agrees. Any prepayment agreed to by*

*the Secretary, State concerned and lessee which is less than an average $500 per month in total royalties shall be effectuated under this section not earlier than two years after the date of enactment of this section and, any prepayment which is greater than an average $500 per month in total royalties shall be effectuated under this section not earlier than three years after the date of enactment of this section. The Secretary and the State concerned may condition their acceptance of the prepayment authorized under this section on the lessee's agreeing to such terms and conditions as the Secretary and the State concerned deem appropriate and consistent with the purposes of this Act. Such terms may—*

*"(A) provide for prepayment that does not result in a loss of revenue to the United States in present value terms;*

*"(B) include provisions for receiving additional prepayments or royalties for developments in the lease or leases or well or wells that deviate significantly from the assumptions and facts on which the valuation is determined; and*

*"(C) require the lessee to provide such periodic production reports as may be necessary to allow the Secretary and the State concerned to*

*monitor production for the purposes of subparagraph (B).*

*"(2) STATE SHARE.—A prepayment under this section shall be shared by the Secretary with any State or other recipient to the same extent as any royalty payment for such lease.*

*"(3) SATISFACTION OF OBLIGATION.—Except as may be provided in the terms and conditions established by the Secretary under subsection (b), a lessee who makes a prepayment under this section shall have satisfied in full its obligation to pay royalty on the production stream sold from the lease or leases or well or wells.*

*"(c) ALTERNATIVE ACCOUNTING AND AUDITING REQUIREMENTS.—*

*"(1) IN GENERAL.—Within one year after the date of the enactment of this section, the Secretary or the delegated State shall provide accounting, reporting, and auditing relief that will encourage lessees to continue to produce and develop properties subject to subsection (a); provided, that such relief will only be available to lessees in a State that concurs, which concurrence is not required if royalty from the lease or leases or well or wells is not shared with any State. Prior to granting such relief, the Secretary and, if*

*appropriate, the State concerned shall agree that the type of marginal wells and relief provided under this paragraph is in the best interest of the United States and, if appropriate, the State concerned.".*

*(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 115 the following new item:*

*"Sec. 117. Alternatives for marginal properties.".*

***SEC. 5367. REPEALS.***

*(a) FOGRMA.—As applicable to Federal lands, sections 202 and 307 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732 and 1755), are repealed. Such repeal shall not affect cooperative agreements involving Indian tribes or Indian lands. Section 1 of such Act (relating to the table of contents) is amended by striking out the items relating to sections 202 and 307.*

*(b) OCSLA.—Effective on the date of the enactment of this Act, section 10 of the Outer Continental Shelf Lands Act (43 U.S.C. 1339) is repealed.*

***SEC. 5368. INDIAN LANDS.***

*The amendments and repeals made by this chapter shall not apply with respect to Indian lands, and the provisions of the Federal Oil and Gas Royalty Management Act of 1982 as in effect on the day before the date of enactment*

*of this Act shall continue to apply after such date with respect to Indian lands.*

***SEC. 5369. PRIVATE LANDS.***

*This chapter shall not apply to any privately owned minerals.*

***SEC. 5369A. EFFECTIVE DATE.***

*Except as provided by section 115(f), section 111(h), section 111(k)(5), and section 117 of the Federal Oil and Gas Royalty Management Act of 1982 (as added by this chapter), this chapter, and the amendments made by this chapter, shall apply with respect to the production of oil and gas after the first day of the month following the date of the enactment of this Act.*

## *CHAPTER 5—MINING*

***SEC. 5371. SHORT TITLE.***

*This chapter may be cited as "The Mining Law Revenue Act of 1995".*

***SEC. 5372. DEFINITIONS.***

*When used in this chapter—*

*(1) "Assessment year" means the annual period commencing at 12 o'clock noon on the 1st day of September and ending at 12 o'clock noon on the 1st day of September of the following year.*

*(2) "Federal lands" means lands and interests in lands owned by the United States that are open to*

*mineral location, or that were open to mineral location when a mining claim or site was located and which have not been patented under the general mining laws.*

*(3) "General mining laws" means those Acts which generally comprise chapters 2, 11, 12, 12A, 15, and 16, and sections 161 and 162, of Title 30 of the United States Code, all Acts heretofore enacted which are amendatory of or supplementary to any of the foregoing Acts, and the judicial and administrative decisions interpreting such Acts.*

*(4) "Locatable minerals" means those minerals owned by the United States and subject to location and disposition under the general mining laws on or after the effective date of this chapter, but not including any mineral held in trust by the United States for any Indian or Indian tribe, as defined in section 2 of the Indian Mineral Development Act of 1982 (25 U.S.C. 2101), or any mineral owned by any Indian or Indian tribe, as defined in that section, that is subject to a restriction against alienation imposed by the United States, or any mineral owned by any incorporated Native group, village corporation, or regional corporation and acquired by the group or cor-*

*poration under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).*

*(5) "Mineral activities" means any activity related to, or incidental to, exploration for or development, mining, production, beneficiation, or processing of any locatable mineral or mineral that would be locatable if it were subject to disposition under the general mining laws, or reclamation of the impacts of such activities.*

*(6) "Mining claim or site", except where provided otherwise, means a lode mining claim, placer mining claim, mill site or tunnel site.*

*(7) "Operator" means any person conducting mineral activities subject to this chapter.*

*(8) "Person" means an individual, Indian tribe, partnership, association, society, joint venture, joint stock company, firm, company, limited liability company, corporation, cooperative or other organization, and any instrumentality of State or local government, including any publicly owned utility or publicly owned corporation of State or local government.*

*(9) "Secretary" means the Secretary of the Interior.*

***SEC. 5373. RENTAL PAYMENT REQUIREMENTS.***

*(a) RENTAL PAYMENTS.—(1) After the date of enactment of this Act, the owner of each unpatented mining claim or site located pursuant to the general mining laws, whether located before or after the enactment of this Act, shall pay to the Secretary prior to September 1 of each year, until a patent has been issued therefor, an annual rental payment for each unpatented mining claim or site.*

*(2) LOCATION PAYMENT.—The owner of each unpatented mining claim or site located after the date of enactment of this Act pursuant to the general mining laws shall pay to the Secretary, at the time the copy of the notice or certificate of location is filed with the Bureau of Land Management pursuant to section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), a $25.00 location payment, in lieu of the annual rental payment of $100 per mining claim or site for the assessment year which includes the date of location of such mining claim or site.*

*(3) EXEMPTION AND WAIVER.—(A) The owner of any mining claim or site who demonstrates to the Secretary on or before the first day of any assessment year that access to such mining claim or site was denied during the prior assessment year by the action or inaction of any State or Federal governmental officer, agency, or court, or by any Indian tribal authority, shall be exempt from the annual*

*rental payment requirements of paragraph (1) for the assessment year following the filing of the certification.*

*(B) The rental payment provided for in subsection 5373(a) shall be waived for the owner of a mining claim or site who certifies in writing to the Secretary, on or before the date the payment is due, that, as of the date such payment is due, such owner and all related persons own not more than ten unpatented mining claims or sites. Any owner of a mining claim or site that is not required to pay a rental payment under this subsection shall continue to be subject to the assessment work requirements of the general mining laws or of any other State or Federal law, subject to any suspension or deferment of annual assessment work provided by law, for the assessment year following the filing of the certification required by this subsection.*

*(4) AMOUNT OF ANNUAL RENTAL PAYMENT.—For each assessment year the annual rental payment payable for a claim or site referred to in paragraph (1) shall be in the amount specified in Table 1.*

***Table 1***

| ***Assessment Year:*** | ***Amount of Payment Per Site or Claim:*** |
|---|---|
| *1996–1998* | *$100 per year* |
| *1999 and thereafter* | *$200 per year* |

*(5) EFFECT OF FORFEITURE.—No owner or co-owner of a mining claim or site which has been forfeited because the rental payment has not been paid and no person who*

*is a related person of any such owner or co-owner may relocate a new claim on any part of lands located within the forfeited claim for a period of 12 months after the date of forfeiture.*

*(b) ANNUAL LABOR.—(1) Beginning in 1999, amounts expended on activities that qualify as annual labor under the general mining laws may be credited on a dollar for dollar basis towards up to 50 percent of the annual rental payment payable under this section for the following assessment year. During the assessment year in 1999, annual labor performed in 1998 may be credited toward the annual rental payment due in 1999.*

*(2) In order to receive credit under this subsection for annual labor work, the description and value of the work must be included in the statement required in subsection (e) and the statement must be timely filed.*

*(3) Annual labor performed on an individual mining claim or site within a group of contiguous claims may be credited towards the aggregate amount of rental payments due on all of the contiguous claims within that group.*

*(c) WORK QUALIFYING AS ANNUAL LABOR.—(1) Only work which directly benefits or develops a mining claim or facilitates the extraction of ore qualifies as annual labor or other activities as determined by the Secretary. Accept-*

*able labor and improvements include, but are not limited to, any of the following:*

*(A) Drilling or excavating, including ore extraction.*

*(B) Mining costs directly associated with the production of ore.*

*(C) Prospecting work which benefits the claim or a contiguous claim.*

*(D) Development work toward an actual mine, such as shafts, tunnels, crosscuts and drifts, settling ponds and dams.*

*(E) Activities covered under section 1 of the Act of September 2, 1958 (30 U.S.C. 281), as amended.*

*(F) Reclamation conducted pursuant to State or Federal surface management laws or regulations.*

*(2) The following activities do not qualify as annual labor:*

*(A) Work involved in maintaining the location such as brushing and marking boundaries or replacing corner posts and location notices.*

*(B) Transportation of workers to or from the location.*

*(C) Prospecting or exploration work not conducted within the location or a contiguous location.*

*(d) AMENDMENTS OF PUBLIC LAW 85–876.—The Act of September 2, 1958 (Public Law 85-876; 30 U.S.C. 281), is amended as follows:*

*(1) Section 1 is amended by inserting "mineral activities, environmental baseline monitoring, and" after "without being limited to" and before "geological, geochemical and geophysical surveys" and by striking "Such" at the beginning of the last sentence and inserting "Airborne".*

*(2) Section 2(d) is amended by inserting "environmental baseline monitoring or" after "experience to conduct" and before "geological, geochemical or geophysical surveys".*

*(3) Section 2 is amended by adding the following new subsection at the end thereof:*

*"(e) The term 'environmental baseline monitoring' means activities for collecting, reviewing and analyzing information concerning soil, vegetation, wildlife, mineral, air, water, cultural, historical, archaeological or other resources related to planning for or complying with Federal and State environmental or permitting requirements applicable to potential or proposed mineral activities on the claim(s).".*

*(e) RENTAL PAYMENT STATEMENT.—Each payment under subsection (a) of this section shall be accompanied*

*by a statement which reasonably identifies the mining claim or site for which the rental payment is being paid. The statement required under this subsection shall be in lieu of any annual filing requirements for mining claims or sites, under any other Federal law, but shall not supersede any such filing requirement under applicable State law.*

*(f) ANNUAL LABOR STATEMENT.—When the value of annual labor is credited towards part or all of the rental payment, subject to the 50-percent limit set forth in subsection (b)(1), the following shall apply:*

*(1) The rental payment statement required in subsection (e) must also state the dates of performance of the labor, describe the character and total value of the improvements made or the labor performed, and the amount of labor used as a credit toward the rental payment for the current year.*

*(2) The annual labor statements must include a summary of the quantity, value and location of work done. This includes a listing of the physical work done, to include drilling, trenching, sampling and underground excavation, and the location of any environmental, geologic, geochemical, and geophysical surveys. The claim holder shall maintain sufficient records which document the value of the work claimed.*

*(3) All supporting material filed pursuant to paragraph (2) shall remain confidential in accordance with section 552 of title 5 of the United States Code as long as the location is maintained and for a period of one year after the location is abandoned, after which all data filed shall be considered public information.*

*(4) To the extent that labor credited against the rental payment payable under this section is determined by a final action not to qualify as labor under the general mining laws, the claimant shall pay the insufficiency by making payment to the Secretary of an amount equal to the amount of the rental payment against which the insufficient labor was credited. If such payment is made within 30 days of the claimant's receipt of a notice of a final decision making such determination, the claim concerned shall not be forfeited or null or void, and the rental payment applicable to such claim shall be deemed timely paid.*

*(g) CREDIT AGAINST ROYALTY.—The annual claim rental payment payable in advance of the assessment year for any unpatented mining claim or site, or the aggregate rental payments from a group of contiguous claims or sites, shall be credited against the amount of royalty obligation*

*accruing for that year for such claims or sites under section 5375.*

*(h) FAILURE TO COMPLY.—The failure of the owner to pay any claim rental payment for a mining claim or site by the date such payment is due under this section shall constitute forfeiture of the mining claim or site and such mining claim or site shall be null and void, effective as of the day after the date such payment is due: Provided, That if such rental payment is paid on or before the 30th day after such payment was due under this section, such mining claim or site shall not be forfeited or null or void.*

*(i) AMENDMENT OF FLPMA FILING REQUIREMENTS.—Section 314(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a)) is hereby repealed.*

*(j) RELATED PERSONS.—As used in this section, the term "related persons" includes—*

*(1) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986) of the owner of the mining claim or site; and*

*(2) a person controlled by, controlling, or under common control with the owner of the mining claim or site.*

*(k) REPEAL.—Sections 10101 through 10106 of the Omnibus Budget Reconciliation Act of 1993 (107 Stat. 406; 30 U.S.C. 28g) are repealed.*

***SEC. 5374. PATENTS.***

*(a) IN GENERAL.—Except as provided in subsection (c), any patent issued by the United States under the general mining laws after the date of enactment of this chapter shall be issued only—*

*(1) upon payment by the owner of the claim of the fair market value for the interest in the land owned by the United States exclusive of and without regard to the mineral deposits in the land or the use of the land for mineral activities; and*

*(2) subject to reservation by the United States of the royalty provided in section 5375.*

*(b) RIGHT OF RE-ENTRY.—*

*(1) Except as provided in subsection 5374(c), and notwithstanding any other provision of law, the United States shall retain a right of re-entry in lands patented under section 5374.*

*(2) Such right of re-entry of the United States shall ripen if—*

*(A) the land is used by the patentee, or any subsequent owners, for any purpose other than conducting mineral activities in good faith;*

*(B) such use is not discontinued within a time period specified by the Secretary (but not earlier than 90 days after the Secretary provides the owner of the land with written notice pursuant to paragraph (2) to discontinue such use); and*

*(C) the Secretary elects to assert the right of re-entry in accordance with paragraph (3).*

*(3) The ripened right of re-entry retained by the United States pursuant to subparagraph (2) shall vest and all right, title and interest in such patented estate shall revert to the United States only if—*

*(A) the Secretary files a declaration of re-entry within 6 months of the requisite occurrences under paragraph (2) with the Office of the Bureau of Land Management in the state where the land subject to such right of re-entry is situated; and*

*(B) the Secretary records such declaration in the office of the county recorder of the county in which the lands subject to a reversion are situated within 30 days of filing under subparagraph (A).*

*(4) One year after the patent holder provides written notice to the Secretary that all mineral ac-*

*tivities are completed and applicable reclamation is completed, the right of re-entry held by the United States and created under the subsection (b) shall expire unless within such period the Secretary notifies the patent holder in writing that he is exercising the right of re-entry held by the United States. At such time, ownership of the patented lands shall automatically revert to the United States, notwithstanding subparagraphs (A), (B) and (C) of subsection (b)(2). The Secretary may decline to exercise the right of re-entry and such rights shall continue if—*

*(a) solid waste or hazardous substances released on or from the patented estate may pose a threat to public safety or the environment; or*

*(b) acceptance of title would expose the United States to liability for past mineral activities on the patented estate.*

*(c) PROTECTION OF VALID EXISTING RIGHTS.—Notwithstanding any other provision of law, the requirements of this chapter (except with respect to rental payments in accordance with section 5373)—*

*(1) shall not apply to the mining claims and sites contained within those mineral patent applications pending at the Department as of September 30, 1995, which shall be processed under the general min-*

*ing laws in effect immediately prior to the date of enactment of this chapter; and*

*(2) likewise shall not apply to the mining claims or sites for which there is on the date of enactment of this chapter a vested possessory property right against the Government under the general mining laws in effect immediately prior to the date of enactment of this chapter.*

***SEC. 5375. ROYALTY.***

*(a) IN GENERAL.—The production and sale of locatable minerals (including associated minerals) from any unpatented mining claim (other than those from Federal lands to which subsection 5374(c) applies) or any mining claim patented under subsection 5374(a) shall be subject to a royalty of 5.0 percent on the net proceeds from such production mined and sold from such claim.*

*(b) ROYALTY EXCLUSION.—*

*(1) The royalty payable under this section shall be waived for any person with annual net proceeds from mineral production subject to subsection (a) of less than $50,000.*

*(2) The obligation to pay royalties hereunder shall accrue upon the sale of locatable minerals or mineral products produced from a mining claim sub-*

*ject to such royalty, and not upon the stockpiling of the same for future processing.*

*(3) Where mining operations subject to this section are conducted in two or more places by the same person, the operations shall be considered a single operation the aggregate net proceeds from which shall be subject to the $50,000 limitation set forth in this subsection.*

*(4) No royalty shall be payable under this section with respect to minerals processed at a facility by the same person or entity which extracted the minerals if an urban development action grant has been made under section 119 of the Housing and Community Development Act of 1974 with respect to any portion of such facility.*

*(c) DEFINITIONS.—For the purposes of this chapter:*

*(1) The term "net proceeds" shall mean gross yield, less the sum of the following deductions for costs incurred prior to sale or value determination, and none other:*

*(A) The actual cost of extracting the locatable mineral.*

*(B) The actual cost of transporting the locatable mineral from the claim to the place or*

*places of reduction, beneficiation, refining, and sale.*

*(C) The actual cost of reduction, beneficiation, refining, and sale of the locatable mineral.*

*(D) The actual cost of marketing and delivering the locatable mineral and the conversion of the locatable mineral into money.*

*(E) The actual cost of maintenance and repairs of—*

*(i) all machinery, equipment, apparatus, and facilities used in the mine;*

*(ii) all crushing, milling, leaching, refining, smelting, and reduction works, plants, and facilities; and*

*(iii) all facilities and equipment for transportation.*

*(F) The actual cost for support personnel and support services at the mine site, including without limitation, accounting, assaying, drafting and mapping, computer services, surveying, housing, camp, and office expenses, safety, and security.*

*(G) The actual cost of engineering, sampling, and assaying pertaining to development and production.*

*(H) The actual cost of permitting, reclamation, environmental compliance and monitoring.*

*(I) The actual cost of fire and other insurance on the machinery, equipment, apparatus, works, plants, and facilities mentioned in subparagraph (E).*

*(J) Depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants, and facilities listed in subparagraph (E). The annual depreciation charge shall consist of amortization of the original cost in the manner consistent with the Internal Revenue Code of 1986, as amended from time to time. The probable life of the property represented by the original cost must be considered in computing the depreciation charge.*

*(K) All money expended for premiums for industrial insurance, and the owner paid cost of hospital and medical attention and accident benefits and group insurance for all employees engaged in the production or processing of locatable minerals.*

*(L) All money paid as contributions or payments under State unemployment compensation law, all money paid as contributions under the Federal Social Security Act, and all money paid to State government in real property taxes and severance or other taxes measured or levied on production, or Federal excise tax payments and payments as fees or charges for use of the Federal lands from which the locatable minerals are produced.*

*(M) The actual cost of the developmental work in or about the mine or upon a group of mines when operated as a unit.*

*(2) The term "gross yield" shall having the following meaning:*

*(A) In the case of sales of gold and silver ore, concentrates or bullion, or the sales of other locatable minerals in the form of ore or concentrates, the term "gross yield" means the actual proceeds of sale of such ore, concentrates or bullion.*

*(B) In the case of sales of beneficiated products from locatable minerals other than those subject to subparagraph (A) (including cathode, anode or copper rod or wire, or other products*

*fabricated from the locatable minerals), the term "gross yield" means the gross income from mining derived from the first commercially marketable product determined in the same manner as under section 613 of the Internal Revenue Code of 1986.*

*(C) If ore, concentrates, beneficiated or fabricated products, or locatable minerals are used or consumed and are not sold in an arms length transaction, the term "gross yield" means the reasonable fair market value of the ore, concentrates, beneficiated or fabricated products at the mine or wellhead determined from the first applicable of the following:*

*(i) Published or other competitive selling prices of locatable minerals of like kind and grade.*

*(ii) Any proceeds of sale.*

*(iii) Value received in exchange for any thing or service.*

*(iv) The value of any locatable minerals in kind or used or consumed in a manufacturing process or in providing a service.*

*Without limiting the foregoing, the profits or losses incurred in connection with forward sales, futures or commodity options trading, metal loans, or any other price hedging or speculative activity or arrangement shall not be included in gross yield.*

*(d) LIMITATIONS AND ALLOCATIONS OF NET PROCEEDS, GROSS YIELD, AND ALLOWABLE DEDUCTIONS.—*

*(1) The deductions listed in subsection (c)(1) are intended to allow a reasonable allowance for overhead. Such deductions shall not include any expenditures for salaries, or any portion of salaries, of any person not actually engaged in—*

*(A) the working of the mine;*

*(B) the operating of the leach pads, ponds, plants, mills, smelters, or reduction works;*

*(C) the operating of the facilities or equipment for transportation; or*

*(D) superintending the management of any of those operations described in subparagraphs (A) through (C).*

*(2) Ores or solutions of locatable minerals subject to the royalty requirements of this section may be extracted from mines comprised of mining claims and lands other than mining claims and ore or solutions*

*of locatable minerals subject to the royalty requirements of this section may be commingled with ores or solutions from lands other than mining claims. In any such case, for purposes of determining the amount of royalties payable under this section—*

*(A) the operator shall first sample, weigh or measure, and assay the same in accordance with accepted industry standards; and*

*(B) gross yield, allowable costs and net proceeds for royalty purposes shall be allocated in proportion to mineral products recovered from the mining claims in accordance with accepted industry standards.*

*(e) LIABILITY FOR ROYALTY PAYMENTS.—The owner or co-owners of a mining claim subject to a royalty under this section shall be liable for such royalty to the extent of the interest in such claim owned. As used in this subsection, the terms "owner" and "co-owner" mean the person or persons owning the right to mine locatable minerals from such claim and receiving the net proceeds of such sale. No person who makes any royalty payment attributable to the interest of the owner or co-owners liable therefor shall become liable to the United States for such royalty as a result of making such payment on behalf of such owner or co-owners.*

*(f) TIME AND MANNER OF PAYMENT.—*

*(1) Royalty payments for production from any mining claim subject to the royalty payable under this section shall be due to the United States at the end of the month following the end of the calendar quarter in which the net proceeds from the sale of such production are received by the owner or co-owners. Royalty payments may be made based upon good faith estimates of the gross yield, net proceeds and the quantity of ore, concentrates, or other beneficiated or fabricated products of locatable minerals, subject to adjustment when the actual annual gross yield, net proceeds and quantity are determined by the owner of the mining claim or site or co-owners.*

*(2) Each royalty payment or adjustment shall be accompanied by a statement containing each of the following:*

*(A) The name and Bureau of Land Management serial number of the mining claim or claims from which ores, concentrates, solutions or beneficiated products of locatable minerals subject to the royalty required in this section were produced and sold for the period covered by such payment or adjustment.*

*(B) The estimated (or actual, if determined) quantity of such ore, concentrates, solutions or*

*beneficiated or fabricated products produced and sold from such mining claim or claims for such period.*

*(C) The estimated (or actual, if determined) gross yield from the production and sale of such ore, concentrates, solutions or beneficiated products for such period.*

*(D) The estimated (or actual, if determined) net proceeds from the production and sale of such ores, concentrates, solutions or beneficiated products for such period, including an itemization of the applicable deductions described in subsection (c)(1).*

*(E) The estimated (or actual, if determined) royalty due to the United States, or adjustment due to the United States or such owner or co-owners, for such period.*

*(3) In lieu of receiving a refund under subsection (h), the owner or co-owners may elect to apply any adjustment due to such owner or co-owners as an offset against royalties due from such owner or co-owners to the United States under this Act, regardless of whether such royalties are due for production and sale from the same mining claim or claims.*

*(g) RECORDKEEPING AND REPORTING REQUIREMENTS.—*

*(1) An owner, operator, or other person directly involved in the conduct of mineral activities, transportation, purchase, or sale of locatable minerals, concentrates, or products derived therefrom, subject to the royalty under this section, through the point of royalty computation, shall establish and maintain any records, make any reports, and provide any information that the Secretary may reasonably require for the purposes of implementing this section or determining compliance with regulations or orders under this section. Upon the request of the Secretary when conducting an audit or investigation pursuant to subsection (i), the appropriate records, reports, or information required by this subsection shall be made available for inspection and duplication by the Secretary.*

*(2) Records required by the Secretary under this section shall be maintained for 3 years after the records are generated unless the Secretary notifies the record holder that he or she has initiated an audit or investigation specifically identifying and involving such records and that such records must be maintained for a longer period. When an audit or investigation is under way, such records shall be main-*

*tained until the earlier of the date that the Secretary releases the record holder of the obligation to maintain such records or the date that the limitations period applicable to such audit or investigation under subsection (i) expires.*

*(h) INTEREST ASSESSMENTS.—*

*(1) If royalty payments under this section are not received by the Secretary on the date that such payments are due, or if such payments are less than the amount due, the Secretary shall charge interest on such unpaid amount. Interest under this subsection shall be computed at the rate published by the Department of the Treasury as the "Treasury Current Value of Funds Rate." In the case of an underpayment or partial payment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount, and only for the number of days such payment is late. No other late payment or underpayment charge or penalty shall be charged with respect to royalties under this section.*

*(2) In any case in which royalty payments are made in excess of the amount due, or amounts are held by the Secretary pending the outcome of any appeal in which the Secretary does not prevail, the Secretary shall promptly refund such overpayments or*

*pay such amounts to the person or persons entitled thereto, together with interest thereon for the number of days such overpayment or amounts were held by the Secretary, with the addition of interest charged against the United States computed at the rate published by the Department of the Treasury as the "Treasury Current Value of Funds Rate."*

*(i) AUDITS, PAYMENT DEMANDS AND LIMITATIONS.—*

*(1) The Secretary may conduct, after notice, any audit reasonably necessary and appropriate to verify the payments required under this section.*

*(2) The Secretary shall send or issue any billing or demand letter for royalty due on locatable minerals produced and sold from any mining claim subject to royalty required by this section not later than 3 years after the date such royalty was due and must specifically identify the production involved, the royalty allegedly due and the basis for the claim. No action, proceeding or claim for royalty due on locatable minerals produced and sold, or relating to such production, may be brought by the United States, including but not limited to any claim for additional royalties or claim of the right to offset the amount of such additional royalties against amounts owed to any person by the United States, unless judicial suit or ad-*

*ministrative proceedings are commenced to recover specific amounts claimed to be due prior to the expiration of 3 years from the date such royalty is alleged to have been due.*

*(j) TRANSITIONAL RULES.—Any mining claim for which a patent is issued pursuant to section 5374(c) shall not be subject to the obligation to pay the royalty pursuant to this section. Royalty payments for any claim processed under section 5374(c) shall be suspended pending final determination of the right to patent. For any such claim that is determined not to qualify for the issuance of a patent under section 5374(c), royalties shall be payable under this section on production after the date of enactment of this Act, plus interest computed at the rate published by the Department of the Treasury as the "Treasury Current Value of Funds Rate" on production after such date of enactment and before the date of such determination.*

*(k) PENALTIES.—Any person who withholds payment or royalties under this section after a final, nonappealable determination of liability may be liable for civil penalties of up to $ 5,000 per day that payment is withheld after becoming due.*

*(l) DISBURSEMENT OF REVENUES.—The receipts from royalties collected under this section shall be disbursed as follows:*

*(1) Fifty percent of such receipts shall be paid into the Treasury of the United States and deposited as miscellaneous receipts.*

*(2) Forty percent of such receipts shall be paid into a State Fund or Federal Fund in accordance with section 5376; until termination as provided in section 5379.*

*(3) Ten percent of such receipts shall be paid by the Secretary of the Treasury to the State in which the mining claim from which production occurred is located.*

***SEC. 5376. ABANDONED LOCATABLE MINERALS MINE RECLAMATION FUND.***

*(a) STATE FUND.—Any State within which royalties are collected pursuant to section 5375 from a mining claim and which wishes to become eligible to receive such proceeds allocated by paragraph 5375(l)(2) shall establish and maintain an interest-bearing abandoned locatable mineral mine reclamation fund (hereinafter referred to in this chapter as "State Fund") to accomplish the purposes of this chapter. States with existing abandoned locatable mineral reclamation programs shall qualify to receive proceeds allocated by section 5375(l)(2).*

*(b) FEDERAL FUND.—There is established on the books of the Treasury of the United States an interest-bearing*

*fund to be known as the Abandoned Locatable Minerals Mine Reclamation Fund (hereinafter referred to in this chapter as "Federal Fund") which shall consist of royalty proceeds allocated by paragraph 5375(l)(2) from mining claims in a State where a State Fund has not been established or maintained under subsection (a).*

***SEC. 5377. ALLOCATION AND PAYMENTS.***

*(a) STATE FUND.—Royalties collected pursuant to section 5375 and allocated by section 5375(l)(2) shall be paid by the Secretary of the Treasury to the State Fund established pursuant to subsection 5376(a) for the State where the mining claim from which the production occurred is located. Payments to States under this subsection with respect to any royalties received by the United States, shall be made not later than the last business day of the month in which such royalties are warranted by the United States Treasury to the Secretary of the Interior as having been received, except for any portion of such royalties which is under challenge, which shall be placed in a suspense account pending resolution of such challenge. Such warrants shall be issued by the United States Treasury not later than 10 days after receipt of such royalties by the Treasury. Royalties placed in a suspense account which are determined to be due the United States shall be payable to a State Fund not later than fifteen days after such challenge is resolved.*

*Any such amount placed in a suspense account pending resolution shall bear interest until the challenge is resolved. In determining the amount of payments to State Funds under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States.*

*(b) FEDERAL FUND.—Royalties collected pursuant to section 5375, and allocated by paragraph 5375(l)(2), from mining claims located in a State which has not established or maintained a State Fund, and such royalties from mining claims located in a State for which the Secretary's authority has expired under subsection 5379(a), shall be credited to the Federal Fund and distributed in accordance with subsection (c).*

*(c) TRANSITION.—Prior to the time a State establishes a State Fund pursuant to subsection 5376(a), any royalties collected from a mining claim within such State shall be deposited into the Federal Fund and allocated to such State. Once a State establishes a State Fund under subsection 5376(a), the State allocation in the Federal Fund with accrued interest shall be paid by the Secretary of the Treasury to the State Fund in accordance with subsection (a). Commencing three years after the date of enactment of this chapter, the Secretary of the Treasury shall distribute royalty proceeds then accrued or which are thereafter credited to*

*the Federal Fund equally among all States which maintain a State Fund established under subsection 5376(a), and for which the Secretary of the Treasury's authority has not expired under subsection 5379(a).*

***SEC. 5378. ELIGIBLE AREA.***

*(a) IN GENERAL.—Subject to subsection (b), lands and water eligible for reclamation under this chapter shall be Federal lands that—*

*(1) have been adversely affected by past mineral activities on lands abandoned and left inadequately reclaimed prior to the date of enactment of this chapter; and*

*(2) for which the State determines there is no identifiable party with a continuing reclamation responsibility under State or Federal laws.*

*(b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—The following areas shall not be eligible for expenditures from a State Fund:*

*(1) any area subject to a plan of operations submitted or approved prior to, on or after the date of enactment of this chapter which includes remining or reclamation of the area adversely affected by past locatable mineral activities;*

*(2) any area affected by coal mining eligible for reclamation expenditures pursuant to section 404 of*

*the Surface Mining Control and Reclamation Act (30 U.S.C. 1234);*

*(3) any area designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7912); and*

*(4) any area that was listed on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9605) prior to the date of enactment of this chapter, or where the Environmental Protection Agency has initiated or caused to be initiated a response action pursuant to that Act.*

***SEC. 5379. SUNSET PROVISIONS.***

*(a) TERMINATION OF AUTHORITY.—The Secretary of the Treasury's authority to allocate funds to a State Fund under section 5377 shall expire on the date that the State submits a report to the Congress which states that there are no areas in the State eligible under subsection 5378(a) which remain to be reclaimed.*

*(b) TERMINATION OF FUND.—Upon the termination of authority as provided in subsection (a) with respect to all State Funds, the Federal Fund shall also be terminated, and all royalty proceeds thereafter remaining in the Federal Fund shall be distributed to the States as provided for in Section 5375(l)(3).*

***SEC. 5380. EFFECT ON THE GENERAL MINING LAWS.***

*The provisions of this chapter shall supersede the general mining laws only to the extent such laws conflict with the requirements of this chapter. Where no such conflict exists, the general mining laws, including all judicial and administrative decisions interpreting them, shall remain in full force and effect.*

***SEC. 5381. SEVERABILITY.***

*If any provision of this chapter or the applicability thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.*

***SEC. 5382. MINERAL MATERIALS.***

*(a) DETERMINATIONS.—Section 3 of the Act of July 23, 1955 (30 U.S.C. 611), is amended as follows:*

*(1) Insert "(a)" before the first sentence.*

*(2) Add the following new subsection at the end thereof:*

*(b)(1) Subject to valid existing rights, after the date of enactment of this subsection, notwithstanding the reference to common varieties in subsection (a) and to the exception to such term relating to a deposit of materials with some property giving it distinct and special value, all deposits of mineral materials referred to in such subsection, including the block pumice referred to in such subsection,*

*shall be subject to disposal only under the terms and conditions of the Materials Act of 1947.*

*(2) For purposes of paragraph (1), the term "valid existing rights" means that a mining claim located for any such mineral material had some property giving it the distinct and special value referred to in subsection (a), or as the case may be, met the definition of block pumice referred to in such subsection, was properly located and maintained under the general mining laws prior to the date of the enactment of this subsection, and was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws as in effect immediately prior to such date of enactment and that such claim continues to be valid under this Act.".*

*(b) IDENTIFIED DEPOSITS.—The Act entitled "An Act to provide for the disposal of materials on the public lands of the United States", approved July 31, 1947 (30 U.S.C. 602), is amended by adding at the end the following:*

*"(b) IDENTIFIED DEPOSITS.—*

*"(1) Lands known to contain valuable deposits of mineral materials subject to this Act and subsequent amendments and not covered by any contract, permit, or lease, for uncommon varieties of mineral materials under this section or by a valid mining claim for an uncommon variety of a mineral material under the*

*general mining laws shall be subject to disposition by lease under this Act by the Secretary through advertisement, competitive bidding, or such other methods as he may by general regulations adopt, and in such reasonably compact areas as he shall fix.*

*"(2) All leases will be conditioned upon—*

*"(A) the payment by the lessee of such royalty as may be fixed in the lease, not less than two percent of the quantity or gross value of the output of mineral materials, and*

*"(B) the payment in advance of a rental of 25 cents per acre for the first calendar year or fraction thereof; 50 cents per acre for the second, third, fourth, and fifth years, respectively; and $1 per acre per annum thereafter during the continuance of the lease, such rental for that year being credited against royalties accruing for that year.*

*"(3)(A) Any lease issued under this subsection shall be for a term of 20 years and so long thereafter as the lessee complies with the terms and conditions of the lease and upon the further condition that at the end of each 20-year period succeeding the date of the lease such reasonable adjustment of the terms and conditions thereof may be made therein as may be*

*prescribed by the Secretary unless otherwise provided by law at the expiration of such periods.*

*"(B) Leases shall be conditioned upon a minimum annual production or the payment of a minimum royalty in lieu thereof, except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee.*

*"(C) The Secretary may permit suspension of operations under any such leases when marketing conditions are such that the leases cannot be operated except at a loss.*

*"(D) The Secretary upon application by the lessee prior to the expiration of any existing lease in good standing shall amend such lease to provide for the same tenure and to contain the same conditions, including adjustment at the end of each 20-year period succeeding the date of said lease, as provided for in this subsection.*

*"(c) OTHER LANDS.—*

*"(1) The Secretary is hereby authorized, under such rules and regulations as he may prescribe, to grant to any qualified applicant a prospecting permit which shall give the exclusive right to prospect for mineral materials in lands belonging to the United States which are not subject to subsection (b), and are*

*not covered by a contract, permit, or lease under this Act, except that a prospecting permit shall not exceed a period of 2 years and the area to be included in such a permit shall not exceed 2,560 acres of land in reasonably compact form.*

*"(2) The Secretary shall reserve and may exercise the authority to cancel any prospecting permit upon failure by the permittee to exercise due diligence in the prosecution of the prospecting work in accordance with the terms and conditions stated in the permit, and shall insert in every such permit issued under the provisions of this Act appropriate provisions for its cancellation by him.*

*"(3)(A) Upon showing to the satisfaction of the Secretary that valuable deposits of one of the mineral materials subject to the Materials Act of 1947 have been discovered by the permittee within the area covered by his permit, and that such land is valuable therefor, the permittee shall be entitled to a lease for any or all of the land embraced in the prospecting permit, at a royalty of not less than two percent of the quantity or gross value of the output of the mineral materials at the point of shipment to market, such lease to be taken in compact form by legal subdivisions of the public land surveys, or if the land be*

*not surveyed, by survey executed at the cost of the permittee in accordance with regulations prescribed by the Secretary.".*

*"(B) "Persons holding valid mining claims for uncommon varieties of mineral materials shall be entitled to receive a lease under this subsection."*

*(D) MINERAL MATERIALS DISPOSAL CLARIFICATION.—Section 4 July 23, 1955 (30 U.S.C. 612), is amended as follows:*

*(1) In subsection (b) insert "and mineral material" after "vegetative".*

*(2) In subsection (c) insert "and mineral material" after "vegetative".*

*(e) AUTHORIZATION FOR DISPOSAL OF MINERAL MATERIALS BY CONTRACT.—Section 2(a) of the Act entitled "An Act to provide for the disposal of materials on the public lands of the United States", approved July 31, 1947 (30 U.S.C. 602(a)), is amended—*

*(1) by striking the period at the end of paragraph (3) and inserting "or, if"; and*

*(2) by adding after paragraph (3) the following:*

*"(4) the material is a mineral material.".*

## *CHAPTER 6—DEPARTMENT OF THE INTERIOR*

***SEC. 5391. AIRCRAFT SERVICES.***

*(a) USE OF PRIVATE CONTRACTORS.—By not later than October 1, 1996, the Secretary of the Interior shall contract with private entities for the provision of all aircraft services required by the Department of the Interior, other than those available from existing DOI aircraft whose primary purpose is fire suppression.*

*(b) SALE OF FEDERAL AIRCRAFT.—By September 30, 1998, the Secretary of the Interior is authorized and directed to sell all aircraft owned by the Department of the Interior and all associated equipment and facilities, other than those whose primary purpose is fire suppression.*

*(c) EXEMPTIONS.—The disposition of assets under this section is not subject to section 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483 and 484) or section 13 of the Surplus Property Act of 1944 (50 U.S.C. App. 1622).*

*(d) DISPOSITION OF PROCEEDS.—The proceeds from dispositions under this section shall be returned to the Treasury as miscellaneous receipts and all savings from reduced overhead and other costs related to the management of the assets sold shall be returned to the Treasury.*

# *CHAPTER 7—POWER MARKETING ADMINISTRATIONS*

## *Subchapter A—Bonneville Power Administration Refinancing*

***SEC. 5401. DEFINITIONS.***

*For the purposes of this subchapter—*

*(1) "Administrator" means the Administrator of the Bonneville Power Administration;*

*(2) "capital investment" means a capitalized cost funded by Federal appropriations that—*

*(A) is for a project, facility, or separable unit or feature of a project or facility;*

*(B) is a cost for which the Administrator is required by law to establish rates to repay to the United States Treasury through the sale of electric power, transmission, or other services;*

*(C) excludes a Federal irrigation investment; and*

*(D) excludes an investment financed by the current revenues of the Administrator or by bonds issued and sold, or authorized to be issued and sold, by the Administrator under section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k);*

*(3) "new capital investment" means a capital investment for a project, facility, or separable unit or feature of a project, facility, or separable unit or feature of a project or facility, placed in service after September 30, 1995;*

*(4) "old capital investment" means a capital investment the capitalized cost of which—*

*(A) was incurred, but not repaid, before October 1, 1995, and*

*(B) was for a project, facility, or separable unit or feature of a project or facility, placed in service before October 1, 1995;*

*(5) "repayment date" means the end of the period within which the Administrator's rates are to assure the repayment of the principal amount of a capital investment; and*

*(6) "Treasury rate" means—*

*(A) for an old capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1995, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1995,*

*and the repayment date for the old capital investment; and*

*(B) for a new capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the new capital investment.*

***SEC. 5402. NEW PRINCIPAL AMOUNTS.***

*(a) PRINCIPAL AMOUNT.—Effective October 1, 1995, an old capital investment has a new principal amount that is the sum of—*

*(1) the present value of the old payment amounts for the old capital investment, calculated using a discount rate equal to the Treasury rate for the old capital investment; and*

*(2) an amount equal to $100,000,000 multiplied by a fraction the numerator of which is the principal amount of the old payment amounts for the old capital investment and the denominator of which is the*

*sum of the principal amounts of the old payment amounts for all old capital investments.*

*(b) DETERMINATION.—With the approval of the Secretary of the Treasury, based solely on consistency with this subchapter, the Administrator shall determine the new principal amounts under this section and the assignment of interest rates to the new principal amounts under section 5403.*

*(c) OLD PAYMENT AMOUNT.—For the purposes of this section, "old payment amounts" means, for an old capital investment, the annual interest and principal that the Administrator would have paid to the United States Treasury from October 1, 1995, if this subchapter had not been enacted, assuming that—*

*(1) the principal were repaid—*

*(A) on the repayment date the Administrator assigned before October 1, 1993, to the old capital investment, or*

*(B) with respect to an old capital investment for which the Administrator has not assigned a repayment date before October 1, 1993, on a repayment date the Administrator shall assign to the old capital investment in accordance with paragraph 10(d)(1) of the version of De-*

*partment of Energy Order RA 6120.2 in effect on October 1, 1993; and*

*(2) interest were paid—*

*(A) at the interest rate the Administrator assigned before October 1, 1993, to the old capital investment, or*

*(B) with respect to an old capital investment for which the Administrator has not assigned an interest rate before October 1, 1993, at a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the old capital investment.*

***SEC. 5403. INTEREST RATE FOR NEW PRINCIPAL AMOUNTS.***

*As of October 1, 1995, the unpaid balance on the new principal amount established for an old capital investment under section 5402 bears interest annually at the Treasury rate for the old capital investment until the earlier of the*

*date that the new principal amount is repaid or the repayment date for the new principal amount.*

***SEC. 5404. REPAYMENT DATES.***

*As of October 1, 1995, the repayment date for the new principal amount established for an old capital investment under section 5402 is no earlier than the repayment date for the old capital investment assumed in section 5402(c)(1).*

***SEC. 5405. PREPAYMENT LIMITATIONS.***

*During the period October 1, 1995, through September 30, 2000, the total new principal amounts of old capital investments, as established under section 5402, that the Administrator may pay before their respective repayment dates shall not exceed $100,000,000.*

***SEC. 5406. INTEREST RATES FOR NEW CAPITAL INVESTMENTS DURING CONSTRUCTION.***

*(a) NEW CAPITAL INVESTMENT.—The principal amount of a new capital investment includes interest in each fiscal year of construction of the related project, facility, or separable unit or feature at a rate equal to the one-year rate for the fiscal year on the sum of—*

*(1) construction expenditures that were made from the date construction commenced through the end of the fiscal year, and*

*(2) accrued interest during construction.*

*(b) PAYMENT.—The Administrator is not required to pay, during construction of the project, facility, or separable unit or feature, the interest calculated, accrued, and capitalized under subsection (a).*

*(c) ONE-YEAR RATE.—For the purposes of this section, "one-year rate" for a fiscal year means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year, on outstanding interest-bearing obligations of the United States with periods to maturity of approximately one year.*

***SEC. 5407. INTEREST RATES FOR NEW CAPITAL INVESTMENTS.***

*The unpaid balance on the principal amount of a new capital investment bears interest at the Treasury rate for the new capital investment from the date the related project, facility, or separable unit or feature is placed in service until the earlier of the date the new capital investment is repaid or the repayment date for the new capital investment.*

***SEC. 5408. CREDITS TO ADMINISTRATOR'S PAYMENTS TO THE UNITED STATES TREASURY.***

*The Confederated Tribe of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law 103–436;*

*108 Stat. 4577) is amended by striking section 6 and inserting the following:*

***"SEC. 6. CREDITS TO ADMINISTRATOR'S PAYMENTS TO THE UNITED STATES TREASURY.***

*"So long as the Administrator makes annual payments to the tribes under the settlement agreement, the Administrator shall apply against amounts otherwise payable by the Administrator to the United States Treasury a credit that reduces the Administrator's payment in the amount and for each fiscal year as follows: $15,250,000 in fiscal year 1996; $15,860,000 in fiscal year 1997; $16,490,000 in fiscal year 1998; $17,150,000 in fiscal year 1999; $17,840,000 in fiscal year 2000; and $4,100,000 in each succeeding fiscal year.".*

***SEC. 5409. CONTRACT PROVISIONS.***

*In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services, and that is in effect after September 30, 1995, the Administrator shall offer to include, or as the case may be, shall offer to amend to include, provisions specifying that after September 30, 1995—*

*(1) the Administrator shall establish rates and charges on the basis that—*

*(A) the principal amount of an old capital investment shall be no greater than the new principal amount established under section 5402;*

*(B) the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under section 5403;*

*(C) any payment of principal of an old capital investment shall reduce the outstanding principal balance of the old capital investment in the amount of the payment at the time the payment is tendered; and*

*(D) any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;*

*(2) apart from charges necessary to repay the new principal amount of an old capital investment as established under section 5402 and to pay the interest on the principal amount under section 5403, no amount may be charged for return to the United States Treasury as repayment for or return on an old*

*capital investment, whether by way of rate, rent, lease payment, assessment, user charge, or any other fee;*

*(3) amounts provided under section 1304 of title 31, United States Code, shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a breach of the contract provisions required by this subchapter; and*

*(4) the contract provisions specified in this subchapter do not—*

*(A) preclude the Administrator from recovering, through rates or other means, any tax that is generally imposed on electric utilities in the United States, or*

*(B) affect the Administrator's authority under applicable law, including section 7(g) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(g)), to—*

*(i) allocate costs and benefits, including but not limited to fish and wildlife costs, to rates or resources, or*

*(ii) design rates.*

***SEC. 5410. SAVINGS PROVISIONS.***

*(a) REPAYMENT.—This subchapter does not affect the obligation of the Administrator to repay the principal asso-*

*ciated with each capital investment, and to pay interest on the principal, only from the "Administrator's net proceeds," as defined in section 13(b) of the Federal Columbia River Transmission System Act (16 U.S.C. 838k(b)).*

*(b) PAYMENT OF CAPITAL INVESTMENT.—Except as provided in section 5405, this subchapter does not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.*

## Subchapter B—Alaska Power Marketing Administration Sale

### SEC. 5411. SHORT TITLE.

*This subchapter may be cited as the "Alaska Power Administration Asset Sale and Termination Act".*

### SEC. 5412. DEFINITIONS.

*For Purposes of this subchapter:*

*(1) The term "Eklutna" means Eklutna Hydroelectric Project and related assets as described in section 4 and Exhibit A of the Eklutna Purchase Agreement.*

*(2) The term "Eklutna Purchase Agreement" means the August 2, 1989, Eklutna Purchase Agreement between the Alaska Power Administration of the Department of Energy and the Eklutna Purchasers,*

*together with any amendments thereto adopted before the date of enactment of this Act.*

*(3) The term "Eklutna Purchasers" means the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc. and the Matanuska Electric Association, Inc.*

*(4) The term "Snettisham" means the Snettisham Hydroelectric Project and related assets as described in section 4 and Exhibit A of the Snettisham Purchase Agreement.*

*(5) The term "Snettisham Purchase Agreement" means the February 10, 1989, Snettisham Purchase Agreement between the Alaska Power Administration of the Department of Energy and the Alaska Power Authority and its successors in interest, together with any amendments thereto adopted before the date of enactment of this Act.*

*(6) The term "Snettisham Purchaser" means the Alaska Industrial Development and Export Authority or a successor State agency or authority.*

***SEC. 5413. SALE OF EKLUTNA AND SNETTISHAM HYDROELECTRIC PROJECTS.***

*(a) SALE OF EKLUTNA.—The Secretary of Energy is authorized and directed to sell Eklutna to the Eklutna Pur-*

*chasers in accordance with the terms of this subchapter and the Eklutna Purchase Agreement.*

*(b) SALE OF SNETTISHAM.—The Secretary of Energy is authorized and directed to sell Snettisham to the Snettisham Purchaser in accordance with the terms of this subchapter and the Snettisham Purchase Agreement.*

*(c) COOPERATION OF OTHER AGENCIES.—The heads of other Federal departments, agencies, and instrumentalities of the United States shall assist the Secretary of Energy in implementing the sales and conveyances authorized and directed by this subchapter.*

*(d) PROCEEDS.—Proceeds from the sales required by this subchapter shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.*

*(e) PREPARATION OF EKLUTNA AND SNETTISHAM FOR SALE.—The Secretary of Energy is authorized and directed to use such funds from the sale of electric power by the Alaska Power Administration as may be necessary to prepare, survey, and acquire Eklutna and Snettisham assets for sale and conveyance. Such preparations and acquisitions shall provide sufficient title to ensure the beneficial use, enjoyment, and occupancy by the purchaser.*

*(f) CONTRIBUTED FUNDS.—Notwithstanding any other provision of law, the Alaska Power Administration is authorized to receive, administer, and expend such con-*

*tributed funds as may be provided by the Eklutna Purchasers or customers or the Snettisham Purchaser or customers for the purposes of upgrading, improving, maintaining, or administering Eklutna or Snettisham. Upon the termination of the Alaska Power Administration under section 5414(f), the Secretary of Energy shall administer and expend any remaining balances of such contributed funds for the purposes intended by the contributors.*

***SEC. 5414. EXEMPTION AND OTHER PROVISIONS.***

*(a) FEDERAL POWER ACT.—*

*(1) After the sales authorized by this subchapter occur, Eklutna and Snettisham, including future modifications, shall continue to be exempt from the requirements of part I of the Federal Power Act (16 U.S.C. 791a et seq.), except as provided in subsection (b).*

*(2) The exemption provided by paragraph (1) shall not affect the Memorandum of Agreement entered into among the State of Alaska, the Eklutna Purchasers, the Alaska Energy Authority, and Federal fish and wildlife agencies regarding the protection, mitigation of, damages to, and enhancement of fish and wildlife, dated August 7, 1991, which remains in full force and effect.*

*(3) Nothing in this subchapter or the Federal Power Act (16 U.S.C. 791 et seq.) preempts the State of Alaska from carrying out the responsibilities and authorities of the Memorandum of Agreement.*

*(b) SUBSEQUENT TRANSFERS.—Except for subsequent assignment of interest in Eklutna by the Eklutna Purchasers to the Alaska Electric Generation and Transmission Cooperative Inc. pursuant to section 19 of the Eklutna Purchase Agreement, upon any subsequent sale or transfer of any portion of Eklutna or Snettisham from the Eklutna Purchasers or the Snettisham Purchaser to any other person, the exemption set forth in paragraph (1) of subsection (a) of this section shall cease to apply to such portion.*

*(c) REVIEW.—*

*(1) The United States District Court for the District of Alaska shall have jurisdiction to review decisions made under the Memorandum of Agreement and to enforce the provisions of the Memorandum of Agreement, including the remedy of specific performance.*

*(2) An action seeking review of a Fish and Wildlife Program ("Program") of the Governor of Alaska under the Memorandum of Agreement or challenging actions of any of the parties to the Memorandum of Agreement prior to the adoption of the Program shall*

*be brought not later than 90 days after the date on which the Program is adopted by the Governor of Alaska, or be barred.*

*(3) An action seeking review of implementation of the Program shall be brought not later than 90 days after the challenged act implementing the Program, or be barred.*

*(d) EKLUTNA LANDS.—With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:*

*(1) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers—*

*(A) at no cost to the Eklutna Purchasers;*

*(B) to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals, or replacements; and*

*(C) sufficient for the operation of, maintenance of, repair to, and replacement of, and access to, Eklutna facilities located on military lands and lands managed by the Bureau of Land Management, including lands selected by the State of Alaska.*

*(2) Fee title to lands at Anchorage Substation shall be transferred to Eklutna Purchasers at no additional cost if the Secretary of the Interior determines*

*that pending claims to, and selections of, those lands are invalid or relinquished.*

*(3) With respect to the Eklutna lands identified in paragraph 1 of Exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey to the State, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly known as the Alaska Statehood Act, Public Law 85–508; 72 Stat. 339), and the North Anchorage Land Agreement dated January 31, 1983. This conveyance shall be subject to the rights-of-way provided to the Eklutna Purchasers under paragraph (1).*

*(e) SNETTISHAM LANDS.—With respect to the Snettisham lands identified in paragraph 1 of Exhibit A of the Snettisham Purchase Agreement and Public Land Order No. 5108, the State of Alaska may select, and the Secretary of the Interior shall convey to the State of Alaska, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly known as the Alaska Statehood Act, Public Law 85–508; 72 Stat. 339).*

*(f) TERMINATION OF ALASKA POWER ADMINISTRATION.—Not later than one year after both of the sales authorized in section 5413 have occurred, as measured by the*

*Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—*

*(1) complete the business of, and close out, the Alaska Power Administration;*

*(2) submit to Congress a report documenting the sales; and*

*(3) return unobligated balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.*

*(g) REPEALS.—*

*(1) The Act of July 31, 1950 (64 Stat. 382) is repealed effective on the date that Eklutna is conveyed to the Eklutna Purchasers.*

*(2) Section 204 of the Flood Control Act of 1962 (76 Stat. 1193) is repealed effective on the date that Snettisham is conveyed to the Snettisham Purchaser.*

*(3) The Act of August 9, 1955, concerning water resources investigation in Alaska (69 Stat. 618), is repealed.*

*(h) DOE ORGANIZATION ACT.—As of the later of the two dates determined in paragraphs (1) and (2) of subsection (g), section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152(a)) is amended—*

*(1) in paragraph (1)—*

*(A) by striking subparagraph (C); and*

*(B) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E) respectively; and*

*(2) in paragraph (2) by striking out "and the Alaska Power Administration" and by inserting "and" after "Southwestern Power Administration,".*

*(i) DISPOSAL.—The sales of Eklutna and Snettisham under this subchapter are not considered disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly known as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622).*

***SEC. 5415. OTHER FEDERAL HYDROELECTRIC PROJECTS.***

*The provisions of this subchapter regarding the sale of the Alaska Power Administration's hydroelectric projects under section 5413 and the exemption of these projects from part I of the Federal Power Act under section 5414 do not apply to other Federal hydroelectric projects.*

## *CHAPTER 8—OUTER CONTINENTAL SHELF DEEP WATER ROYALTY RELIEF*

***SEC. 5421. SHORT TITLE.***

*This chapter may be referred to as the "Outer Continental Shelf Deep Water Royalty Relief Act".*

***SEC. 5422. AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT.***

*Section 8(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)), is amended—*

*(1) by designating the provisions of paragraph (3) as subparagraph (A) of such paragraph (3); and*

*(2) by inserting after subparagraph (A), as so designated, the following:*

*"(B) In the Western and Central Planning Areas of the Gulf of Mexico and the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, the Secretary may, in order to—*

*"(i) promote development or increased production on producing or non-producing leases; or*

*"(ii) encourage production of marginal resources on producing or non-producing leases;*

*through primary, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease(s). With the lessee's consent, the Secretary may make other modifications to the royalty or net profit share*

*terms of the lease in order to achieve these purposes.*

*"(C)(i) Notwithstanding the provisions of this Act other than this subparagraph, with respect to any lease or unit in existence on the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act meeting the requirements of this subparagraph, no royalty payments shall be due on new production, as defined in clause (iv) of this subparagraph, from any lease or unit located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, until such volume of production as determined pursuant to clause (ii) has been produced by the lessee.*

*"(ii) Upon submission of a complete application by the lessee, the Secretary shall determine within 180 days of such application whether new production from such lease or unit would be economic in the absence of the relief from the requirement to pay royalties provided for by*

*clause (i) of this subparagraph. In making such determination, the Secretary shall consider the increased technological and financial risk of deep water development and all costs associated with exploring, developing, and producing from the lease. The lessee shall provide information required for a complete application to the Secretary prior to such determination. The Secretary shall clearly define the information required for a complete application under this section. Such application may be made on the basis of an individual lease or unit. If the Secretary determines that such new production would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph, the provisions of clause (i) shall not apply to such production. If the Secretary determines that such new production would not be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i), the Secretary must determine the volume of production from the lease or unit on which no royalties would be due in order to make such new production economically viable; except that for new production as defined in*

*clause (iv)(I), in no case will that volume be less than 17.5 million barrels of oil equivalent in water depths of 200 to 400 meters, 52.5 million barrels of oil equivalent in 400 to 800 meters of water, and 87.5 million barrels of oil equivalent in water depths greater than 800 meters. Redetermination of the applicability of clause (i) shall be undertaken by the Secretary when requested by the lessee prior to the commencement of the new production and upon significant change in the factors upon which the original determination was made. The Secretary shall make such redetermination within 120 days of submission of a complete application. The Secretary may extend the time period for making any determination or redetermination under this clause for 30 days, or longer if agreed to by the applicant, if circumstances so warrant. The lessee shall be notified in writing of any determination or redetermination and the reasons for and assumptions used for such determination. Any determination or redetermination under this clause shall be a final agency action. The Secretary's determination or redetermination shall be judicially reviewable under section 10(a) of the Ad-*

*ministrative Procedure Act (5 U.S.C. 702), only for actions filed within 30 days of the Secretary's determination or redetermination.*

*"(iii) In the event that the Secretary fails to make the determination or redetermination called for in clause (ii) upon application by the lessee within the time period, together with any extension thereof, provided for by clause (ii), no royalty payments shall be due on new production as follows:*

*"(I) For new production, as defined in clause (iv) (I) of this subparagraph, no royalty shall be due on such production according to the schedule of minimum volumes specified in clause (ii) of this subparagraph.*

*"(II) For new production, as defined in clause (iv) (II) of this subparagraph, no royalty shall be due on such production for one year following the start of such production.*

*"(iv) For purposes of this subparagraph, the term 'new production' is—*

*"(I) any production from a lease from which no royalties are due on production, other than test production, prior to the date*

*of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act; or*

*"(II) any production resulting from lease development activities pursuant to a Development Operations Coordination Document, or supplement thereto that would expand production significantly beyond the level anticipated in the Development Operations Coordination Document, approved by the Secretary after the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act.*

*"(v) During the production of volumes determined pursuant to clauses (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for light sweet crude oil exceeds $28.00 per barrel, any production of oil will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clause (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $28.00. After the end of the*

*calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.*

*"(vi) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds $3.50 per million British thermal units, any production of natural gas will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clauses (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $3.50. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.*

*"(vii) The prices referred to in clauses (v) and (vi) of this subparagraph shall be changed during any calendar year after 1994 by the per-*

*centage, if any, by which the implicit price deflator for the gross domestic product changed during the preceding calendar year.".*

***SEC. 5423. NEW LEASES.***

*Section 8(a)(1) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1337 (a)(1)), is amended—*

*(1) by redesignating subparagraph (H) as subparagraph (I);*

*(2) by striking "or" at the end of subparagraph (G); and*

*(3) by inserting after subparagraph (G) the following new subparagraph:*

*"(H) cash bonus bid with royalty at no less than 12 and 1/2 per centum fixed by the Secretary in amount or value of production saved, removed, or sold, and with suspension of royalties for a period, volume, or value of production determined by the Secretary, which suspensions may vary based on the price of production from the lease; or".*

***SEC. 5424. LEASE SALES.***

*For all tracts located in water depths of 200 meters or greater in the Western and Central Planning Area of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole*

*lease blocks lying west of 87 degrees, 30 minutes West longitude, any lease sale within seven years of the date of enactment of this chapter, shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act, as amended by this chapter, except that the suspension of royalties shall be set at a volume of not less than the following:*

*(1) 17.5 million barrels of oil equivalent for leases in water depths of 200 to 400 meters;*

*(2) 52.5 million barrels of oil equivalent for leases in 400 to 800 meters of water; and*

*(3) 87.5 million barrels of oil equivalent for leases in water depths greater than 800 meters.*

***SEC. 5425. REGULATIONS.***

*The Secretary shall promulgate such rules and regulations as are necessary to implement the provisions of this chapter within 180 days after the enactment of this Act.*

***SEC. 5426. SAVINGS CLAUSE.***

*Nothing in this chapter shall be construed to affect any offshore pre-leasing, leasing, or development moratorium, including any moratorium applicable to the Eastern Planning Area of the Gulf of Mexico located off the Gulf Coast of Florida.*

## *CHAPTER 9—EXPORTS OF ALASKA NORTH SLOPE OIL*

***SEC. 5431. EXPORTS OF ALASKAN NORTH SLOPE OIL.***

*Section 28 of the Mineral Leasing Act (30 U.S.C. 185) is amended by amending subsection (s) to read as follows:*

*"EXPORTS OF ALASKAN NORTH SLOPE OIL*

*"(s)(1) Subject to paragraphs (2) through (6) of this subsection and notwithstanding any other provision of this Act or any other provision of law (including any regulation) applicable to the export of oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652), such oil may be exported unless the President finds that exportation of this oil is not in the national interest. The President shall make his national interest determination within five months of the date of enactment of this subsection. In evaluating whether exports of this oil are in the national interest, the President shall at a minimum consider—*

*"(A) whether exports of this oil would diminish the total quantity or quality of petroleum available to the United States;*

*"(B) the results of an appropriate environmental review, including consideration of appropriate measures to mitigate any potential adverse effects of exports of this oil on the environ-*

*ment, which shall be completed within four months of the date of the enactment of this subsection; and*

*"(C) whether exports of this oil are likely to cause sustained material oil supply shortages or sustained oil prices significantly above world market levels that would cause sustained material adverse employment effects in the United States or that would cause substantial harm to consumers, including noncontiguous States and Pacific territories. If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that such exports are consistent with the national interest.*

*"(2) Except in the case of oil exported to a country with which the United States entered into a bilateral international oil supply agreement before November 26, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) shall, when exported, be transported by a vessel documented under the laws of the United*

*States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).*

*"(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), or part B of title II of the Energy Policy and Conservation Act (42 U.S.C. 6271–76) to prohibit exports.*

*"(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination, including any licensing requirements and conditions, within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.*

*"(5) If the Secretary of Commerce finds that exporting oil under authority of this subsection has caused sustained material oil supply shortages or sustained oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused or are likely to cause sustained material adverse employment effects in the United States, the Secretary of Commerce, in consultation with the Secretary of Energy, shall recommend, and the President may take, appropriate action*

*concerning exports of this oil, which may include modifying or revoking authority to export such oil.*

*"(6) Administrative action under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.".*

## *CHAPTER 10—SKI AREA PERMIT RENTAL CHARGES ON NATIONAL FOREST SYSTEM LANDS*

### *SEC. 5441. SKI AREA PERMIT RENTAL CHARGE.*

*(a) The Secretary of Agriculture shall charge a rental charge for all ski area permits issued pursuant to section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b), the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), or the 9th through 20th paragraphs under the heading "SURVEYING THE PUBLIC LANDS" under the heading "UNDER THE DEPARTMENT OF THE INTERIOR" in the Act of June 4, 1897 (30 Stat. 34, chapter 2), on National Forest System lands. Permit rental charges for permits issued pursuant to the National Forest Ski Area Permit Act of 1986 shall be calculated as set forth in subsection (b). Permit rental charges for existing ski area permits issued pursuant to the Act of March 4, 1915, and the Act of June 4, 1897, shall be calculated in accordance with those existing permits: Provided, That a permittee may, at*

*the permittee's option, use the calculation method set forth in subsection (b).*

*(b)(1) The ski area permit rental charge (SAPRC) shall be calculated by adding the permittee's gross revenues from lift ticket/year-round ski area use pass sales plus revenue from ski school operations (LT+SS) and multiplying such total by the slope transport feet percentage (STFP) on National Forest System land. That amount shall be increased by the gross year-round revenue from ancillary facilities (GRAF) physically located on national forest land, including all permittee or subpermittee lodging, food service, rental shops, parking and other ancillary operations, to determine the adjusted gross revenue (AGR) subject to the permit rental charge. The final rental charge shall be calculated by multiplying the AGR by the following percentages for each revenue bracket and adding the total for each revenue bracket:*

*(A) 1.5 percent of all adjusted gross revenue below $3,000,000;*

*(B) 2.5 percent for adjusted gross revenue between $3,000,000 and $15,000,000;*

*(C) 2.75 percent for adjusted gross revenue between $15,000,000 and $50,000,000; and*

*(D) 4.0 percent for the amount of adjusted gross revenue that exceeds $50,000,000.*

*(2) In cases where ski areas are only partially located on national forest lands, the slope transport feet percentage on national forest land referred to in subsection (b) shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992. Revenues from Nordic ski operations shall be included or excluded from the rental charge calculation according to the percentage of trails physically located on national forest land.*

*(3) In order to ensure that the rental charge remains fair and equitable to both the United States and ski area permittees, the adjusted gross revenue figures for each revenue bracket in paragraph (1) shall be adjusted annually by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year.*

*(c) The rental charge set forth in subsection (b) shall be due on June 1 of each year and shall be paid or prepaid by the permittee on a monthly, quarterly, annual or other schedule as determined appropriate by the Secretary in consultation with the permittee. Unless mutually agreed otherwise by the Secretary of Agriculture and the permittee, the payment or prepayment schedule shall conform to the permittee's schedule in effect prior to the date of enactment of this Act. To reduce costs to the permittee and the Forest Service, the Secretary shall each year provide the permittee with a standardized form and worksheets (including annual*

*rental charge calculation brackets and rates) to be used for rental charge calculation and submitted with the rental charge payment.*

*(d) The ski area permit rental charge set forth in this section shall become effective on June 1, 1996 and cover receipts retroactive to June 1, 1995: Provided, however, That if a permittee has paid rental charges for the period June 1, 1995, to June 1, 1996, under the graduated rate rental charge system formula in effect prior to the date of enactment of this Act, such rental charges shall be credited toward the new rental charge due on June 1, 1996. In order to ensure increasing rental charge receipt levels to the United States during transition from the graduated rate rental charge system formula to the formula of this Act, the rental charge paid by any individual permittee shall be—*

*(1) for the 1995–1996 permit year, shall be either the rental charge paid for the preceding 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher;*

*(2) for the 1996–1997 permit year, the rental charge paid shall be either the rental charge paid for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher; and*

*(3) for the 1997–1998 permit year, the rental charge for the 1994–1995 base year or the rental*

*charge calculated pursuant to this Act, whichever is higher.*

*If an individual permittee's adjusted gross revenue for the 1995–1996, 1996–1997, or 1997–1998 permit years falls more than 10 percent below the 1994–1995 base year, the rental charge paid shall be the rental charge calculated pursuant to this Act.*

*(e) Under no circumstances shall revenue, or subpermittee revenue (other than lift ticket, area use pass, or ski school sales) obtained from operations physically located on non-national forest land be included in the ski area permit rental charge calculation.*

*(f) To reduce administrative costs on ski area permittees and the Forest Service the terms "revenue" and "sales", as used in this section, shall mean actual income from sales and shall not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities or employee lift tickets, discounts, or other goods or services (except for bartered goods and complimentary lift tickets) for which the permittee does not receive money.*

*(g) In cases where an area of national forest land is under a ski area permit but the permittee does not have revenue or sales qualifying for rental charge payment pur-*

*suant to subsection (a), the permittee shall pay an annual minimum rental charge of $2 for each national forest acre under permit or a percentage of appraised land value, as determined to be appropriate by the Secretary.*

*(h) Where the new rental charge provided for in subsection (b)(1) results in an increase in permit rental charge greater than one half of one percent of the permittee's adjusted gross revenue (as determined under subsection (b)(1)), the new rental charge shall be phased in over a 5-year period in a manner providing for increases of approximately equal increments.*

## *CHAPTER 11—PARK ENTRANCE FEES*

### *SEC. 5451. FEES.*

*(a) ADMISSION FEES.—Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(a)) is amended—*

*(1) in the first sentence of the subsection by striking "no more than 21";*

*(2) in the first sentence of paragraph (1)(A)(i) by striking "$25" and inserting "$50";*

*(3) in the second sentence of paragraph (1)(B) by striking "$15" and inserting "$25";*

*(4) in paragraph (2) by striking the fourth, fifth, and sixth sentences and inserting "The fee for a single-visit permit at any designated area shall be col-*

*lected on a per person basis, not to exceed $6 per person, including for persons entering by private, noncommercial vehicle.";*

*(5) in paragraph (3)—*

*(A) in the third sentence by inserting "Great" before "Smoky"; and*

*(B) by striking the last sentence;*

*(6) in paragraph (4)—*

*(A) by striking the second sentence and inserting "Such permit shall be nontransferable, shall be issued for a one-time charge, which shall be set at the same rate as the fee for a Golden Eagle Passport, and shall entitle the permittee to free admission into any area designated pursuant to this subsection."; and*

*(B) by striking the third sentence and inserting "No fees of any kind shall be collected from any persons who have a right of access for hunting or fishing privileges under a specific provision of law or treaty or who are engaged in the conduct of official Federal, State, or local government business.";*

*(7) by striking paragraph (5) and inserting the following:*

*"(5) The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admission permit to any citizen of, or person legally domiciled in, the United States, if such citizen or person applies for such permit and is permanently disabled. Such procedures shall ensure that a lifetime admission permit shall be issued only to persons who have been medically determined to be permanently disabled. A lifetime admission permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and one accompanying individual to general admission into any area designated pursuant to this subsection, notwithstanding the method of travel.";*

*(8) by striking paragraph (9) and by redesignating paragraph (10) as paragraph (9)";*

*(9) by striking all but the last sentence of paragraph (11) and redesignating paragraph (11) as paragraph (10); and*

*(10) by redesignating paragraph (12) as paragraph (11).*

*(b) RECREATION FEES.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a) is amended by striking subsection (b) and inserting the following:*

*"(b) RECREATION USE FEES.—Each agency developing, administering, providing, or furnishing at Federal expense services for such activities as camping, including, but not limited to, back country camping under permit, guarded swimming sites, boat launch facilities, managed parking lots, motorized recreation use and other recreation uses, is authorized, in accordance with this section to provide for the collection of recreation use fees at the place of use or any reasonably convenient location. The administering Secretary may establish both daily and annual recreation use fees.".*

*(c) CRITERIA, POSTING AND UNIFORMITY OF FEES.—Section 4(d) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(d)) is amended in the first sentence by striking "recreation fees charged by non-Federal public agencies," and inserting "fees charged by other public and private entities,".*

*(d) PENALTY.—Section 4(e) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(e)) is amended by striking "of not more than $100." and inserting "as provided by law.".*

*(e) TECHNICAL AMENDMENTS.—Section 4(h) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(h)) is amended—*

*(1) by striking "Bureau of Outdoor Recreation" and inserting "National Park Service";*

*(2) by striking "Natural Resources" and inserting "Resources"; and*

*(3) by striking "Bureau" and inserting "National Park Service".*

*(f) USE OF FEES.—Section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)) is amended—*

*(1) in the first sentence of paragraph (1)(B) by striking "fee collection costs for that fiscal year" and inserting "fee collection costs for the immediately preceding fiscal year" and by striking "section in that fiscal year" and inserting "section in such immediately preceding fiscal year";*

*(2) in the second sentence of subparagraph (B) by striking "in that fiscal year"; and*

*(3) by striking paragraph (4) and inserting the following:*

*"(4) Amounts covered into the special account for the National Park Service shall be allocated among park system units in accordance with subsection (j) for obligation or expenditure by the Director of the National Park Service for park operations.".*

*(g) TIME OF REIMBURSEMENT.—Section 4(k) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(k)) is amended by striking the last sentence.*

*(h) COMMERCIAL TOUR USE FEES.—Section 4(n) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(n)) is amended—*

*(1) by striking the first sentence of paragraph (1) and inserting "In the case of each unit of the National Park System for which an admission fee is charged under this section, the Secretary of the Interior shall establish, by October 1, 1996, a commercial tour use fee in lieu of a per person admission fee to be imposed on each vehicle entering the unit for the purpose of providing commercial tour services within the unit."; and*

*(2) by striking the period at the end of paragraph (3) and inserting ", with written notification of such adjustments provided to commercial tour operators 12 months in advance of implementation.".*

*(i) CONFORMING AMENDMENTS.—*

*(1) Title I of the Department of the Interior and Related Agencies Appropriations Act, 1994, is amended by striking the second proviso under the heading "ADMINISTRATIVE PROVISIONS" under the heading*

*"NATIONAL PARK SERVICE" (related to recovery of costs associated with special use permits).*

*(2) Section 3 of the Act entitled "An Act creating the Mount Rushmore National Memorial Commission and defining its purposes and powers", approved February 25, 1929 (45 Stat. 1300, chapter 315), is amended by striking the last sentence.*

*(3) Section 5 of Public Law 87–657 (16 U.S.C. 459c–5), is amended by striking subsection (e).*

*(4) Section 3 of Public Law 87–750 (16 U.S.C. 398e) is amended by striking subsection (b).*

*(5) Section 4(e) of Public Law 92–589 (16 U.S.C. 460bb–3) is amended by striking the first sentence.*

*(6) Section 6 of Public Law 95–348 (16 U.S.C. 410dd) is amended by striking subsection (j).*

*(7) Section 207 of Public Law 96–199 (16 U.S.C. 410ff–6) is repealed.*

*(8) Section 106 of Public Law 96–287 (16 U.S.C. 410gg–5) is amended by striking the last sentence.*

*(9) Section 204 of Public Law 96–287 (94 Stat. 601) is amended by striking the last sentence.*

*(10) Section 5 of Public Law 96–428 (94 Stat. 1842; 16 U.S.C. 461 note) is repealed.*

*(11) Public Law 100–55 (101 Stat. 371; U.S.C. 460l–6a note) is repealed.*

***SEC. 5452. COVERING OF INCREASED FEE REVENUES INTO SPECIAL ACCOUNTS.***

*Of the funds deposited in special accounts in the Treasury for the National Park Service, Bureau of Land Management, and Forest Service as set forth in section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)), beginning in fiscal year 1997, 80 percent of all receipts earned in the previous year in excess of the following amounts for each covered agency shall be made available to that agency without further appropriation:*

*(1) National Park System:*

*(A) $82,000,000 for fiscal year 1997.*

*(B) $85,000,000 for fiscal year 1998.*

*(C) $88,000,000 for fiscal year 1999.*

*(D) $91,000,000 for fiscal year 2000.*

*(E) $94,000,000 for fiscal year 2001.*

*(F) $97,000,000 for fiscal year 2002.*

*(G) $100,000,000 for fiscal year 2003.*

*(H) $112,000,000 for fiscal year 2004.*

*(I) $106,000,000 for fiscal year 2005.*

*(2) Bureau of Land Management:*

*(A) $4,500,000 for fiscal year 1997.*

*(B) $5,000,000 for fiscal year 1998.*

*(C) $5,000,000 for fiscal year 1999.*

*(D) $5,000,000 for fiscal year 2000.*

*(E) $5,000,000 for fiscal year 2001.*

*(F) $5,000,000 for fiscal year 2002.*

*(G) $5,000,000 for fiscal year 2003.*

*(H) $5,000,000 for fiscal year 2004.*

*(I) $5,000,000 for fiscal year 2005.*

*(3) Forest Service:*

*(A) $20,000,000 for fiscal year 1997.*

*(B) $20,600,000 for fiscal year 1998.*

*(C) $21,200,000 for fiscal year 1999.*

*(D) $21,900,000 for fiscal year 2000.*

*(E) $22,500,000 for fiscal year 2001.*

*(F) $23,600,000 for fiscal year 2002.*

*(G) $24,300,000 for fiscal year 2003.*

*(H) $25,000,000 for fiscal year 2004.*

*(I) $25,800,000 for fiscal year 2005.*

*Beginning in fiscal year 2006, and in each fiscal year thereafter, the amounts set forth in this section for each covered agency in fiscal year 2005 shall be increased by 4 percent per year, and 80 percent of all receipts earned in excess of such amounts for each covered agency shall be made available to that agency without further appropriation.*

**SEC. 5453. ALLOCATION AND USE OF FEES.**

*(a) ALLOCATION.—Beginning in fiscal year 1997, receipts above the amounts stated in section 5452 in each covered agency's special account from the previous fiscal year shall be allocated as follows:*

*(1) Seventy-five percent shall be allocated among the units or areas of each affected agency in the same proportion as fees collected pursuant to section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a) from a specific unit or area bear to the total amount of such fees collected from all units or areas of the same covered agency for each fiscal year.*

*(2) Twenty-five percent shall be allocated among each covered agency's units or areas on the basis of need, as determined by the Secretary.*

*(b) USE.—Expenditures from the special accounts shall be used solely for infrastructure related to visitor use and annual operating expenses related to visitor services at units or areas of the covered agencies.*

## CHAPTER 12—CONCESSION REFORM

**SEC. 5461. SHORT TITLE.**

*This chapter may be cited as the "Visitor Facilities and Services Enhancement Act of 1995".*

**SEC. 5462. DEFINITIONS.**

*In this chapter:*

*(1) "adjusted gross receipts" means gross receipts less revenue derived from goods and services provided on other than Federal lands or conveyed to units of Government for hunting or fishing licenses or for entrance or recreation fees, or from such other exclusions as the Secretary concerned might apply.*

*(2) "agency head" means the head of an agency or his or her designated representative.*

*(3) "bidder" means a person who has submitted, or may submit, a proposal respecting the facilities or services, whether or not such bidder is the current concessioner.*

*(4) "concessioner" means a person or other entity acting under a concession authorization which provides public services, facilities, or activities on Federal lands pursuant to a concession service agreement or concession license.*

*(5) "concession authorization" means a concession service agreement or concession license as applicable.*

*(6) "concession license" means a written contract between the agency head and the concessioner which sets forth the terms and conditions under which the concessioner is authorized to provide recreation serv-*

*ices or activities on a limited basis as well as the rights and obligations of the Federal Government.*

*(7) "concession service agreement" means a written contract between the agency head and the concessioner which sets forth the terms and conditions under which the concessioner is authorized to provide visitor services, facilities, or activities as well as the rights and obligations of the Federal Government.*

*(8) "Consumer Price Index" means the Consumer Price Index-All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, and from and after such time as such index is no longer published, the Consumer Price Index or other regularly-published cost-of-living index chosen by the Secretary concerned which reasonably approximates the Consumer Price Index specified above.*

*(9) "gross receipts" means revenue from goods or services provided by concession services, facilities, or activities on Federal lands and waters.*

*(10) "performance incentive" means a credit based on past performance toward the score awarded by the Secretary concerned to an incumbent concessioner's proposal submitted in response to a solicita-*

*tion for the reissuance of such incumbent concessioner's contract.*

*(11) "proposal" means the complete submission for a concession service agreement offered in response to the solicitation for such concession service agreement.*

*(12) "prospectus" means a document or documents issued by the Secretary concerned and included with a solicitation which sets forth the minimum requirements for the award of a concession service agreement.*

*(13) "Secretary concerned" means —*

*(A) the Secretary of the Interior with respect to all concession authorizations issued by the National Park Service, and all concession authorizations for river runner, outfitter, or guide concessions issued by the United States Fish and Wildlife Service and the Bureau of Land Management; and*

*(B) the Secretary of Agriculture with respect to all river runner, outfitter, or guide concessions issued by the Forest Service.*

*(14) "selected bidder" means the bidder selected by the Secretary concerned for the award of a conces-*

*sion service agreement until such bidder becomes the concessioner.*

*(15) "solicitation" means a request by the Secretary concerned for proposals in response to a prospectus.*

***SEC. 5463. NATURE AND TYPES OF CONCESSION AUTHORIZATIONS.***

*(a) IN GENERAL.—The Secretary concerned may enter into concession authorizations as follows:*

*(1) CONCESSION SERVICE AGREEMENT.—A concession service agreement shall be entered into for all concessions where the Secretary concerned determines that the provision of concession services is in the interest of the Federal Government and issues either a competitive offering for concession services, facilities or activities or a noncompetitive offering for such services, facilities, or activities based on a finding that due to special circumstances it is not in the public interest of the United States to award a concession service agreement on a competitive basis.*

*(2) CONCESSION LICENSE.—Whenever the Secretary concerned makes a determination that public enjoyment of Federal lands would be enhanced through the provision of concession services for one-time, intermittent, or infrequently scheduled activities*

*and that there exists no need to limit the number of concessionaires providing such services, the Secretary shall enter into a concession license with a qualified concessioner. The Secretary concerned may not limit the number of concession licenses issued for the same types of activities in a particular geographic area.*

*(3) LANDS UNDER MULTIPLE JURISDICTIONS.—In order to reduce administrative costs the Secretaries of the Departments concerned shall designate an agency to be the lead agency concerning concessions which conduct a single operation on lands or waters under the jurisdiction of more than one agency. Unless otherwise agreed to by each such Secretary concerned, the lead agency shall be that agency under whose jurisdiction the concessioner generates the greatest amount of gross receipts. The agency so designated shall issue a single concession authorization and collect a single fee under paragraphs (1) and (2) for such operation.*

***SEC. 5464. COMPETITIVE SELECTION PROCESS FOR CONCESSION SERVICE AGREEMENTS.***

*(a) AWARD TO BEST PROPOSAL.—The Secretary concerned shall enter into, and reissue, a concession service agreement with the person whom the Secretary determines in accordance with this section submits the best proposal through a competitive process as defined in this section.*

*(b) SOLICITATION AND PROSPECTUS.—Prior to making a solicitation for a concession service agreement, the Secretary concerned shall prepare a prospectus for such solicitation, shall publish notice of its availability at least once in such local or national newspapers or trade publications as the Secretary determines appropriate, and shall make such prospectus available upon request to all interested parties. The prospectus shall specify the minimum requirements for such concession service agreement, including but not limited to:*

*(1) a description of the services and facilities to be provided by the concessioner.*

*(2) the level of capital investment required by the concessioner (if any).*

*(3) terms and conditions of the concession service agreement.*

*(4) minimum facilities and services to be provided by the Secretary concerned to the concessioner, if any, including but not limited to public access, utilities, buildings, and minimum public services.*

*(5) such other information related to the concession operation available to the Secretary concerned as is not privileged or otherwise exempt from disclosure under Federal law, as the Secretary determines is*

*necessary to allow for the submission of competitive proposals; and*

*(6) Local hiring preferences provisions, if applicable, and notwithstanding any other provision of law, to increase revenue to the United States by avoiding additional transportation and related costs associated with non-resident labor, each contract awarded by the Department of the Interior for concessioner or commercial use contractor-provided visitor services performed in whole or in part of a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment, as determined by the Secretary of Labor shall include a provision requiring the concessioner or commercial use contractor to employ individuals who are residents of such State, and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills for the purpose of performing that portion of the contract in such State.*

*(7) Minimum fees to the United States.*

*(c) FACTORS AND MINIMUM STANDARDS IN DETERMINING BEST PROPOSAL.—The prospectus shall assign a weight to each factor identified therein related to the importance of such factor in the selection process. Points shall*

*be awarded for each such factor, based on the relative strength of the proposal concerning that factor. In selecting the best proposal, the Secretary concerned shall take into consideration (but shall not be limited to) the following, including whether the proposal meets the minimum requirements (if any) of the Secretary for each of the following:*

*(1) Responsiveness to the prospectus.*

*(2) Quality of visitor services to be provided taking into account the nature of equipment and facilities to be provided.*

*(3) Experience and performance in providing the same or similar accommodations, facilities, or services. This factor shall account for not less than 20 percent of the maximum points available under any prospectus. Where the Secretary concerned determines it to be warranted to provide for a high quality visitor experience, the prospectus for a concession service agreement shall provide greater weight to this factor based on such aspects of the concession service agreement as scope or size, complexity, nature of technical skills required, and site-specific knowledge of the area. The similarity of the qualifying experience outlined in the proposal to the nature of the services required under the concession service agreement and the length*

*of such qualifying experience shall be the basis for awarding points for this factor.*

*(4) Record of resource protection (as appropriate for services and activities with potential to impact natural or cultural resources).*

*(5) Financial capability.*

*(6) Fees to the United States.*

*(d) SELECTION PROCESS.—The process for selecting the best proposal shall consist of the following:*

*(1) First, the Secretary concerned shall identify those proposals which meet the minimum standards (if any) for the factors identified under subsection (c).*

*(2) Second, the Secretary concerned shall evaluate all proposals identified under paragraph (1), considering all factors identified under subsection (c), as well as performance incentives earned under subsection (e) and renewal penalties incurred under subsection (f).*

*(3) Third, the Secretary concerned shall offer the concession service agreement to the best qualified applicant as determined by the evaluation under paragraph (2). Prior to any such offer, the Secretary shall certify that such applicant has adequate funds to purchase any investment interest.*

*(e) PERFORMANCE INCENTIVES.—*

*(1) In evaluating the proposal of an incumbent concessioner when the Secretary concerned issues a prospectus for the renewal of the concession service agreement, such concessioner is entitled to a performance incentive of—*

*(A) one percent of the maximum points available under such prospectus for each year in which the concessioner's annual performance is rated as exceeding the requirements outlined in the prospectus or "good", and*

*(B) a one-time 3-year merit term extension upon a finding that a concessioner has been rated as "good" in each annual performance evaluation through the term of the concession service agreement.*

*(2) A performance incentive awarded under paragraph (1)(A) may not exceed 10 percent of the maximum points available under such prospectus.*

*(3) The performance incentive specified under paragraph (1)(A) may only be awarded to a concessioner which meets the monetary definition of a small business under section 3 of the Small Business Act (15 U.S.C. 632). The Board of Contract Appeals within each Department shall adjudicate disputes be-*

*tween the Federal Government and concessionaires regarding performance evaluations.*

*(f) RENEWAL PENALTY.—In evaluating the proposal of an incumbent concessioner when the Secretary concerned issues a prospectus for the renewal of the concession service agreement, the incumbent concessioner shall be penalized one percent of the maximum points available under such prospectus for each year in which the concessioner's annual performance is found to be unsatisfactory.*

*(g) INAPPLICABILITY OF NEPA TO TEMPORARY EXTENSIONS AND SIMILAR REISSUANCE OF CONCESSIONS AGREEMENTS.—The temporary extension of a concession authorization, or reissuance of a concession authorization to provide concession services similar in nature and amount to concession services provided under the previous authorization, is hereby determined not to be a major Federal action for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et. seq.).*

*(h) PROVISION FOR ADDITIONAL RELATED SERVICES.—The Secretary concerned may modify the concession service agreement to allow concessionaires to provide services closely related to such agreement only if the Secretary concerned determines that such changes would enhance the safety or enjoyment of visitors and would not unduly restrict the award of future concession service agreements.*

***SEC. 5465. CAPITAL IMPROVEMENTS.***

*(a) IN GENERAL.—Concessionaires may construct or finance construction under terms of section 5470 only such public facilities on Federal lands as are to be used by the concessioner under the terms of its concession service agreement or facilities which are necessary for the concessioner to administer such public facilities on Federal lands.*

*(b) INVESTMENT INTEREST.—*

*(1) IN GENERAL.—A concessioner that is required or authorized under a concession service agreement pursuant to this subchapter to acquire or construct any structure, improvement, or fixture pursuant to such agreement on Federal lands shall have an investment interest therein, as defined in this subchapter. Any such investment interest shall consist of all incidents of ownership, except legal title which shall be vested in the Federal Government. Such investment interest shall not be extinguished by the expiration of such agreement. Such investment interest may be assigned, transferred, encumbered or relinquished.*

*(2) LIMITATION.—Such investment interest shall not be construed to include or imply any authority, privilege, or right to operate or engage in any business or other activity, and the use of any improvement in which the concessioner has an investment in-*

*terest shall be wholly subject to the applicable provisions of the concession service agreement and of laws and regulations relating to the area.*

*(3) FEDERAL PROPERTY.—Notwithstanding paragraph (1), a concession service agreement may specify that certain new structures, improvements, or fixtures required to be constructed under terms of the concession service agreement shall be property of the Federal Government subject only to the right of the concessioner to use such improvements during the term of such agreement and that the concessioner shall not be accorded an investment interest therein. Concession service agreements shall not, to the extent practicable, provide for a concessioner to obtain an investment interest in any building or facilities wholly owned by the Federal Government.*

*(c) SALE OF ASSETS.—If the existing concessioner is not the selected bidder at the time of reissuance of a concession service agreement, the Secretary concerned shall require the new concessioner to buy the investment interest of the existing concession. In the event that the successor concessioner is unable to fully pay such investment interest, any deficiency shall be paid by the Federal Government.*

*(d) CLOSURE OF CONCESSIONER FACILITIES.—If the Secretary concerned determines that the public interest, by*

*reason of public and safety considerations or for other reasons beyond the control of the concessioner, requires the discontinuation or closure of facilities in which the concessioner has an investment interest, the Federal Government shall compensate the concessioner in the amount equal to the value of the investment interest.*

*(e) DETERMINATION OF VALUE OF INVESTMENT INTEREST.—For purposes of this subchapter, the investment interest of any capital improvement at the end of the concession service agreement period shall be an amount equal to the actual cost of construction or purchase of such investment interest or such capital improvement adjusted from the time of completion of such construction by changes in the Consumer Price Index less depreciation evidenced by the condition and prospective serviceability in comparison with a new unit of like kind. The Secretary concerned shall include the value to be paid by the selected bidder for any existing investment interest in the prospectus for the related concession service agreement.*

***SEC. 5466. DURATION OF CONCESSION AUTHORIZATION.***

*(a) CONCESSION SERVICE AGREEMENT.—The standard term of a concession service agreement shall be 10 years. The Secretary concerned may issue a concession service agreement for less than 10 years if the Secretary determines that the average annual gross receipts over the life of the*

*concession service agreement would be less than $100,000. The Secretary concerned may not issue a concession service agreement for less than 5 years. The Secretary concerned shall issue a concession service agreement for longer than 10 years if the Secretary determines that such longer term is in the public interest or necessary due to the extent of investment and associated financing requirements and to meet the obligations assumed. The term for a concession service agreement may not exceed 30 years.*

*(b) CONCESSION LICENSE.—The term for a concession license may not exceed 2 years.*

*(c) TEMPORARY EXTENSION.—The Secretary concerned may agree to temporary extensions of concession service agreements for up to 2 years on a noncompetitive basis to avoid interruption of services to the public.*

***SEC. 5467. RATES AND CHARGES TO THE PUBLIC.***

*In general, rates and charges to the public shall be set by the concessioner. For concession service agreements only, a concessioner's rates and charges to the public shall be subject to the approval of the Secretary concerned in those instances where the Secretary determines that sufficient competition for such facilities and services does not exist within or in close proximity to the area in which the concessioner operates. In those instances, the concession service agreement shall state that the reasonableness of the concessioner's*

*rates and charges to the public shall be reviewed and approved by the Secretary concerned primarily by comparison with those rates and charges for facilities and services of comparable character under similar conditions, with due consideration for length of season, seasonal variations, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary concerned. Such review shall be completed within 90 days of receipt of all necessary information, or the requirement for the Secretary's approval shall be waived and such rates and charges as proposed by the concessioner considered to be approved for immediate use.*

***SEC. 5468. TRANSFERABILITY OF CONCESSION AUTHORIZATIONS.***

*(a) CONCESSION SERVICE AGREEMENTS.—*

*(1) APPROVAL REQUIRED.—A concession service agreement is transferable or assignable only with the approval of the Secretary concerned, which approval may not be unreasonably withheld or delayed. The Secretary may not approve any such transfer or assignment if the Secretary determines that the prospective concessioner is or is likely to be unable to completely satisfy all of the material requirements, term, and conditions of the agreement or that the terms of*

*the transfer or assignment would preclude providing appropriate facilities or services to the public at reasonable rates.*

*(2) CONSIDERATION PERIOD.—If the Secretary concerned fails to approve or disapprove a transfer or assignment under paragraph (1) within 90 days after the date on which the Secretary receives all necessary information requested by the Secretary with respect to such transfer, the transfer or assignment shall be deemed to have been approved.*

*(3) NO MODIFICATION OF TERMS AND CONDITIONS.—The terms and conditions of the concessions service agreement shall not be subject to modification by reason of any transfer or assignment under this section.*

*(b) CONCESSION LICENSE.—A concession license may not be transferred.*

***SEC. 5469. FEES CHARGED BY THE UNITED STATES FOR CONCESSION AUTHORIZATIONS.***

*(a) IN GENERAL.—The Secretary concerned shall charge a fee for the privilege of providing concession services pursuant to this subchapter. The fee for any concession service agreement may include any of the following:*

*(1) An annual cash payment for the privilege of providing concession services.*

*(2) The amount required for capital improvements required pursuant to section 5465 (a).*

*(3) Fees for rental or lease of Government-owned facilities or lands occupied by the concessioner.*

*(4) Expenditures for maintenance of or improvements to Government-owned facilities occupied by the concessioner.*

*(b) ESTABLISHMENT OF AMOUNT.—*

*(1) MINIMUM ACCEPTABLE FEE.—The Secretary concerned shall establish a minimum fee for each applicable category specified in paragraphs (1) through (4) of subsection (a) which is acceptable to the Secretary under this section and shall include the minimum fee in the prospectus under section 5464. This fee shall be based on historical data, where available, as well as industry-specific and other market data available to the Secretary concerned.*

*(2) FINAL FEE.—Except as provided in paragraph (3), the final fee shall be the amount bid by the selected applicant under section 5464.*

*(3) SUBSTANTIALLY SIMILAR SERVICES IN A SPECIFIC GEOGRAPHIC AREA.—When the Secretary concerned simultaneously offers authorizations for more than one river runner, outfitter, or guide concession operation to provide substantially similar services in*

*a defined geographic area, the concession fee for all such concessionaires shall be specified by the Secretary concerned in the prospectus. The Secretary concerned shall base the fee on historical data, where available, as well as on industry-specific and other market data available to the Secretary concerned or may establish a charge per user day.*

*(c) ADJUSTMENT OF FEES.—The amount of any fee for the term of the concession service agreement shall be set at the beginning of the concession authorization and may only be modified if stated in the contract on the basis of inflation, when the annual payment is not determined by a percentage of adjusted gross receipts (as measured by changes in the Consumer Price Index), to reflect substantial changes from the conditions specified in the prospectus, or in the event of an unforseen disaster.*

*(d) CONCESSION LICENSE FEE.—The fee for a concession license shall at least cover the program administrative costs and may not be changed over the term of the license.*

***SEC. 5470. DISPOSITION OF FEES.***

*(a) CONCESSION IMPROVEMENT ACCOUNT.—*

*(1) IN GENERAL.—The Secretary concerned shall, whenever the concession service agreement requires or authorizes the concessioner to perform maintenance or make improvements to Government-owned facilities*

*occupied by the concessioner, require the concessioner to establish a concession improvement account. The concessioner shall deposit into this account all funds for maintenance of or improvements to Government-owned facilities occupied by the concessioner;*

*(2) TERMS AND CONDITIONS.—The account shall be maintained by the concessioner in an interest bearing account in a Federally insured financial institution. The concessioner shall maintain the account separately from any other funds or accounts and shall not commingle the money in the account with any other money.*

*(3) DISBURSEMENTS.—The concessioner shall make disbursements from the account for improvements and other activities, only for capital improvements or maintenance of improvements to Government-owned facilities occupied by the concessioner as specified in the concession service agreement.*

*(4) TRANSFER OF REMAINING BALANCE.—On the termination of a concession authorization, or on the transfer of a concession service agreement, any remaining balance in the account shall be transferred by the concessioner to the successor concessioner, to be used solely as set forth in this subsection. In the event there is no successor concessioner, the account balance*

*shall be deposited in the Treasury as miscellaneous receipts.*

*(b) When the concessioner is required to make capital improvements to other than Government-owned facilities occupied by the concessioner in accordance with a concession service agreement, the concessioner shall have the option to control and expend such funds directly.*

*(c) AMOUNTS RECEIVED RELATING TO PRIVILEGE OF PROVIDING CONCESSION SERVICES AND RENTAL OF GOVERNMENT-OWNED FACILITIES.—*

*(1) DEPOSIT INTO TREASURY.—The Secretary concerned shall deposit in the Treasury of the United States as miscellaneous receipts all funds not deposited in concession improvement accounts or funds for capital improvements specified in (b) above, including specifically amounts received for a fiscal year for the privilege of providing concession services and the rental of Government-owned facilities, except that of the amount of fees paid by vessel operators for the privilege of entering into Glacier Bay, Alaska, 50 percent of such fees for the 5-year period beginning on the first full fiscal year following the date of enactment of this subchapter shall be deposited into a special account and that such funds shall be available without further appropriation and may only be used*

*to conduct research to quantify any effect of such vessel activity on wildlife and other natural resource values of Glacier Bay National Park. For the National Park Service such deposits into the Treasury shall total not less than the amounts specified in the table in paragraph (2). For the other agencies covered under this subchapter, the Secretary concerned shall develop a schedule of anticipated receipts to be deposited to the Treasury and submit such schedule to the appropriate Congressional committees not later than 18 months after the date of enactment of this Act. Nothing in this chapter shall be construed to modify any provision of law relating to sharing of Federal receipts with any other level of Government.*

*(2) DEPOSIT INTO CONCESSION IMPROVEMENT ACCOUNTS.—The table referred to in paragraph (1), expressed by fiscal year, is as follows:*

***National Park Service***

| ***"Fiscal year:*** | ***Amount:*** |
|---|---|
| *1997* | *$15,800,000* |
| *1998* | *$21,100,000* |
| *1999* | *$26,700,000* |
| *2000* | *$32,300,000* |
| *2001* | *$38,200,000* |
| *2002* | *$44,400,000.* |

*(d) Beginning in fiscal year 1998, the Inspector General of the Department concerned shall conduct a biennial audit of concession fees generated pursuant to this chapter. The Inspector General shall make a determination as to*

*whether concession fees are being collected and expended in accordance with this chapter and shall submit copies of each audit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.*

***SEC. 5471. REGULATIONS.***

*The Secretary concerned shall promulgate regulations to implement this chapter no later than 2 years after the date of enactment of this Act. Subsequent to the date of enactment of this chapter, no new concession authorization may be issued, nor may any existing concession authorization be amended or extended, unless such authorization, amendment, or extension is fully consistent with sections 5465, 5469(c), and 5470.*

***SEC. 5472. RELATIONSHIP TO OTHER LAWS.***

*(a) REPEALS.—*

*(1) The Act entitled "An Act relating to the establishment of concession policies in the areas administered by the National Park Service and for other purposes" (16 U.S.C. 20–20g) approved October 9, 1965, is repealed.*

*(b) SAVINGS.—*

*(1) IN GENERAL.—The repeal of any provision, the superseding of any provision, and the amendment of any provision, of an Act referred to in subsection*

*(a) shall not affect the validity of any authorizations entered into under any such Act. The provisions of this chapter shall apply to any such authorizations, except to the extent such provisions are inconsistent with the express terms and conditions of such authorizations.*

*(2) RIGHT OF RENEWAL.—The right of renewal explicitly provided for by any concession contract under any such provision shall be preserved for a single renewal of a contract following the enactment of, or concession authorization under, this chapter.*

*(3) VALUE OF CAPITAL IMPROVEMENTS OR POSSESSORY INTEREST.—Nothing in this chapter shall be construed to change the value as of the date of enactment of this chapter for existing capital improvements or possessory interest as identified in concession contracts entered into before the date of enactment of this Act. Subsequent to enactment of this chapter, the increase in value for any possessory interest established under any concession contract in effect on the date of enactment of this chapter shall be as provided for in this chapter unless otherwise specifically provided in the contract.*

*(4) ANILCA.—Nothing in this chapter shall be construed to amend, supersede or otherwise affect any*

*provision of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.) relating to revenue-producing visitor services.*

*(5) PROCEDURES FOR CONSIDERING EXISTING CONCESSIONAIRES IN REISSUANCE OF CONTRACTS.—In the case of a concession contract which has expired prior to the date of the enactment of this Act, or within 5 years after the date of the enactment of this Act, an incumbent concessioner shall be entitled to a one-time bonus of five percent of the maximum points available in the reissuance of a previous concession authorization. For any concession contract entered into prior to the date of enactment of this Act, which is projected to terminate 5 years or later after the date of enactment of this Act, any concessioner shall be entitled to a performance incentive in accordance with this chapter. The concessioner shall be entitled to an evaluation of "good" for each year in which the Secretary concerned does not complete an evaluation as provided for in this chapter.*

# *TITLE VI—FEDERAL RETIREMENT AND RELATED PROVISIONS*

## *Subtitle A—Civil Service and Postal Service Provisions*

### *SEC. 6001. EXTENSION OF DELAY IN COST-OF-LIVING ADJUSTMENTS IN FEDERAL EMPLOYEE RETIREMENT BENEFITS THROUGH FISCAL YEAR 2002.*

*Section 11001(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 408) is amended in the matter preceding paragraph (1) by striking out "or 1996," and inserting in lieu thereof "1996, 1997, 1998, 1999, 2000, 2001, or 2002,".*

### *SEC. 6002. INCREASED CONTRIBUTIONS TO FEDERAL CIVILIAN RETIREMENT SYSTEMS.*

*(a) CIVIL SERVICE RETIREMENT SYSTEM.—*

*(1) DEDUCTIONS.—The first sentence of section 8334(a)(1) of title 5, United States Code, is amended to read as follows: "The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, or Claims Court judge, as*

*the case may be, the percentage of basic pay applicable under subsection (c).".*

*(2) AGENCY CONTRIBUTIONS.—*

*(A) INCREASE IN AGENCY CONTRIBUTIONS DURING CALENDAR YEARS 1996 THROUGH 2002.— Section 8334(a)(1) of title 5, United States Code (as amended by this section) is further amended—*

*(i) by inserting "(A)" after "(1)"; and*

*(ii) by adding at the end thereof the following new subparagraph:*

*"(B)(i) Notwithstanding subparagraph (A), the agency contribution under the second sentence of such subparagraph, during the period beginning on January 1, 1996, through December 31, 2002—*

*"(I) for each employing agency (other than the United States Postal Service or the Washington Metropolitan Airport Authority) shall be 8.51 percent of the basic pay of an employee, Congressional employee, and a Member of Congress, 9.01 percent of the basic pay of a law enforcement officer, a member of the Capitol Police, and a firefighter, and 8.51 percent of the basic pay of*

*a Claims Court judge, a United States magistrate, a judge of the United States Court of Appeals for the Armed Services, and a bankruptcy judge, as the case may be; and*

*"(II) for the United States Postal Service and the Washington Metropolitan Airport Authority shall be 7 percent of the basic pay of an employee and 7.5 percent of the basic pay of a law enforcement officer or firefighter.".*

*(B) NO REDUCTION IN AGENCY CONTRIBUTIONS BY THE POSTAL SERVICE.—Agency contributions by the United States Postal Service under section 8348(h) of title 5, United States Code—*

*(i) shall not be reduced as a result of the amendments made under paragraph (3) of this subsection; and*

*(ii) shall be computed as though such amendments had not been enacted.*

*(3) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—The table under section 8334(c) of title 5, United States Code, is amended—*

*(A) in the matter relating to an employee by striking out*

| | |
|---|---|
| *"7 .....* | *After December 31, 1969."* |

*and inserting in lieu thereof the following:*

| | |
|---|---|
| *"7 .....* | *January 1, 1970, to December 31, 1995.* |
| *7.25 ...* | *January 1, 1996, to December 31, 1996.* |
| *7.4 .....* | *January 1, 1997, to December 31, 1997.* |
| *7.5 .....* | *January 1, 1998, to December 31, 2002.* |
| *7 .....* | *After December 31, 2002.";* |

*(B) in the matter relating to a Member or employee for Congressional employee service by striking out*

| | |
|---|---|
| *"7½ ....* | *After December 31, 1969."* |

*and inserting in lieu thereof the following:*

| | |
|---|---|
| *"7.5 .....* | *January 1, 1970, to December 31, 1995.* |
| *7.25 ...* | *January 1, 1996, to December 31, 1996.* |
| *7.4 .....* | *January 1, 1997, to December 31, 1997.* |
| *7.5 .....* | *January 1, 1998, to December 31, 2002.* |
| *7 .....* | *After December 31, 2002.";* |

*(C) in the matter relating to a Member for Member service by striking out*

| | |
|---|---|
| *"8 .....* | *After December 31, 1969."* |

*and inserting in lieu thereof the following:*

| | |
|---|---|
| *"8 .....* | *January 1, 1970, to December 31, 1995.* |
| *7.25 ...* | *January 1, 1996, to December 31, 1996.* |
| *7.4 .....* | *January 1, 1997, to December 31, 1997.* |
| *7.5 .....* | *January 1, 1998, to December 31, 2002.* |
| *7 .....* | *After December 31, 2002.";* |

*(D) in the matter relating to a law enforcement officer for law enforcement service and firefighter for firefighter service by striking out*

| | |
|---|---|
| *"7½ ....* | *After December 31, 1974."* |

*and inserting in lieu thereof the following:*

| | |
|---|---|
| *"7.5 .....* | *January 1, 1975, to December 31, 1995.* |
| *7.75 ...* | *January 1, 1996, to December 31, 1996.* |
| *7.9 .....* | *January 1, 1997, to December 31, 1997.* |
| *8 .....* | *January 1, 1998, to December 31, 2002.* |
| *7.5 .....* | *After December 31, 2002.";* |

*(E) in the matter relating to a bankruptcy judge by striking out*

| | |
|---|---|
| *"8 .....* | *After December 31, 1983."* |

*and inserting in lieu thereof the following:*

| | |
|---|---|
| *"8 .....* | *January 1, 1984, to December 31, 1995.* |
| *7.25 ...* | *January 1, 1996, to December 31, 1996.* |
| *7.4 .....* | *January 1, 1997, to December 31, 1997.* |
| *7.5 .....* | *January 1, 1998, to December 31, 2002.* |
| *7 .....* | *After December 31, 2002.";* |

*(F) in the matter relating to a judge of the United States Court of Appeals for the Armed Forces for service as a judge of that court by striking out*

| | |
|---|---|
| *"8 .....* | *On and after the date of the enactment of the Department of Defense Authorization Act, 1984."* |

*and inserting in lieu thereof the following:*

| | |
|---|---|
| *"8 .....* | *The date of the enactment of the Department of Defense Authorization Act, 1984, to December 31, 1995.* |
| *7.25 ...* | *January 1, 1996, to December 31, 1996.* |
| *7.4 .....* | *January 1, 1997, to December 31, 1997.* |
| *7.5 .....* | *January 1, 1998, to December 31, 2002.* |
| *7 .....* | *After December 31, 2002.";* |

1 *(G) in the matter relating to a United*
2 *States magistrate by striking out*

| | |
|---|---|
| *"8 .....* | *After September 30, 1987."* |

3 *and inserting in lieu thereof the following:*

| | |
|---|---|
| *"8 .....* | *October 1, 1987, to December 31, 1995.* |
| *7.25 ...* | *January 1, 1996, to December 31, 1996.* |
| *7.4 .....* | *January 1, 1997, to December 31, 1997.* |
| *7.5 .....* | *January 1, 1998, to December 31, 2002.* |
| *7 .....* | *After December 31, 2002.";* |

4 *(H) in the matter relating to a Claims*
5 *Court judge by striking out*

| | |
|---|---|
| *"8 .....* | *After September 30, 1988."* |

6 *and inserting in lieu thereof the following:*

| | |
|---|---|
| *"8 .....* | *October 1, 1988, to December 31, 1995.* |
| *7.25 ...* | *January 1, 1996, to December 31, 1996.* |
| *7.4 .....* | *January 1, 1997, to December 31, 1997.* |
| *7.5 .....* | *January 1, 1998, to December 31, 2002.* |
| *7 .....* | *After December 31, 2002.";* |

7 *and*
8 *(I) by inserting after the matter relating to*
9 *a Claims Court judge the following:*

| | | |
|---|---|---|
| *"Member of the Capitol Police .....* | *2.5 .....* | *August 1, 1920, to June 30, 1926.* |
| | *3.5 .....* | *July 1, 1926, to June 30, 1942.* |

| | |
|---|---|
| *5* ..... | *July 1, 1942, to June 30, 1948.* |
| *6* ..... | *July 1, 1948, to October 31, 1956.* |
| *6.5* ..... | *November 1, 1956, to December 31, 1969.* |
| *7.5* ..... | *January 1, 1970, to December 31, 1995.* |
| *7.75* ..... | *January 1, 1996, to December 31, 1996.* |
| *7.9* ..... | *January 1, 1997, to December 31, 1997.* |
| *8* ..... | *January 1, 1998, to December 31, 2002.* |
| *7.5* ..... | *After December 31, 2002.".* |

*(4) OTHER SERVICE.—*

*(A) MILITARY SERVICE.—Section 8334(j) of title 5, United States Code, is amended—*

*(i) in paragraph (1)(A) by inserting "and subject to paragraph (5)," after "Except as provided in subparagraph (B),"; and*

*(ii) by adding at the end thereof the following new paragraph:*

*"(5) Effective with respect to any period of military service after December 31, 1995, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee, subject to paragraph (1)(B).".*

*(B) VOLUNTEER SERVICE.—Section 8334(l) of title 5, United States Code, is amended—*

*(i) in paragraph (1) by adding at the end thereof the following: "This paragraph shall be subject to paragraph (4)."; and*

*(ii) by adding at the end thereof the following new paragraph:*

*"(4) Effective with respect to any period of service after December 31, 1995, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee.".*

*(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—*

*(1) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—*

*(A) IN GENERAL.—Section 8422(a) of title 5, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following:*

*"(2) The percentage to be deducted and withheld from basic pay for any pay period shall be equal to—*

*"(A) the applicable percentage under paragraph (3), minus*

*"(B) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance).*

*"(3) The applicable percentage under this paragraph, for civilian service shall be as follows:*

| | | |
|---|---|---|
| *Employee* | *7* | *Before January 1, 1996.* |

| | | |
|---|---|---|
| | *7.25* | *January 1, 1996, to December 31, 1996.* |
| | *7.4* | *January 1, 1997, to December 31, 1997.* |
| | *7.5* | *January 1, 1998, to December 31, 2002.* |
| | *7* | *After December 31, 2002.* |
| *Congressional employee* | *7.5* | *Before January 1, 1996.* |
| | *7.25* | *January 1, 1996, to December 31, 1996.* |
| | *7.4* | *January 1, 1997, to December 31, 1997.* |
| | *7.5* | *January 1, 1998, to December 31, 2002.* |
| | *7* | *After December 31, 2002.* |
| *Member* | *7.5* | *Before January 1, 1996.* |
| | *7.25* | *January 1, 1996, to December 31, 1996.* |
| | *7.4* | *January 1, 1997, to December 31, 1997.* |
| | *7.5* | *January 1, 1998, to December 31, 2002.* |
| | *7* | *After December 31, 2002.* |
| *Law enforcement officer, firefighter, member of the Capitol Police, or air traffic controller.* | *7.5* | *Before January 1, 1996.* |
| | *7.75* | *January 1, 1996, to December 31, 1996.* |
| | *7.9* | *January 1, 1997, to December 31, 1997.* |
| | *8* | *January 1, 1998, to December 31, 2002.* |
| | *7.5* | *After December 31, 2002.* |

*(B) MILITARY SERVICE.—Section 8422(e) of title 5, United States Code, is amended—*

*(i) in paragraph (1)(A) by inserting "and subject to paragraph (6)," after "Except as provided in subparagraph (B),"; and*

*(ii) by adding at the end thereof the following:*

*"(6) The percentage of basic pay under section 204 of title 37 payable under paragraph (1), with respect to any period of military service performed during—*

*"(A) January 1, 1996, through December 31, 1996, shall be 3.25 percent;*

*"(B) January 1, 1997, through December 31, 1997, shall be 3.4 percent; and*

*"(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.".*

*(C) VOLUNTEER SERVICE.—Section 8422(f) of title 5, United States Code, is amended—*

*(i) in paragraph (1) by adding at the end thereof the following: "This paragraph shall be subject to paragraph (4)."; and*

*(ii) by adding at the end the following: "(4) The percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1), with respect to any period of volunteer service performed during—*

*"(A) January 1, 1996, through December 31, 1996, shall be 3.25 percent;*

*"(B) January 1, 1997, through December 31, 1997, shall be 3.4 percent; and*

*"(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.".*

*(2) NO REDUCTION IN AGENCY CONTRIBUTIONS.—Agency contributions under section 8423 (a) and (b) of title 5, United States Code , shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after January 1, 1996.*

***SEC. 6003. FEDERAL RETIREMENT PROVISIONS RELATING TO MEMBERS OF CONGRESS AND CONGRESSIONAL EMPLOYEES.***

*(a) RELATING TO THE YEARS OF SERVICE AS A MEMBER OF CONGRESS AND CONGRESSIONAL EMPLOYEES FOR PURPOSES OF COMPUTING AN ANNUITY.—*

*(1) CSRS.—Section 8339 of title 5, United States Code, is amended—*

*(A) in subsection (a) by inserting "or Member" after "employee"; and*

*(B) by striking out subsections (b) and (c).*

*(2) FERS.—Section 8415 of title 5, United States Code, is amended—*

*(A) by striking out subsections (b) and (c);*

*(B) in subsections (a) and (g) by inserting "or Member" after "employee" each place it appears; and*

*(C) in subsection (g)(2) by striking out "Congressional employee".*

*(b) ACCRUAL RATE FOR MEMBER AND CONGRESSIONAL EMPLOYEE SERVICE PERFORMED BUT NOT VESTED BEFORE EFFECTIVE DATE.—*

*(1) APPLICATION.—This subsection shall apply to an individual who—*

*(A) is a Member of Congress or Congressional employee on December 31, 1995;*

*(B) has performed less than 5 years of service as a Member of Congress or Congressional employee on December 31, 1995; and*

*(C) after December 31, 1995, completes 5 years of service as a Member of Congress or Congressional employee, that includes a period of service performed as a Member of Congress or Congressional employee before January 1, 1996.*

*(2) COMPUTATION OF ANNUITY.— In computing the annuity of an individual described under paragraph (1)—*

*(A) any period of service as a Member of Congress or Congressional employee performed before January 1, 1996, shall be computed under section 8339 or 8415 of title 5, United States Code (as though the amendments under subsection (a) of this section were not enacted); and*

*(B) the 5 year service requirement under subsections (b) and (c) of section 8339 or 8415 of such title (as in effect before the date of enactment of this Act) shall be deemed fulfilled.*

*(c) CAPITOL POLICE.—Section 8339(q) of title 5, United States Code, is amended by striking out "with subsection (b), except that, in the case of a member who retires under section 8335(d) or 8336(m), and who meets the requirements of subsection (b)(2)," and inserting in lieu thereof "with subsection (a), except that in the case of a member who retires under section 8335(d) or 8336(m), and who has deductions withheld from his pay or has made deposit covering his last 5 years of civilian service,".*

*(d) ADMINISTRATIVE REGULATIONS.—The Office of Personnel Management, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, may prescribe regulations to carry out the provisions of this section and the amendments made by this section for applicable employees and Members of Congress.*

*(e) EFFECTIVE DATES.—*

*(1) YEARS OF SERVICE; ANNUITY COMPUTATION.—*

*(A) SERVICE AFTER EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1996, and shall apply only with respect to the computation of an annuity relating to—*

*(i) the service of a Member of Congress as a Member or as a Congressional em-*

*ployee performed on or after January 1, 1996; and*

*(ii) the service of a Congressional employee as a Congressional employee performed on or after January 1, 1996.*

*(B) SERVICE BEFORE EFFECTIVE DATE.—An annuity shall be computed as though the amendments made under subsection (a) had not been enacted with respect to—*

*(i) the service of a Member of Congress as a Member or a Congressional employee or military service performed before January 1, 1996; and*

*(ii) the service of a Congressional employee as a Congressional employee or military service performed before January 1, 1996.*

*(C) ALTERNATIVE EFFECTIVE DATE RELATING TO MEMBERS OF CONGRESS.—If a court of competent jurisdiction makes a final determination that a provision of this paragraph violates the 27th amendment of the United States Constitution, the effective date and application dates relating to Members of Congress shall be January 1, 1997.*

*(2) ADMINISTRATIVE PROVISIONS.—The provisions of subsections (b), (c), and (d) shall take effect on the date of the enactment of this Act.*

**SEC. 6004. ACCRUAL RATES RELATING TO CERTAIN JUDGES WITH SIMILAR TREATMENT AS CONGRESSIONAL SERVICE.**

*(a) JUDGE OF THE UNITED STATES COURT OF MILITARY APPEALS.—Section 8339(d)(7) of title 5, United States Code, is amended by striking out "service." and inserting in lieu thereof "service performed before January 1, 1996.".*

*(b) CLAIMS COURT JUDGE, BANKRUPTCY JUDGE, UNITED STATES MAGISTRATE.—Section 8339(n) of title 5, United States Code, is amended by striking out "service." and inserting in lieu thereof "service performed before January 1, 1996. The annuity of any such employee is, with respect to any service referred to in the preceding sentence that is performed on or after January 1, 1996, computed under subsection (a).".*

**SEC. 6005. REPEAL OF AUTHORIZATION OF TRANSITIONAL APPROPRIATIONS FOR THE UNITED STATES POSTAL SERVICE.**

*(a) REPEAL.—*

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

*(2) TECHNICAL AND CONFORMING AMENDMENTS.—*

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

*(B) Section 2003(e)(2) of such title is amended by striking "sections 2401 and 2004" each place it appears and inserting "section 2401".*

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

*"(h) Liabilities of the former Post Office Department to the Employees' Compensation Fund (appropriations for which were authorized by former section 2004, as in effect before the effective date of this subsection) shall be liabilities of the Postal Service payable out of the Fund.".*

*(c) EFFECTIVE DATE.—*

*(1) IN GENERAL.—This section and the amendments made by this section shall be effective as of October 1, 1995.*

*(2) PROVISIONS RELATING TO PAYMENTS FOR FISCAL YEAR 1996.—*

*(A) AMOUNTS NOT YET PAID.—No payment may be made to the Postal Service Fund, on or after the date of the enactment of this Act, pursuant to any appropriation for fiscal year 1996 authorized by section 2004 of title 39, United States Code (as in effect before the effective date of this section).*

*(B) AMOUNTS PAID.—If any payment to the Postal Service Fund is or has been made pursuant to an appropriation for fiscal year 1996 authorized by such section 2004, then an amount equal to the amount of such payment shall be paid from such Fund into the Treasury as miscellaneous receipts.*

## *Subtitle B—Patent and Trademark Fees*

### *SEC. 6011. PATENT AND TRADEMARK FEES.*

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

*(1) in subsection (a) by striking "1998" and inserting "2002";*

*(2) in subsection (b)(2) by striking "1998" and inserting "2002"; and*

*(3) in subsection (c)—*

*(A) by striking "through 1998" and inserting "through 2002"; and*

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

*"(9) $119,000,000 in fiscal year 1999.*

*"(10) $119,000,000 in fiscal year 2000.*

*"(11) $119,000,000 in fiscal year 2001.*

*"(12) $119,000,000 in fiscal year 2002.".*

## *Subtitle C—GSA Property Sales*

### *SEC. 6021. SALE OF GOVERNORS ISLAND, NEW YORK.*

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

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

*(c) PROCEEDS.—Proceeds from the disposal of Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.*

***SEC. 6022. SALE OF AIR RIGHTS.***

*(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall sell, at fair market value and in a manner to be determined by the Administrator, the air rights adjacent to Washington Union Station described in subsection (b), including air rights conveyed to the Administrator under subsection (d). The Administrator shall complete the sale by such date as is necessary to ensure that the proceeds from the sale will be deposited in accordance with subsection (c).*

*(b) DESCRIPTION.—The air rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:*

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

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

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

*(c) PROCEEDS.—Before September 30, 1996, proceeds from the sale of air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.*

*(d) CONVEYANCE OF AMTRAK AIR RIGHTS.—*

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

*(2) FAILURE TO COMPLY.—If Amtrak does not meet the condition established by paragraph (1), Amtrak shall be prohibited from obligating Federal funds after March 1, 1996.*

***SEC. 6023. AVAILABILITY OF SURPLUS PROPERTY FOR HOMELESS ASSISTANCE.***

*(a) REPEAL.—(1) Title V of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411 et seq.) is repealed.*

*(2) The table of contents in section 101(b) of that Act is amended by striking the items relating to title V.*

*(3) This subsection shall be effective October 1, 1995.*

*(b) AUTHORITY TO TRANSFER SURPLUS REAL PROPERTY FOR HOUSING USE.—Section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) is amended by adding at the end the following:*

*"(r) Under such regulations as the Administrator may prescribe, and in consultation with appropriate local governmental authorities, the Administrator may transfer to any nonprofit organization which exists for the primary purpose of providing housing or housing assistance for homeless individuals or families, such surplus real property, including buildings, fixtures, and equipment situated thereon, as is needed for housing use.*

*"(s)(1) Under such regulations as the Administrator may prescribe, and in consultation with appropriate local governmental authorities, the Administrator may transfer to any non-profit organization which exists for the primary purpose of providing housing or housing assistance for low-income individuals or families such surplus real property, including buildings, fixtures, and equipment situated thereon, as is needed for housing use.*

*"(2) In making transfers under this subsection, the Administrator shall take such actions, which may include grant agreements with an organization receiving a grant, as may be necessary to ensure that—*

*"(A) assistance provided under this subsection is used to facilitate and encourage homeownership opportunities through the construction of self-help housing, under terms which require that the person receiving the assistance contribute a significant amount of labor toward the construction; and*

*"(B) the dwellings constructed with property transferred under this subsection shall be quality dwellings that comply with local building and safety codes and standards and shall be available at prices below the prevailing market prices.".*

# TITLE VII—TRANSFORMATION OF THE MEDICAID PROGRAM

## SEC. 7000. SHORT TITLE OF TITLE; TABLE OF CONTENTS OF TITLE.

*(a) SHORT TITLE OF TITLE.—This title may be cited as the "Medicaid Transformation Act of 1995".*

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

*Sec. 7000. Short title of title; table of contents of title.*
*Sec. 7001. Transformation of medicaid program.*
*Sec. 7002. Termination of current program and transition.*
*Sec. 7003. Medicare/MediGrant integration demonstration project.*

## SEC. 7001. TRANSFORMATION OF MEDICAID PROGRAM.

*The Social Security Act is amended by adding at the end the following new title:*

### "TITLE XXI—MEDIGRANT PROGRAM FOR LOW-INCOME INDIVIDUALS AND FAMILIES

"TABLE OF CONTENTS OF TITLE

"Sec. 2100. Purpose; State MediGrant plans.

"PART A—OBJECTIVES, GOALS, AND PERFORMANCE UNDER STATE PLANS

"Sec. 2101. Description of strategic objectives and performance goals.
"Sec. 2102. Annual reports.
"Sec. 2103. Periodic, independent evaluations.
"Sec. 2104. Description of process for MediGrant plan development.
"Sec. 2105. Consultation in MediGrant plan development.

"PART B—ELIGIBILITY, BENEFITS, AND SET-ASIDES

"Sec. 2111. Eligibility and benefits.
"Sec. 2112. Set-asides of funds.
"Sec. 2113. Premiums and cost-sharing.
"Sec. 2114. Description of process for developing capitation payment rates.
"Sec. 2115. Preventing spousal impoverishment.
"Sec. 2116. State flexibility.

"PART C—PAYMENTS TO STATES

"Sec. 2121. Allotment of funds among States.

*"Sec. 2122. Payments to States.*
*"Sec. 2123. Limitation on use of funds; disallowance.*

*"PART D—PROGRAM INTEGRITY AND QUALITY*

*"Sec. 2131. Use of audits to achieve fiscal integrity.*
*"Sec. 2132. Fraud prevention program.*
*"Sec. 2133. Information concerning sanctions taken by State licensing authorities against health care practitioners and providers.*
*"Sec. 2134. State MediGrant fraud control units.*
*"Sec. 2135. Recoveries from third parties and others.*
*"Sec. 2136. Assignment of rights of payment.*
*"Sec. 2137. Quality assurance requirements for nursing facilities.*
*"Sec. 2138. Other provisions promoting program integrity.*

*"PART E—ESTABLISHMENT AND AMENDMENT OF MEDIGRANT PLANS*

*"Sec. 2151. Submittal and approval of MediGrant plans.*
*"Sec. 2152. Submittal and approval of plan amendments.*
*"Sec. 2153. Process for State withdrawal from program.*
*"Sec. 2154. Sanctions for noncompliance.*
*"Sec. 2155. Secretarial authority.*

*"PART F—GENERAL PROVISIONS*

*"Sec. 2171. Definitions.*
*"Sec. 2172. Treatment of territories.*
*"Sec. 2173. Description of treatment of Indian Health Service facilities.*
*"Sec. 2174. Application of certain general provisions.*
*"Sec. 2175. MediGrant master drug rebate agreements.*

***"SEC. 2100. PURPOSE; STATE MEDIGRANT PLANS.***

*"(a) PURPOSE.—The purpose of this title is to provide block grants to States to enable them to provide medical assistance to low-income individuals and families in a more effective, efficient, and responsive manner.*

*"(b) STATE PLAN REQUIRED.—A State is not eligible for payment under section 2122 of this title unless the State has submitted to the Secretary under part E a plan (in this title referred to as a 'MediGrant plan') that—*

*"(1) sets forth how the State intends to use the funds provided under this title to provide medical as-*

*sistance to needy individuals and families consistent with the provisions of this title, and*

*"(2) is approved under such part.*

*"(c) CONTINUED APPROVAL.—An approved MediGrant plan shall continue in effect unless and until—*

*"(1) the State amends the plan under section 2152,*

*"(2) the State terminates participation under this title under section 2153, or*

*"(3) the Secretary finds substantial noncompliance of the plan with the requirements of this title under section 2154.*

*"(d) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under part C.*

*"PART A—OBJECTIVES, GOALS, AND PERFORMANCE UNDER STATE PLANS*

***"SEC. 2101. DESCRIPTION OF STRATEGIC OBJECTIVES AND PERFORMANCE GOALS.***

*"(a) DESCRIPTION.—A MediGrant plan shall include a description of the strategic objectives and performance goals the State has established for providing health care services to low-income populations under this title, includ-*

*ing a general description of the manner in which the plan is designed to meet these objectives and goals.*

*"(b) CERTAIN OBJECTIVES AND GOALS REQUIRED.—A MediGrant plan shall include strategic objectives and performance goals relating to rates of childhood immunizations and reductions in infant mortality and morbidity.*

*"(c) CONSIDERATIONS.—In specifying these objectives and goals the State may consider factors such as the following:*

*"(1) The State's priorities with respect to providing assistance to low-income populations.*

*"(2) The State's priorities with respect to the general public health and the health status of individuals eligible for assistance under the MediGrant plan.*

*"(3) The State's financial resources, the particular economic conditions in the State, and relative adequacy of the health care infrastructure in different regions of the State.*

*"(d) PERFORMANCE MEASURES.—To the extent practicable—*

*"(1) one or more performance goals shall be established by the State for each strategic objective identified in the MediGrant plan; and*

*"(2) the MediGrant plan shall describe, how program performance will be—*

*"(A) measured through objective, independently verifiable means, and*

*"(B) compared against performance goals, in order to determine the State's performance under this title.*

*"(e) PERIOD COVERED.—*

*"(1) STRATEGIC OBJECTIVES.—The strategic objectives shall cover a period of not less than 5 years and shall be updated and revised at least every 3 years.*

*"(2) PERFORMANCE GOALS.—The performance goals shall be established for dates that are not more than 3 years apart.*

***"SEC. 2102. ANNUAL REPORTS.***

*"(a) IN GENERAL.—In the case of a State with a MediGrant plan that is in effect for part or all of a fiscal year, no later than March 31 following such fiscal year (or March 31, 1998, in the case of fiscal year 1996) the State shall prepare and submit to the Secretary and the Congress a report on program activities and performance under this title for such fiscal year.*

*"(b) CONTENTS.—Each annual report under this section for a fiscal year shall include the following:*

*"(1) EXPENDITURE AND BENEFICIARY SUMMARY.—*

*"(A) INITIAL SUMMARY.—For the report for fiscal year 1997 (and, if applicable, fiscal year 1996), a summary of all expenditures under the MediGrant plan during the fiscal year (and during any portions of fiscal year 1996 during which the MediGrant plan was in effect under this title) as follows:*

*"(i) Aggregate medical assistance expenditures, disaggregated to the extent required to determine compliance with the set-aside requirements of subsections (a) through (d) of section 2112 and to compute the case mix index under section 2121(d)(3).*

*"(ii) For each general category of eligible individuals (specified in subsection (c)(1), aggregate medical assistance expenditures and the total and average number of eligible individuals under the MediGrant plan.*

*"(iii) By each general category of eligible individuals, total expenditures for each of the categories of health care items and services (specified in subsection (c)(2))*

*which are covered under the MediGrant plan and provided on a fee-for-service basis.*

*"(iv) By each general category of eligible individuals, total expenditures for payments to capitated health care organizations (as defined in section 2114(c)(1)).*

*"(v) Total administrative expenditures.*

*"(B) SUBSEQUENT SUMMARIES.—For reports for each succeeding fiscal year, a summary of—*

*"(i) all expenditures under the MediGrant plan, and*

*"(ii) the total and average number of eligible individuals under the MediGrant plan for each general category of eligible individuals.*

*"(2) UTILIZATION SUMMARY.—*

*"(A) INITIAL SUMMARY.—For the report for fiscal year 1997 (and, if applicable, fiscal year 1996), summary statistics on the utilization of health care services under the MediGrant plan during the year (and during any portions of fiscal year 1996 during which the MediGrant plan was in effect under this title) as follows:*

*"(i) For each general category of eligible individuals and for each of the categories of health care items and services which are covered under the MediGrant plan and provided on a fee-for-service basis, the number and percentage of persons who received such a type of service or item during the period covered by the report.*

*"(ii) Summary of health care utilization data reported to the State by capitated health care organizations.*

*"(B) SUBSEQUENT SUMMARIES.—For reports for each succeeding fiscal year, summary statistics on the utilization of health care services under the MediGrant plan.*

*"(3) ACHIEVEMENT OF PERFORMANCE GOALS.—With respect to each performance goal established under section 2101 and applicable to the year involved—*

*"(A) a brief description of the goal;*

*"(B) a description of the methods to be used to measure the attainment of such goal;*

*"(C) data on the actual performance with respect to the goal;*

*"(D) a review of the extent to which the goal was achieved, based on such data; and*

*"(E) if a performance goal has not been met—*

*"(i) why the goal was not met, and*

*"(ii) actions to be taken in response to such performance, including adjustments in performance goals or program activities for subsequent years.*

*"(4) PROGRAM EVALUATIONS.—A summary of the findings of evaluations under section 2103 completed during the fiscal year covered by the report.*

*"(5) FRAUD AND ABUSE AND QUALITY CONTROL ACTIVITIES.—A general description of the State's activities under part D to detect and deter fraud and abuse and to assure quality of services provided under the program.*

*"(6) PLAN ADMINISTRATION.—*

*"(A) A description of the administrative roles and responsibilities of entities in the State responsible for administration of this title.*

*"(B) Organizational charts for each entity in the State primarily responsible for activities under this title.*

*"(C) A brief description of each interstate compact (if any) the State has entered into with other States with respect to activities under this title.*

*"(D) General citations to the State statutes and administrative rules governing the State's activities under this title.*

*"(c) DESCRIPTION OF CATEGORIES.—In this section:*

*"(1) GENERAL CATEGORIES OF ELIGIBLE INDIVIDUALS.—Each of the following is a general category of eligible individuals:*

*"(A) Pregnant women.*

*"(B) Children.*

*"(C) Blind or disabled adults who are not elderly individuals.*

*"(D) Elderly individuals.*

*"(E) Other adults.*

*"(2) CATEGORIES OF HEALTH CARE ITEMS AND SERVICES.—The health care items and services described in each paragraph of section 2171(a) shall be considered a separate category of health care items and services.*

***"SEC. 2103. PERIODIC, INDEPENDENT EVALUATIONS.***

*"(a) IN GENERAL.—During fiscal year 1998 and every third fiscal year thereafter, each State shall provide for an*

*evaluation of the operation of its MediGrant plan under this title.*

*"(b) INDEPENDENT.—Each such evaluation with respect to an activity under the MediGrant plan shall be conducted by an entity that is neither responsible under State law for the submission of the State MediGrant plan (or part thereof) nor responsible for administering (or supervising the administration of) the activity. If consistent with the previous sentence, such an entity may be a college or university, a State agency, a legislative branch agency in a State, or an independent contractor.*

*"(c) RESEARCH DESIGN.—Each such evaluation shall be conducted in accordance with a research design that is based on generally accepted models of survey design and sampling and statistical analysis.*

***"SEC. 2104. DESCRIPTION OF PROCESS FOR MEDIGRANT PLAN DEVELOPMENT.***

*"Each MediGrant plan shall include a description of the process under which the plan shall be developed and implemented in the State (consistent with section 2105).*

***"SEC. 2105. CONSULTATION IN MEDIGRANT PLAN DEVELOPMENT.***

*"(a) PUBLIC NOTICE PROCESS.—Before submitting a MediGrant plan or a plan amendment described in sub-*

*section (c) to the Secretary under part E, a State shall provide—*

*"(1) public notice respecting the submittal of the proposed plan or amendment, including a general description of the plan or amendment,*

*"(2) a means for the public to inspect or obtain a copy (at reasonable charge) of the proposed plan or amendment,*

*"(3) an opportunity for submittal and consideration of public comments on the proposed plan or amendment, and*

*"(4) for consultation with one or more advisory committees established and maintained by the State.*

*The previous sentence shall not apply to a revision of a MediGrant plan (or revision of an amendment to a plan) made by a State under section 2154(c)(1) or to a plan amendment withdrawal described in section 2154(c)(4).*

*"(b) CONTENTS OF NOTICE.—A notice under subsection (a)(1) for a proposed plan or amendment shall include a description of—*

*"(1) the general purpose of the proposed plan or amendment (including applicable effective dates),*

*"(2) where the public may inspect the proposed plan or amendment,*

*"(3) how the public may obtain a copy of the proposed plan or amendment and the applicable charge (if any) for the copy, and*

*"(4) how the public may submit comments on the proposed plan or amendment, including any deadlines applicable to consideration of such comments.*

*"(c) AMENDMENTS DESCRIBED.—An amendment to a MediGrant plan described in this subsection is an amendment which makes a material and substantial change in eligibility under the MediGrant plan or the benefits provided under the plan.*

*"(d) PUBLICATION.—Notices under this section may be published (as selected by the State) in one or more daily newspapers of general circulation in the State or in any publication used by the State to publish State statutes or rules.*

*"(e) COMPARABLE PROCESS.—A separate notice, or notices, shall not be required under this section for a State if notice of the MediGrant plan or an amendment to the plan will be provided under a process specified in State law that is substantially equivalent to the notice process specified in this section.*

*"PART B—ELIGIBILITY, BENEFITS, AND SET-ASIDES*

***"SEC. 2111. ELIGIBILITY AND BENEFITS.***

*"(a) DESCRIPTION OF GENERAL ELIGIBILITY AND BENEFITS.—Each MediGrant plan shall include a description (consistent with this title) of the following:*

*"(1) GENERAL ELIGIBILITY STANDARDS.—The general eligibility standards of the plan for eligible low-income individuals (including individuals described in subsection (b)), including—*

*"(A) any limitations as to the duration of eligibility,*

*"(B) any eligibility standards relating to age, income and resources (including any standards relating to spenddowns and disposition of resources), residency, disability status, immigration status, or employment status of individuals,*

*"(C) methods of establishing and continuing eligibility and enrollment, including the methodology for computing family income,*

*"(D) the eligibility standards in the plan that protect the income and resources of a married individual who is living in the community and whose spouse is residing in an institution in order to prevent the impoverishment of the community spouse, and*

*"(E) any other standards relating to eligibility for medical assistance under the plan.*

*"(2) SCOPE OF ASSISTANCE.—The amount, duration, and scope of health care services and items covered under the plan, including differences among different eligible population groups.*

*"(3) DELIVERY METHOD.—The State's approach to delivery of medical assistance, including a general description of—*

*"(A) the use (or intended use) of vouchers, fee-for-service, or managed care arrangements (such as capitated health care plans, case management, and case coordination); and*

*"(B) utilization control systems.*

*"(4) FEE-FOR-SERVICE BENEFITS.—To the extent that medical assistance is furnished on a fee-for-service basis—*

*"(A) how the State determines the qualifications of health care providers eligible to provide such assistance; and*

*"(B) how the State determines rates of reimbursement for providing such assistance.*

*"(5) COST-SHARING.—Beneficiary cost-sharing (if any), including variations in such cost-sharing by population group or type of service and financial re-*

*sponsibilities of parents of recipients who are children and the spouses of recipients.*

*"(6) UTILIZATION INCENTIVES.—Incentives or requirements (if any) to encourage the appropriate utilization of services.*

*"(7) SUPPORT FOR CERTAIN HOSPITALS.—*

*"(A) IN GENERAL.—With respect to hospitals described in subparagraph (B) located in the State, a description of the extent to which provisions are made for expenditures for items and services furnished by such hospitals and covered under the MediGrant plan.*

*"(B) HOSPITALS DESCRIBED.—A hospital described in this subparagraph is a short-term acute care general hospital or a children's hospital, the low-income utilization rate of which exceeds the lesser of—*

*"(i) 1 standard deviation above the mean low-income utilization rate for hospitals receiving payments under a MediGrant plan in the State in which such hospital is located, or*

*"(ii) 1¼ standard deviations above the mean low-income utilization rate for hos-*

*pitals receiving such payments in the 50 States and the District of Columbia.*

*"(C) LOW-INCOME UTILIZATION RATE.—For purposes of subparagraph (B), the term 'low-income utilization rate' means, for a hospital, a fraction (expressed as a percentage), the numerator of which is the hospital's number of patient days attributable to patients who (for such days) were eligible for medical assistance under a MediGrant plan or were uninsured in a period, and the denominator of which is the total number of the hospital's patient days in that period.*

*"(D) PATIENT DAYS.—For purposes of subparagraph (C), the term 'patient day' includes each day in which—*

*"(i) an individual, including a newborn, is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere; or*

*"(ii) an individual makes one or more outpatient visits to the hospital.*

*"(b) MANDATORY COVERAGE.—Each MediGrant plan shall provide for making medical assistance available (sub-*

*ject to the eligibility standards described under the plan pursuant to subsection (a)(1) and State flexibility of benefits under section 2116) to—*

*"(1) any pregnant woman or child under the age of 13 whose family income does not exceed the poverty line applicable to a family of the size involved, and*

*"(2) any individual who is disabled, as defined by the State.*

*"(c) IMMUNIZATIONS FOR CHILDREN.—The MediGrant plan shall provide medical assistance for immunizations for children eligible for any medical assistance under the MediGrant plan, in accordance with a schedule for immunizations established by the Health Department of the State in consultation with the individuals and entities in the State responsible for the administration of the plan.*

*"(d) FAMILY PLANNING SERVICES.—The MediGrant plan shall provide prepregnancy planning services and supplies as specified by the State.*

*"(e) PREEXISTING CONDITION EXCLUSIONS.—Notwithstanding any other provision of this title—*

*"(1) a MediGrant plan may not deny or exclude coverage of any item or service for an eligible individual for benefits under the MediGrant plan for such*

*item or service on the basis of a preexisting condition; and*

*"(2) if a State contracts or makes other arrangements (through the eligible individual or through another entity) with a capitated health care organization, insurer, or other entity, for the provision of items or services to eligible individuals under the MediGrant plan and the State permits such organization, insurer, or other entity to exclude coverage of a covered item or service on the basis of a preexisting condition, the State shall provide, through its MediGrant plan, for such coverage (through direct payment or otherwise) for any such covered item or service denied or excluded on the basis of a preexisting condition.*

*"(f) FAMILY RESPONSIBILITY.—A MediGrant plan may not require an adult child with a family income below the State median income (as determined by the State) applicable to a family of the size involved to contribute to the cost of covered nursing facility services and other long-term care services for the child's parent under the plan.*

*"(g) SOLVENCY STANDARDS FOR CAPITATED HEALTH CARE ORGANIZATIONS.—*

*"(1) IN GENERAL.—A State may not contract with a capitated health care organization, as defined*

*in section 2114(c)(1), for the provision of medical assistance under a MediGrant plan under which the organization is—*

*"(A) at full financial risk, as defined by the State, unless the organization meets solvency standards established by the State for private health maintenance organizations, or*

*"(B) is not at such risk, unless the organization meets solvency standards that are established under the MediGrant plan.*

*"(2) TREATMENT OF PUBLIC ENTITIES.—Paragraph (1) shall not apply to an organization that is a public entity or if the solvency of such organization is guaranteed by the State.*

*"(3) TRANSITION.—In the case of a capitated health care organization that as of the date of the enactment of this title has entered into a contract with a State for the provision of medical assistance under title XIX under which the organization assumes full financial risk and is receiving capitation payments, paragraph (1) shall not apply to such organization until 3 years after the date of the enactment of this title.*

***"SEC. 2112. SET-ASIDES OF FUNDS.***

*"(a) FOR TARGETED LOW-INCOME FAMILIES.—*

*"(1) IN GENERAL.—Subject to subsection (f), a MediGrant plan shall provide that the amount of funds expended under the plan for medical assistance for targeted low-income families (as defined in paragraph (3)) for a fiscal year shall be not less than the minimum low-income-family percentage specified in paragraph (2) of the total funds expended under the plan for all medical assistance for the fiscal year.*

*"(2) MINIMUM LOW-INCOME-FAMILY PERCENTAGE.—The minimum low-income-family percentage specified in this paragraph for a State is equal to 85 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 which were attributable to expenditures for medical assistance for mandated benefits (as defined in subsection (h)) furnished to individuals—*

*"(A) who (at the time of furnishing the assistance) were under 65 years of age;*

*"(B) whose coverage (at such time) under a State plan under title XIX was required under Federal law; and*

*"(C) whose eligibility for such coverage (at such time) was not on a basis directly related to disability status, including being blind.*

*"(3) TARGETED LOW-INCOME FAMILY DEFINED.—In this subsection, the term 'targeted low-income family' means a family (which may be an individual)—*

*"(A) which includes a child or a pregnant woman; and*

*"(B) the income of which does not exceed 185 percent of the poverty line applicable to a family of the size involved.*

*"(b) FOR LOW-INCOME ELDERLY.—*

*"(1) SET-ASIDES.—Subject to subsection (f)—*

*"(A) GENERAL SET-ASIDE.—A MediGrant plan shall provide that the amount of funds expended under the plan for medical assistance for eligible low-income elderly individuals for a fiscal year shall be not less than the minimum low-income-elderly percentage specified in paragraph (2)(A) of the total funds expended under the plan for all medical assistance for the fiscal year.*

*"(B) SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—A MediGrant plan shall provide that the amount of funds expended under the plan for medical assistance for medicare cost-sharing described in section 2171(c)(1) for a fiscal year shall be not less than the minimum*

*medicare premium assistance percentage specified in paragraph (2)(B) of the total funds expended under the plan for all medical assistance for the fiscal year. The MediGrant plan shall provide priority for such making such assistance available for targeted low-income elderly individuals (as defined in paragraph (3)).*

*"(2) MINIMUM PERCENTAGES.—*

*"(A) FOR GENERAL SET-ASIDE.—The minimum low-income-elderly percentage specified in this subparagraph for a State is equal to 85 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 which was attributable to expenditures for medical assistance for mandated benefits furnished to individuals—*

*"(i) whose eligibility for such assistance was based on their being 65 years of age or older; and*

*"(ii)(I) whose coverage (at such time) under a State plan under title XIX was required under Federal law, or (II) who (at such time) were residents of a nursing facility.*

*"(B) FOR SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—The minimum medicare premium assistance percentage specified in this subparagraph for a State is equal to 90 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1993 through 1995 which was attributable to expenditures for medical assistance for medicare premiums described in section 1905(p)(3)(A) for individuals whose coverage (at such time) for such assistance for such premiums under a State plan under title XIX was required under Federal law.*

*"(3) TARGETED LOW-INCOME ELDERLY INDIVIDUAL DEFINED.—In this subsection, the term 'targeted low-income elderly individual' means an elderly individual whose family income does not exceed 100 percent of the poverty line applicable to a family of the size involved.*

*"(c) FOR LOW-INCOME DISABLED PERSONS.—*

*"(1) IN GENERAL.—Subject to subsection (f), a MediGrant plan shall provide that the percentage of funds expended under the plan for medical assistance for eligible low-income individuals who are not elderly individuals and who are eligible for such assistance*

*on the basis of a disability, including being blind, for a fiscal year is not less than the minimum low-income-disabled percentage specified in paragraph (2) of the total funds expended under the plan for medical assistance for the fiscal year.*

*"(2) MINIMUM LOW-INCOME-DISABLED PERCENTAGE.—The minimum low-income-disabled percentage specified in this paragraph for a State is equal to 85 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 which was attributable to expenditures for medical assistance for mandated benefits furnished to individuals—*

*"(A) whose coverage (at such time) under a State plan under title XIX was required under Federal law; and*

*"(B) whose coverage (at such time) was on a basis directly related to disability status, including being blind.*

*"(d) FOR SERVICES PROVIDED AT FEDERALLY QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.—Subject to subsection (f), a MediGrant plan shall provide that the amount of funds expended under the plan for medical assistance for services provided at rural health clinics (as defined in section 1861(aa)(2)) and Federally-qualified*

*health centers (as defined in section 1861(aa)(4)), for eligible low-income individuals for a fiscal year is not less than 85 percent of the average annual expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 which were attributable to expenditures for medical assistance for rural health clinic services and Federally-qualified health center services (as defined in section 1905(l)).*

*"(e) USE OF RESIDUAL FUNDS.—*

*"(1) IN GENERAL.—Subject to limitations on payment under section 2123, any funds not required to be expended under the set-asides under the previous subsections may be expended under the MediGrant plan for any of the following:*

*"(A) ADDITIONAL MEDICAL ASSISTANCE.—Medical assistance for eligible low-income individuals (as defined in section 2171(b)), in addition to any medical assistance made available under a previous subsection.*

*"(B) MEDICALLY-RELATED SERVICES.—Payment for medically-related services (as defined in paragraph (2)).*

*"(C) ADMINISTRATION.—Payment for the administration of the MediGrant plan.*

*"(2) MEDICALLY-RELATED SERVICES DEFINED.—In this title, the term 'medically-related services' means services reasonably related to, or in direct support of, the State's attainment of one or more of the strategic objectives and performance goals established under section 2101, but does not include items and services included on the list under section 2171(a) (relating to the definition of medical assistance).*

*"(f) EXCEPTIONS TO MINIMUM SET-ASIDES.—*

*"(1) ALTERNATIVE MINIMUM SET-ASIDES.—*

*"(A) IN GENERAL.—A State may provide in its MediGrant plan (through an amendment to the plan) for a lower percentage of expenditures than the minimum percentages specified in any (or all) of paragraphs (2) of subsections (a), (b), (c), and (d) if the State determines (and certifies to the Secretary) that—*

*"(i) the health care needs of the low-income populations described in paragraph (1) of the subsections (a), (b), (c), or (d) who are eligible for medical assistance under the plan during the previous fiscal year (or medicare premium assistance needs described in subsection (b)(1)(B)) can be reasonably met without the expenditure of*

*the percentages otherwise required to be expended,*

*"(ii) the performance goals established under section 2101 relating to the respective population can reasonably be met with the expenditure of such lower percentage of funds, and*

*"(iii) in the case of subsection (d) with respect to rural health clinic services and Federally-qualified health center services, the health care needs of eligible low-income individuals residing in medically underserved rural areas can reasonably be met without the level of expenditure for such services otherwise required and the performance goals established under section 2101 relating to such individuals can reasonably be met with such lower level of expenditures.*

*"(B) PERIOD OF APPLICATION.—The determination and certification under subparagraph (A) shall be made for such period as a State may request, but may not be made for a period of more than 3 consecutive Federal fiscal years (beginning with the first fiscal year for which the lower percentage is sought). A new determination*

*and certification must be made under such clause for any subsequent period.*

*"(C) NO EXCEPTION PERMITTED BEFORE FISCAL YEAR 1998.—This paragraph may not apply with respect to the percentages described in paragraphs (2) of subsections (a), (b), and (c) for a fiscal year before fiscal year 1998.*

*"(2) INDEPENDENT CERTIFICATION OF COMPLIANCE WITH GOALS.—*

*"(A) IN GENERAL.—For purposes of section 2151(c), a MediGrant plan shall not be considered to be in substantial violation of the requirements of this section if the amount of actual State expenditures specified in any (or all) of paragraphs (1) of subsections (a), (b), (c), and (d) is lower than the minimum percentages specified in any (or all) of paragraphs (2) of such subsections if an independent actuary determines and certifies to the State that the MediGrant plan is reasonably designed to result in a level of expenditures which is consistent with the requirements of such subsections.*

*"(B) LIMIT ON VARIATION.—Subparagraph (A) shall not apply in the case of a MediGrant plan for which the actual State expenditures de-*

*scribed in any (or all) of paragraphs (1) of subsections (a), (b), (c), and (d) are less than 95 percent of the expenditures which would be made if the amount of State expenditures specified in any (or all) of such paragraphs was equal to the applicable minimum percentage specified in any (or all) of paragraphs (2) of such subsections.*

*"(g) COMPUTATIONS.—States shall calculate the minimum percentages under paragraphs (2) of subsections (a), (b), (c), and (d) in a reasonable manner consistent with reports submitted to the Secretary for the fiscal years involved and medical assistance attributable to the exception provided under section 1903(v)(2) shall not be considered to be expenditures for medical assistance.*

*"(h) BENEFITS INCLUDED FOR PURPOSES OF COMPUTING SET-ASIDES.—In this section, the term 'mandated benefits'—*

*"(1) means medical assistance for items and services described in section 1905(a) to the extent such assistance with respect to such items and services was required to be provided under title XIX,*

*"(2) includes medical assistance for medicare cost-sharing only to the extent such assistance was required to be provided under section 1902(a)(10)(E), and*

*"(3) does not include medical assistance attributable to disproportionate share payment adjustments described in section 1923.*

***"SEC. 2113. PREMIUMS AND COST-SHARING.***

*"(a) IN GENERAL.—Subject to subsection (b), if any charges are imposed under the MediGrant plan for cost-sharing (as defined in subsection (d)), such cost-sharing shall be pursuant to a public cost-sharing schedule.*

*"(b) LIMITATION ON PREMIUM AND CERTAIN COST-SHARING FOR LOW-INCOME FAMILIES INCLUDING CHILDREN OR PREGNANT WOMEN.—*

*"(1) IN GENERAL.—In the case of a pregnant woman or a child who is a member of a family described in paragraph (2)—*

*"(A) the plan shall not impose any premium, and*

*"(B) the plan shall not (except as provided in subsection (c)(1)) impose any cost-sharing with respect to primary and preventive care services (as defined by the State) covered under the MediGrant plan for children or pregnant women unless such cost-sharing is nominal in nature.*

*"(2) FAMILY DESCRIBED.—A family described in this paragraph is a family (which may be an individual) which—*

*"(A) includes a child or a pregnant woman,*

*"(B) is made eligible for medical assistance under the MediGrant plan, and*

*"(C) the income of which does not exceed 100 percent of the poverty line applicable to a family of the size involved.*

*"(c) CERTAIN COST-SHARING PERMITTED.—Nothing in this section shall be construed as preventing a MediGrant plan (consistent with subsection (b))—*

*"(1) from imposing cost-sharing to discourage the inappropriate use of emergency medical services delivered through a hospital emergency room, a medical transportation provider, or otherwise,*

*"(2) from imposing premiums and cost-sharing differentially in order to encourage the use of primary and preventive care and discourage unnecessary or less economical care,*

*"(3) from scaling cost-sharing in a manner that reflects economic factors, employment status, and family size,*

*"(4) from scaling cost-sharing based on the availability to the individual or family of other health insurance coverage, or*

*"(5) from scaling cost-sharing based on participation in employment training programs, drug or alcohol abuse treatment, counseling programs, or other programs promoting personal responsibility.*

*"(d) COST-SHARING DEFINED.—In this section, the term 'cost-sharing' includes copayments, deductibles, coinsurance, and other charges for the provision of health care services.*

***"SEC. 2114. DESCRIPTION OF PROCESS FOR DEVELOPING CAPITATION PAYMENT RATES.***

*"(a) IN GENERAL.—If a State contracts (or intends to contract) with a capitated health care organization (as defined in subsection (c)(1)) under which the State makes a capitation payment (as defined in subsection (c)(2)) to the organization for providing or arranging for the provision of medical assistance under the MediGrant plan for a group of services, including at least inpatient hospital services and physicians' services, the plan shall include a description of the following:*

*"(1) USE OF ACTUARIAL SCIENCE.—The extent and manner in which the State uses actuarial science—*

*"(A) to analyze and project health care expenditures and utilization for individuals enrolled (or to be enrolled) in such an organization under the MediGrant plan, and*

*"(B) to develop capitation payment rates, including a brief description of the general methodologies used by actuaries.*

*"(2) QUALIFICATIONS OF ORGANIZATIONS.—The general qualifications, including any accreditation, State licensure or certification, or provider network standards, required by the State for participation of capitated health care organizations under the MediGrant plan.*

*"(3) DISSEMINATION PROCESS.—The process used by the State under subsection (b) and otherwise to disseminate, before entering into contracts with capitated health care organizations, actuarial information to such organizations on the historical fee-for-service costs (or, if not available, other recent financial data associated with providing covered services) and utilization associated with individuals described in paragraph (1)(A).*

*"(b) PUBLIC NOTICE AND COMMENT.—Under the MediGrant plan the State shall provide a process for providing, before the beginning of each contract year—*

*"(1) public notice of—*

*"(A) the amounts of the capitation payments (if any) made under the plan for the contract year preceding the public notice, and*

*"(B)(i) the information described under subsection (a)(1) with respect to capitation payments for the contract year involved, or (ii) amounts of the capitation payments the State expects to make for the contract year involved,*

*unless such information is designated as proprietary and not subject to public disclosure under State law, and*

*"(2) an opportunity for receiving public comment on the amounts and information for which notice is provided under paragraph (1).*

*"(c) DEFINITIONS.—In this title:*

*"(1) CAPITATED HEALTH CARE ORGANIZATION.—The term 'capitated health care organization' means a health maintenance organization or any other entity (including a health insuring organization, managed care organization, prepaid health plan, integrated service network, or similar entity) which under State law is permitted to accept capitation payments for providing (or arranging for the provision of) a group of items and services including*

*at least inpatient hospital services and physicians' services.*

*"(2) CAPITATION PAYMENT.—The term 'capitation payment' means, with respect to payment, payment on a prepaid capitation basis or any other risk basis to an entity for the entity's provision (or arranging for the provision) of a group of items and services, including at least inpatient hospital services and physicians' services.*

***"SEC. 2115. PREVENTING SPOUSAL IMPOVERISHMENT.***

*"(a) SPECIAL TREATMENT FOR INSTITUTIONALIZED SPOUSES.—*

*"(1) SUPERSEDES OTHER PROVISIONS.—In determining the eligibility for medical assistance of an institutionalized spouse (as defined in subsection (h)(1)), the provisions of this section supersede any other provision of this title which is inconsistent with them.*

*"(2) DOES NOT AFFECT CERTAIN DETERMINATIONS.—Except as this section specifically provides, this section does not apply to—*

*"(A) the determination of what constitutes income or resources, or*

*"(B) the methodology and standards for determining and evaluating income and resources.*

*"(3) NO APPLICATION IN COMMONWEALTHS AND TERRITORIES.—This section shall only apply to a State that is one of the 50 States or the District of Columbia.*

*"(b) RULES FOR TREATMENT OF INCOME.—*

*"(1) SEPARATE TREATMENT OF INCOME.—During any month in which an institutionalized spouse is in the institution, except as provided in paragraph (2), no income of the community spouse shall be deemed available to the institutionalized spouse.*

*"(2) ATTRIBUTION OF INCOME.—In determining the income of an institutionalized spouse or community spouse for purposes of the post-eligibility income determination described in subsection (d), except as otherwise provided in this section and regardless of any State laws relating to community property or the division of marital property, the following rules apply:*

*"(A) NON-TRUST PROPERTY.—Subject to subparagraphs (C) and (D), in the case of income not from a trust, unless the instrument providing the income otherwise specifically provides—*

*"(i) if payment of income is made solely in the name of the institutionalized*

*spouse or the community spouse, the income shall be considered available only to that respective spouse,*

*"(ii) if payment of income is made in the names of the institutionalized spouse and the community spouse, ½ of the income shall be considered available to each of them, and*

*"(iii) if payment of income is made in the names of the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, ½ of the joint interest shall be considered available to each spouse).*

*"(B) TRUST PROPERTY.—In the case of a trust—*

*"(i) except as provided in clause (ii), income shall be attributed in accordance with the provisions of this title; and*

*"(ii) income shall be considered available to each spouse as provided in the trust,*

*or, in the absence of a specific provision in the trust—*

*"(I) if payment of income is made solely to the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse,*

*"(II) if payment of income is made to both the institutionalized spouse and the community spouse, ½ of the income shall be considered available to each of them, and*

*"(III) if payment of income is made to the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, ½ of the joint interest shall be considered available to each spouse).*

*"(C) PROPERTY WITH NO INSTRUMENT.—In the case of income not from a trust in which*

*there is no instrument establishing ownership, subject to subparagraph (D), ½ of the income shall be considered to be available to the institutionalized spouse and ½ to the community spouse.*

*"(D) REBUTTING OWNERSHIP.—The rules of subparagraphs (A) and (C) are superseded to the extent that an institutionalized spouse can establish, by a preponderance of the evidence, that the ownership interests in income are other than as provided under such subparagraphs.*

*"(c) RULES FOR TREATMENT OF RESOURCES.—*

*"(1) COMPUTATION OF SPOUSAL SHARE AT TIME OF INSTITUTIONALIZATION.—*

*"(A) TOTAL JOINT RESOURCES.—There shall be computed (as of the beginning of the first continuous period of institutionalization of the institutionalized spouse)—*

*"(i) the total value of the resources to the extent either the institutionalized spouse or the community spouse has an ownership interest, and*

*"(ii) a spousal share which is equal to ½ of such total value.*

*"(B) ASSESSMENT.—At the request of an institutionalized spouse or community spouse, at the beginning of the first continuous period of institutionalization of the institutionalized spouse and upon the receipt of relevant documentation of resources, the State shall promptly assess and document the total value described in subparagraph (A)(i) and shall provide a copy of such assessment and documentation to each spouse and shall retain a copy of the assessment for use under this section. If the request is not part of an application for medical assistance under this title, the State may, at its option as a condition of providing the assessment, require payment of a fee not exceeding the reasonable expenses of providing and documenting the assessment. At the time of providing the copy of the assessment, the State shall include a notice indicating that the spouse will have a right to a fair hearing under subsection (e)(2).*

*"(2) ATTRIBUTION OF RESOURCES AT TIME OF INITIAL ELIGIBILITY DETERMINATION.—In determining the resources of an institutionalized spouse at the time of application for medical assistance under this*

*title, regardless of any State laws relating to community property or the division of marital property—*

*"(A) except as provided in subparagraph (B), all the resources held by either the institutionalized spouse, community spouse, or both, shall be considered to be available to the institutionalized spouse, and*

*"(B) resources shall be considered to be available to an institutionalized spouse, but only to the extent that the amount of such resources exceeds the amount computed under subsection (f)(2)(A) (as of the time of application for medical assistance).*

*"(3) ASSIGNMENT OF SUPPORT RIGHTS.—The institutionalized spouse shall not be ineligible by reason of resources determined under paragraph (2) to be available for the cost of care where—*

*"(A) the institutionalized spouse has assigned to the State any rights to support from the community spouse,*

*"(B) the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment but the State has the right to bring a support proceeding against a community spouse without such assignment, or*

*"(C) the State determines that denial of eligibility would work an undue hardship.*

*"(4) SEPARATE TREATMENT OF RESOURCES AFTER ELIGIBILITY FOR MEDICAL ASSISTANCE ESTABLISHED.—During the continuous period in which an institutionalized spouse is in an institution and after the month in which an institutionalized spouse is determined to be eligible for medical assistance under this title, no resources of the community spouse shall be deemed available to the institutionalized spouse.*

*"(5) RESOURCES DEFINED.—In this section, the term 'resources' does not include—*

*"(A) resources excluded under subsection (a) or (d) of section 1613, and*

*"(B) resources that would be excluded under section 1613(a)(2)(A) but for the limitation on total value described in such section.*

*"(d) PROTECTING INCOME FOR COMMUNITY SPOUSE.—*

*"(1) ALLOWANCES TO BE OFFSET FROM INCOME OF INSTITUTIONALIZED SPOUSE.—After an institutionalized spouse is determined or redetermined to be eligible for medical assistance, in determining the amount of the spouse's income that is to be applied monthly to payment for the costs of care in the insti-*

*tution, there shall be deducted from the spouse's monthly income the following amounts in the following order:*

*"(A) A personal needs allowance (described in paragraph (2)(A)), in an amount not less than the amount specified in paragraph (2)(C).*

*"(B) A community spouse monthly income allowance (as defined in paragraph (3)), but only to the extent income of the institutionalized spouse is made available to (or for the benefit of) the community spouse.*

*"(C) A family allowance, for each family member, equal to at least ⅓ of the amount by which the amount described in paragraph (4)(A)(i) exceeds the amount of the monthly income of that family member.*

*"(D) Amounts for incurred expenses for medical or remedial care for the institutionalized spouse as provided under paragraph (6).*

*In subparagraph (C), the term 'family member' only includes minor or dependent children, dependent parents, or dependent siblings of the institutionalized or community spouse who are residing with the community spouse.*

*"(2) PERSONAL NEEDS ALLOWANCE.—*

*"(A) IN GENERAL.—The MediGrant plan must provide that, in the case of an institutionalized individual or couple described in subparagraph (B), in determining the amount of the individual's or couple's income to be applied monthly to payment for the cost of care in an institution, there shall be deducted from the monthly income (in addition to other allowances otherwise provided under the plan) a monthly personal needs allowance—*

*"(i) which is reasonable in amount for clothing and other personal needs of the individual (or couple) while in an institution, and*

*"(ii) which is not less (and may be greater) than the minimum monthly personal needs allowance described in subparagraph (C).*

*"(B) INSTITUTIONALIZED INDIVIDUAL OR COUPLE DEFINED.—In this paragraph, the term 'institutionalized individual or couple' means an individual or married couple—*

*"(i) who is an inpatient (or who are inpatients) in a medical institution or nursing facility for which payments are*

*made under this title throughout a month, and*

*"(ii) who is or are determined to be eligible for medical assistance under the State MediGrant plan.*

*"(C) MINIMUM ALLOWANCE.—The minimum monthly personal needs allowance described in this subparagraph is $40 for an institutionalized individual and $80 for an institutionalized couple (if both are aged, blind, or disabled, and their incomes are considered available to each other in determining eligibility).*

*"(3) COMMUNITY SPOUSE MONTHLY INCOME ALLOWANCE DEFINED.—*

*"(A) IN GENERAL.—In this section (except as provided in subparagraph (B)), the community spouse monthly income allowance for a community spouse is an amount by which—*

*"(i) except as provided in subsection (e), the minimum monthly maintenance needs allowance (established under and in accordance with paragraph (4)) for the spouse, exceeds*

*"(ii) the amount of monthly income otherwise available to the community spouse*

*(determined without regard to such an allowance).*

*"(B) COURT ORDERED SUPPORT.—If a court has entered an order against an institutionalized spouse for monthly income for the support of the community spouse, the community spouse monthly income allowance for the spouse shall be not less than the amount of the monthly income so ordered.*

*"(4) ESTABLISHMENT OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—*

*"(A) IN GENERAL.—Each State shall establish a minimum monthly maintenance needs allowance for each community spouse which, subject to subparagraph (B), is equal to or exceeds—*

*"(i) 150 percent of 1/12 of the poverty line applicable to a family unit of 2 members, plus*

*"(ii) an excess shelter allowance (as defined in paragraph (4)).*

*A revision of the poverty line referred to in clause (i) shall apply to medical assistance furnished during and after the second calendar*

*quarter that begins after the date of publication of the revision.*

*"(B) CAP ON MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—The minimum monthly maintenance needs allowance established under subparagraph (A) may not exceed $1,500 (subject to adjustment under subsections (e) and (g)).*

*"(5) EXCESS SHELTER ALLOWANCE DEFINED.—In paragraph (4)(A)(ii), the term 'excess shelter allowance' means, for a community spouse, the amount by which the sum of—*

*"(A) the spouse's expenses for rent or mortgage payment (including principal and interest), taxes and insurance and, in the case of a condominium or cooperative, required maintenance charge, for the community spouse's principal residence, and*

*"(B) the standard utility allowance (used by the State under section 5(e) of the Food Stamp Act of 1977) or, if the State does not use such an allowance, the spouse's actual utility expenses,*

*exceeds 30 percent of the amount described in paragraph (4)(A)(i), except that, in the case of a con-*

*dominium or cooperative, for which a maintenance charge is included under subparagraph (A), any allowance under subparagraph (B) shall be reduced to the extent the maintenance charge includes utility expenses.*

*"(6) TREATMENT OF INCURRED EXPENSES.—With respect to the post-eligibility treatment of income under this section, there shall be disregarded reparation payments made by the Federal Republic of Germany and, there shall be taken into account amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including—*

*"(A) medicare and other health insurance premiums, deductibles, or coinsurance, and*

*"(B) necessary medical or remedial care recognized under State law but not covered under the State MediGrant plan under this title, subject to reasonable limits the State may establish on the amount of these expenses.*

*"(e) NOTICE AND HEARING.—*

*"(1) NOTICE.—Upon—*

*"(A) a determination of eligibility for medical assistance of an institutionalized spouse, or*

*"(B) a request by either the institutionalized spouse, or the community spouse, or a representative acting on behalf of either spouse,*

*each State shall notify both spouses (in the case described in subparagraph (A)) or the spouse making the request (in the case described in subparagraph (B)) of the amount of the community spouse monthly income allowance (described in subsection (d)(1)(B)), of the amount of any family allowances (described in subsection (d)(1)(C)), of the method for computing the amount of the community spouse resources allowance permitted under subsection (f), and of the spouse's right to a hearing under the MediGrant plan respecting ownership or availability of income or resources, and the determination of the community spouse monthly income or resource allowance.*

*"(2) RESULTS OF HEARING.—*

*"(A) REVISION OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—If either such spouse establishes in a hearing under this subsection that the community spouse needs income, above the level otherwise provided by the minimum monthly maintenance needs allowance, due to exceptional circumstances resulting in significant financial duress, there shall be*

*substituted, for the minimum monthly maintenance needs allowance in subsection (d)(2)(A), an amount adequate to provide such additional income as is necessary.*

*"(B) REVISION OF COMMUNITY SPOUSE RESOURCE ALLOWANCE.—If either such spouse establishes in such a hearing that the community spouse resource allowance (in relation to the amount of income generated by such an allowance) is inadequate to raise the community spouse's income to the minimum monthly maintenance needs allowance, there shall be substituted, for the community spouse resource allowance under subsection (f)(2), an amount adequate to provide such a minimum monthly maintenance needs allowance.*

*"(f) PERMITTING TRANSFER OF RESOURCES TO COMMUNITY SPOUSE.—*

*"(1) IN GENERAL.—An institutionalized spouse may, without regard to any other provision of the MediGrant plan to the contrary, transfer an amount equal to the community spouse resource allowance (as defined in paragraph (2)), but only to the extent the resources of the institutionalized spouse are transferred to, or for the sole benefit of, the community*

*spouse. The transfer under the preceding sentence shall be made as soon as practicable after the date of the initial determination of eligibility, taking into account such time as may be necessary to obtain a court order under paragraph (3).*

*"(2) COMMUNITY SPOUSE RESOURCE ALLOWANCE DEFINED.—In paragraph (1), the 'community spouse resource allowance' for a community spouse is an amount (if any) by which—*

*"(A) the greatest of—*

*"(i) $12,000 (subject to adjustment under subsection (g)), or, if greater (but not to exceed the amount specified in clause (ii)(II)) an amount specified under the State MediGrant plan,*

*"(ii) the lesser of (I) the spousal share computed under subsection (c)(1), or (II) $60,000 (subject to adjustment under subsection (g)), or*

*"(iii) the amount established under subsection (e)(2);*

*exceeds*

*"(B) the amount of the resources otherwise available to the community spouse (determined without regard to such an allowance).*

*"(g) INDEXING DOLLAR AMOUNTS.—For services furnished during a calendar year after 1989, the dollar amounts specified in subsections (d)(3)(C), (f)(2)(A)(i), and (f)(2)(A)(ii)(II) shall be increased by the same percentage as the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the calendar year involved.*

*"(h) DEFINITIONS.—In this section:*

*"(1) INSTITUTIONALIZED SPOUSE.—The term 'institutionalized spouse' means an individual—*

*"(A)(i) who is in a medical institution or nursing facility, or*

*"(ii) at the option of the State (I) who would be eligible under the MediGrant plan under this title if such individual was in a medical institution, (II) with respect to whom there has been a determination that but for the provision of home or community-based services such individual would require the level of care provided in a hospital, nursing facility or intermediate care facility for the mentally retarded the cost of which could be reimbursed under the plan, and (III) who will receive home or community-based services pursuant the plan; and*

*"(B) is married to a spouse who is not in a medical institution or nursing facility;*

*but does not include any such individual who is not likely to meet the requirements of subparagraph (A) for at least 30 consecutive days.*

*"(2) COMMUNITY SPOUSE.—The term 'community spouse' means the spouse of an institutionalized spouse.*

***"SEC. 2116. STATE FLEXIBILITY.***

*"(a) STATE FLEXIBILITY IN BENEFITS, PROVIDER PAYMENTS, GEOGRAPHICAL COVERAGE AREA, AND SELECTION OF PROVIDERS.—Nothing in this title (other than subsections (c) and (d) of section 2111) shall be construed as requiring a State—*

*"(1) to provide medical assistance for any particular items or services,*

*"(2) to provide for any payments with respect to any specific health care providers or any level of payments for any services,*

*"(3) to provide for the same medical assistance in all geographical areas or political subdivisions of the State, so long as medical assistance is made available in all such areas or subdivisions,*

*"(4) to provide that the medical assistance made available to any individual eligible for medical assist-*

*ance must not be less in amount, duration, or scope than the medical assistance made available to any other such individual, or*

*"(5) to provide that any individual eligible for medical assistance with respect to an item or service may choose to obtain such assistance from any institution, agency, or person qualified to provide the item or service.*

*"(b) STATE FLEXIBILITY WITH RESPECT TO MANAGED CARE.—Nothing in this title shall be construed—*

*"(1) to limit a State's ability to contract with, on a capitated basis or otherwise, health care plans or individual health care providers for the provision or arrangement of medical assistance,*

*"(2) to limit a State's ability to contract with health care plans or other entities for case management services or for coordination of medical assistance, or*

*"(3) to restrict a State from establishing capitation rates on the basis of competition among health care plans or negotiations between the State and one or more health care plans.*

*"PART C—PAYMENTS TO STATES*

***"SEC. 2121. ALLOTMENT OF FUNDS AMONG STATES.***

*"(a) ALLOTMENTS.—*

*"(1) COMPUTATION.—The Secretary shall provide for the computation of State obligation and outlay allotments in accordance with this section for each fiscal year beginning with fiscal year 1996.*

*"(2) LIMITATION ON OBLIGATIONS.—*

*"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall not enter into obligations with any State under this title for a fiscal year in excess of the obligation allotment for that State for the fiscal year under paragraph (4). The sum of such obligation allotments for all States in any fiscal year (excluding amounts carried over under subparagraph (B) and excluding changes in allotments effected under paragraph (4)(D)) shall not exceed the aggregate limit on new obligation authority specified in paragraph (3) for that fiscal year.*

*"(B) ADJUSTMENTS.—*

*"(i) CARRYOVER OF ALLOTMENT PERMITTED.—If the amount of obligations entered into under this part with a State for quarters in a fiscal year is less than the amount of the obligation allotment under this section to the State for the fiscal year, the amount of the difference shall be added*

*to the amount of the State obligation allotment otherwise provided under this section for the succeeding fiscal year. This clause shall be applied separately with respect to the portion of the obligation allotment that is attributable to the supplemental outlay allotment under subsection (f).*

*"(ii) REDUCTION FOR POST-ENACTMENT NEW OBLIGATIONS UNDER TITLE XIX IN FISCAL YEAR 1996.—The amount of the obligation allotment otherwise provided under this section for fiscal year 1996 for a State shall be reduced by the amount of the obligations entered into with respect to the State under section 1903(a) after the date of the enactment of this title.*

*"(C) NO EFFECT ON PRIOR YEAR OBLIGATIONS.—Subparagraph (A) shall not apply to or affect obligations for a fiscal year prior to fiscal year 1996.*

*"(D) OBLIGATION.—For purposes of this section, the Secretary's establishment of an estimate under section 2123(b) of the amount a State is entitled to receive for a quarter (taking into account any adjustments described in such*

*subsection) shall be treated as the obligation of such amount for the State as of the first day of the quarter.*

*"(3) AGGREGATE LIMIT ON NEW OBLIGATION AUTHORITY.—*

*"(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (C), the 'aggregate limit on new obligation authority', for a fiscal year, is the pool amount under subsection (b) for the fiscal year, divided by the payout adjustment factor (described in subparagraph (B)) for the fiscal year.*

*"(B) PAYOUT ADJUSTMENT FACTOR.—For purposes of this subsection, the 'payout adjustment factor'—*

*"(i) for fiscal year 1996 is 0.950,*

*"(ii) for fiscal year 1997 is 0.986, and*

*"(iii) for a subsequent fiscal year is 0.998.*

*"(C) TRANSITIONAL ADJUSTMENT FOR PRE-ENACTMENT-OBLIGATION OUTLAYS.—In order to account for pre-enactment-obligation outlays described in paragraph (4)(C)(iv), in determining the aggregate limit on new obligation authority*

*under subparagraph (A) for fiscal year 1996, the pool amount for such fiscal year is equal to—*

*"(i) the pool amount for such year, reduced by*

*"(ii) $24,624,000,000.*

*"(4) OBLIGATION ALLOTMENTS.—*

*"(A) GENERAL RULE FOR 50 STATES AND THE DISTRICT OF COLUMBIA.—Except as provided in this paragraph, the 'obligation allotment' for any of the 50 States or the District of Columbia for a fiscal year (beginning with fiscal year 1997) is an amount that bears the same ratio to the outlay allotment under subsection (c)(2) for such State or District (not taking into account any adjustment due to an election under paragraph (4)) for the fiscal year as the ratio of—*

*"(i) the aggregate limit on new obligation authority (less the total of the obligation allotments under subparagraph (B)) for the fiscal year, to*

*"(ii) the pool amount (less the sum of the outlay allotments for the territories) for such fiscal year.*

*"(B) TERRITORIES.—The obligation allotment for each of the Commonwealths and territories for a fiscal year is the outlay allotment for such Commonwealth or territory (as determined under subsection (c)(5)) for the fiscal year divided by the payout adjustment factor for the fiscal year (as defined in paragraph (3)(B)).*

*"(C) TRANSITIONAL RULE FOR FISCAL YEAR 1996.—*

*"(i) IN GENERAL.—The obligation amount for fiscal year 1996 for any State (including the District of Columbia, a Commonwealth, or territory) is determined according to the formula: A=(B-C)/D, where—*

*"(I) 'A' is the obligation amount for such State,*

*"(II) 'B' is the outlay allotment of such State for fiscal year 1996, as determined under subsection (c),*

*"(III) 'C' is the amount of the pre-enactment-obligation outlays (as established for such State under clause (ii)), and*

*"(IV) 'D' is the payout adjustment factor for such fiscal year (as defined in paragraph (3)(B)).*

*"(ii) PRE-ENACTMENT-OBLIGATION OUTLAY AMOUNTS.—Within 30 days after the date of the enactment of this title, the Secretary shall estimate (based on the best data available) and publish in the Federal Register the amount of the pre-enactment-obligation outlays (as defined in clause (iv)) for each State (including the District of Columbia, Commonwealths, and territories). The total of such amounts shall equal the dollar amount specified in paragraph (3)(C)(ii).*

*"(iii) AGREEMENT.—The submission of a MediGrant plan by a State under this title is deemed to constitute the State's acceptance of the obligation allotment limitations under this subsection, including the formula for computing the amount of such obligation allotment.*

*"(iv) PRE-ENACTMENT-OBLIGATION OUTLAYS DEFINED.—In this subsection, the term 'pre-enactment-obligation outlays'*

*means, for a State, the outlays of the Federal Government that result from obligations that have been incurred under title XIX with respect to the State before the date of the enactment of this title, but for which payments to States have not been made as of such date of enactment.*

*"(D) ADJUSTMENT TO REFLECT ADOPTION OF ALTERNATIVE GROWTH FORMULA.—Any State that has elected an alternative growth formula under subsection (c)(4) which increases or decreases the dollar amount of an outlay allotment for a fiscal year is deemed to have increased or decreased, respectively, its obligation amount for such fiscal year by the amount of such increase or decrease.*

*"(E) TRANSITIONAL CORRECTION FOR FISCAL YEAR 1997.—*

*"(i) IN GENERAL.—The obligation amount for fiscal year 1997 for any State described in clause (ii) shall be increased by 90 percent of the amount by which 90 percent of the amount described in clause (ii)(I) exceeds the amount described in clause (ii)(II), divided by the payout ad-*

*justment factor specified in paragraph (3)(B) for fiscal year 1996. The increase under this clause shall be paid to a State in the first quarter of fiscal year 1997.*

*"(ii) STATES DESCRIBED.—A State described in this clause is a State for which—*

*"(I) the amount of the pre-enactment-obligation outlays (as established for such State under subparagraph (C)(ii)), exceeded*

*"(II) the outlays of the Federal Government during fiscal year 1996 that are attributable to obligations that were incurred under title XIX with respect to the State before the date of the enactment of this title, but for which payments to States had not been made as of such date of enactment,*

*by at least 10 percent of the amount described in subclause (I).*

*"(b) POOL OF AVAILABLE FUNDS.—*

*"(1) IN GENERAL.—For purposes of this section, the 'pool amount' under this subsection for—*

*"(A) fiscal year 1996 is $96,386,037,894,*

*"(B) fiscal year 1997 is $103,233,603,164,*

*"(C) fiscal year 1998 is $107,907,625,827,*

*"(D) fiscal year 1999 is $112,644,040,408,*

*"(E) fiscal year 2000 is $117,359,685,046,*

*"(F) fiscal year 2001 is $122,284,072,525,*

*"(G) fiscal year 2002 is $127,418,239,580, and*

*"(H) each subsequent fiscal year is the pool amount under this paragraph for the previous fiscal year increased by the lesser of 4.2 percent or the annual percentage increase in the gross domestic product for the 12-month period ending in June before the beginning of that subsequent fiscal year.*

*"(2) NATIONAL MEDIGRANT GROWTH PERCENTAGE.—For purposes of this section for a fiscal year (beginning with fiscal year 1997), the 'national MediGrant growth percentage' is the percentage by which—*

*"(A) the pool amount under paragraph (1) for the fiscal year, exceeds*

*"(B) such pool amount for the previous fiscal year.*

*"(c) STATE OUTLAY ALLOTMENTS.—*

*"(1) FISCAL YEAR 1996.—*

1 *"(A) IN GENERAL.—For each of the 50*
2 *States and the District of Columbia, the amount*
3 *of the State outlay allotment under this sub-*
4 *section for fiscal year 1996 is, subject to para-*
5 *graph (4), determined in accordance with the fol-*
6 *lowing table:*

| **"State or District:** | **Outlay allotment (in dollars):** |
|---|---|
| *Alabama* | *1,517,652,207* |
| *Alaska* | *204,933,213* |
| *Arizona* | *1,370,781,297* |
| *Arkansas* | *1,011,457,933* |
| *California* | *8,946,838,461* |
| *Colorado* | *757,492,679* |
| *Connecticut* | *1,463,011,635* |
| *Delaware* | *212,327,763* |
| *District of Columbia* | *501,412,091* |
| *Florida* | *3,715,624,180* |
| *Georgia* | *2,426,320,602* |
| *Hawaii* | *323,124,375* |
| *Idaho* | *278,329,686* |
| *Illinois* | *3,467,274,342* |
| *Indiana* | *1,952,467,267* |
| *Iowa* | *835,235,895* |
| *Kansas* | *713,700,869* |
| *Kentucky* | *1,577,828,832* |
| *Louisiana* | *2,622,000,000* |
| *Maine* | *694,220,790* |
| *Maryland* | *1,369,699,847* |
| *Massachusetts* | *2,870,346,862* |
| *Michigan* | *3,465,182,886* |
| *Minnesota* | *1,793,776,356* |
| *Mississippi* | *1,261,781,330* |
| *Missouri* | *1,849,248,945* |
| *Montana* | *312,212,472* |
| *Nebraska* | *463,900,417* |
| *Nevada* | *257,896,453* |
| *New Hampshire* | *360,000,000* |
| *New Jersey* | *2,854,621,241* |
| *New Mexico* | *634,756,945* |
| *New York* | *12,901,793,038* |
| *North Carolina* | *2,587,883,809* |
| *North Dakota* | *241,168,563* |
| *Ohio* | *4,034,049,690* |
| *Oklahoma* | *911,198,775* |
| *Oregon* | *1,088,670,440* |
| *Pennsylvania* | *4,454,423,400* |
| *Rhode Island* | *545,686,262* |
| *South Carolina* | *1,621,021,815* |

| "State or District: | Outlay allotment (in dollars): |
|---|---|
| South Dakota | 262,804,959 |
| Tennessee | 2,519,934,251 |
| Texas | 6,351,909,343 |
| Utah | 484,274,254 |
| Vermont | 248,158,729 |
| Virginia | 1,144,962,509 |
| Washington | 1,763,460,996 |
| West Virginia | 1,156,813,157 |
| Wisconsin | 1,709,500,642 |
| Wyoming | 132,925,390. |

1 "(2) COMPUTATION OF STATE OUTLAY ALLOT-
2 MENTS.—
3 "(A) IN GENERAL.—Subject to the succeed-
4 ing provisions of this subsection, the amount of
5 the State outlay allotment under this subsection
6 for one of the 50 States and the District of Co-
7 lumbia for a fiscal year (beginning with fiscal
8 year 1997) is equal to the product of—
9 "(i) the needs-based amount deter-
10 mined under subparagraph (B) for such
11 State or District for the fiscal year, and
12 "(ii) the scalar factor described in sub-
13 paragraph (C) for the fiscal year.
14 "(B) NEEDS-BASED AMOUNT.—The needs-
15 based amount under this subparagraph for a
16 State or the District of Columbia for a fiscal
17 year is equal to the product of—
18 "(i) the State's or District's aggregate
19 expenditure need for the fiscal year (as de-
20 termined under subsection (d)), and

*"(ii) the State's or District's old Federal medical assistance percentage (as defined in section 2122(d)) for the fiscal year (or, in the case of fiscal year 1997, the Federal medical assistance percentage determined under section 1905(b) for fiscal year 1996).*

*"(C) SCALAR FACTOR.—The scalar factor under this subparagraph for a fiscal year is such proportion so that, when it is applied under subparagraph (A)(ii) for the fiscal year (taking into account the floors and ceilings under paragraph (3)), the total of the outlay allotments under this subsection for all the 50 States and the District of Columbia for the fiscal year (not taking into account any increase in an outlay allotment for a fiscal year attributable to the election of an alternative growth formula under paragraph (4)) is equal to the amount by which (i) the pool amount for the fiscal year (as determined under subsection (b)), exceeds (ii) the sum of the outlay allotments provided under paragraph (5) for the Commonwealths and territories for the fiscal year.*

*"(3) FLOORS AND CEILINGS.—*

*"(A) FLOORS.—Subject to the ceiling established under subparagraph (B), in no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be less than the greatest of the following:*

*"(i) IN GENERAL.—Beginning with fiscal year 1998, 0.24 percent of the pool amount for the fiscal year.*

*"(ii) FLOOR BASED ON PREVIOUS YEAR'S OUTLAY ALLOTMENT.—Subject to clause (iii)—*

*"(I) FISCAL YEAR 1997.—For fiscal year 1997, 103.5 percent of the amount of the State outlay allotment under this subsection for fiscal year 1996.*

*"(II) FISCAL YEAR 1998.—For fiscal year 1998, 103 percent of the amount of the State outlay allotment under this subsection for fiscal year 1997.*

*"(III) SUBSEQUENT FISCAL YEARS.—For a fiscal year after 1998, 102 percent of the amount of the State*

*outlay allotment under this subsection for the previous fiscal year.*

*"(iii) FLOOR BASED ON OUTLAY ALLOTMENT GROWTH RATE IN FIRST YEAR.—Beginning with fiscal year 1998, in the case of a State for which the outlay allotment under this subsection for fiscal year 1997 exceeded its outlay allotment under this subsection for the previous fiscal year by more than the national MediGrant growth percentage for fiscal year 1997, 104 percent of the amount of the State outlay allotment under this subsection for the previous fiscal year (or, if less, beginning with fiscal year 2003, 95 percent of the national MediGrant growth percentage for the year).*

*"(B) CEILINGS.—*

*"(i) IN GENERAL.—Subject to clause (ii), in no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be greater than the product of—*

*"(I) the State outlay allotment under this subsection for the State for the preceding fiscal year, and*

*"(II) the applicable percent (specified in clause (ii) or (iii)) for the fiscal year involved.*

*"(ii) GENERAL RULE FOR APPLICABLE PERCENT.—For purposes of clause (i), subject to clause (iii), the 'applicable percent'—*

*"(I) for fiscal year 1997 is 109 percent, and*

*"(II) for a subsequent fiscal year is 105.33 percent.*

*"(iii) SPECIAL RULE.—For a fiscal year after fiscal year 1997, in the case of a State (among the 50 States and the District of Columbia) that is one of the 10 States with the lowest Federal MediGrant spending per resident-in-poverty rates (as determined under clause (iv)) for the fiscal year, the 'applicable percent' is 107 percent.*

*"(iv) DETERMINATION OF FEDERAL MEDIGRANT SPENDING PER RESIDENT-IN-POVERTY RATE.—For purposes of clause (iii), the 'Federal MediGrant spending per resident-in-poverty rate' for a State for a fiscal year is equal to—*

*"(I) the State's outlay allotment under this subsection for the previous fiscal year (determined without regard to paragraph (4)), divided by*

*"(II) the average annual number of residents of the State in poverty (as defined in subsection (d)(2)) with respect to the fiscal year.*

*"(C) SPECIAL RULE.—*

*"(i) IN GENERAL.—Notwithstanding the preceding subparagraphs of this paragraph, the State outlay allotment for—*

*"(I) New Hampshire for each of the fiscal years 1997 through 2000, is $360,000,000,*

*"(II) Louisiana, subject to subclause (III), for each of the fiscal years 1997 through 2000, is $2,622,000,000, and*

*"(III) Louisiana and Nebraska for fiscal year 1997, as otherwise determined, shall be increased by $37,048,207 and $106,132,408, respectively.*

*"(IV) Nevada for each of fiscal years 1996, 1997, and 1998, as otherwise determined, shall be increased by $90,000,000.*

*"(ii) EXCEPTION.—A State described in subclause (I) or (II) of clause (i) may apply to the Secretary for use of the State outlay allotment otherwise determined under this subsection for any fiscal year, if such State notifies the Secretary not later than March 1 preceding such fiscal year that such State will be able to expend sufficient State funds in such fiscal year to qualify for such allotment.*

*"(iii) TREATMENT OF INCREASE AS SUPPLEMENTAL ALLOTMENT.—Any increase in an outlay allotment under clause (i)(III) or (i)(IV) shall not be taken into account for purposes of determining the scalar factor under paragraph (2) for fiscal year 1997, any State outlay allotment for a fiscal year after fiscal year 1997, the pool amount for a fiscal year after fiscal year 1997, or determination of the national MediGrant growth percentage for any fiscal year.*

*"(4) ELECTION OF ALTERNATIVE GROWTH FORMULA.—*

*"(A) ELECTION.—In order to reduce variations in increases in outlay allotments over time, any of the 50 States or the District of Columbia may elect (by notice provided to the Secretary by not later than April 1, 1996) to adopt an alternative growth rate formula under this paragraph for the determination of the State's outlay allotment in fiscal year 1996 and for the increase in the amount of such allotment in subsequent fiscal years.*

*"(B) FORMULA.—The alternative growth formula under this paragraph may be any formula under which a portion of the State outlay allotment for fiscal year 1996 under paragraph (1) is deferred and applied to increase the amount of its outlay allotment for one or more subsequent fiscal years, so long as the total amount of such increases for all such subsequent fiscal years does not exceed the amount of the outlay allotment deferred from fiscal year 1996.*

*"(5) COMMONWEALTHS AND TERRITORIES.—*

*"(A) IN GENERAL.—The outlay allotment for each of the Commonwealths and territories*

*for a fiscal year is the maximum amount that could have been certified under section 1108(c) (as in effect on the day before the date of the enactment of this title) with respect to the Commonwealth or territory for the fiscal year with respect to title XIX, if the national MediGrant growth percentage (as determined under subsection (b)(2)) for the fiscal year had been substituted (beginning with fiscal year 1997) for the percentage increase referred to in section 1108(c)(1)(B) (as so in effect).*

*"(B) DISREGARD OF ROUNDING REQUIREMENTS.—For purposes of subparagraph (A), the rounding requirements under section 1108(c) shall not apply.*

*"(C) LIMITATION ON TOTAL AMOUNT FOR FISCAL YEAR 1996.—Notwithstanding the provisions of subparagraph (A), the total amount of the outlay allotments for the Commonwealths and territories for fiscal year 1996 may not exceed $139,950,000.*

*"(d) STATE AGGREGATE EXPENDITURE NEED DETERMINED.—*

*"(1) IN GENERAL.—For purposes of subsection (c), the 'State aggregate expenditure need' for a State*

*or the District of Columbia for a fiscal year is equal to the product of the following 4 factors:*

*"(A) RESIDENTS IN POVERTY.—The average annual number of residents in poverty of such State or District with respect to the fiscal year (as determined under paragraph (2)).*

*"(B) CASE MIX INDEX.—The case mix index for such State or District (as determined under paragraph (3)) for the most recent fiscal year for which data are available, but in no case less than 0.9 or greater than 1.15.*

*"(C) INPUT COST INDEX.—The input cost index for the State (as determined under paragraph (4)) for the most recent fiscal year for which data are available.*

*"(D) NATIONAL AVERAGE SPENDING PER RESIDENT IN POVERTY.—The national average spending per resident in poverty (as determined under paragraph (5)).*

*"(2) RESIDENTS IN POVERTY.—In this section—*

*"(A) IN GENERAL.—The term 'average annual number of residents in poverty' means, with respect to a State or the District of Columbia and a fiscal year, the average annual number of residents in poverty (as defined in sub-*

*paragraph (B)) in such State or District (based on data made generally available by the Bureau of the Census from the Current Population Survey) for the most recent 3-calendar-year period (ending before the fiscal year) for which such data are available.*

*"(B) RESIDENT IN POVERTY DEFINED.—The term 'resident in poverty' means an individual whose family income does not exceed the poverty threshold (as such terms are defined by the Office of Management and Budget and are generally interpreted and applied by the Bureau of the Census for the year involved).*

*"(3) CASE MIX INDEX.—*

*"(A) IN GENERAL.—In this subsection, the 'case mix index' for a State or the District of Columbia for a fiscal year is equal to—*

*"(i) the sum of—*

*"(I) the projected per recipient expenditures with respect to elderly individuals in such State or District for the fiscal year (determined under subparagraph (B)),*

*"(II) the projected per recipient expenditures with respect to the blind*

*and disabled individuals in such State or District for the fiscal year (determined under subparagraph (C)), and*

*"(III) the projected per recipient expenditures with respect to other individuals in such State or District (determined under subparagraph (D));*

*divided by—*

*"(ii) the national average spending per recipient determined under subparagraph (E) for the fiscal year involved.*

*"(B) PROJECTED PER RECIPIENT EXPENDITURES FOR THE ELDERLY.—For purposes of subparagraph (A)(i)(I), the 'projected per recipient expenditures with respect to elderly individuals' in a State or the District of Columbia for a fiscal year is equal to the product of—*

*"(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for elderly individuals, and*

*"(ii) the proportion, of all individuals who received medical assistance under this title in such State or District in the most*

*recent fiscal year referred to in clause (i), that were individuals described in such clause.*

*"(C) PROJECTED PER RECIPIENT EXPENDITURES FOR THE BLIND AND DISABLED.—For purposes of subparagraph (A)(i)(II), the 'projected per recipient expenditures with respect to blind and disabled individuals' in a State or the District of Columbia for a fiscal year is equal to the product of—*

*"(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who are eligible for medical assistance because such individuals are blind or disabled and are not elderly individuals, and*

*"(ii) the proportion, of all individuals who received medical assistance under this title in the State in the most recent fiscal year referred to in clause (i), that were individuals described in such clause.*

*"(D) PROJECTED PER RECIPIENT EXPENDITURES FOR OTHER INDIVIDUALS.—For purposes*

*of subparagraph (A)(i)(III), the 'projected per recipient expenditures with respect to other individuals' in a State or the District of Columbia for a fiscal year is equal to the product of—*

*"(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who are not described in subparagraph (B)(i) or (C)(i), and*

*"(ii) the proportion, of all individuals who received medical assistance under this title in such State or District in the most recent fiscal year referred to in clause (i), that were individuals described in such clause.*

*"(E) NATIONAL AVERAGE SPENDING PER RECIPIENT.—For purposes of this paragraph, the 'national average expenditures per recipient' for a fiscal year is equal to the sum of—*

*"(i) the product of (I) the national average described in subparagraph (B)(i), and (II) the proportion, of all individuals who received medical assistance under this title*

*in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph,*

*"(ii) the product of (I) the national average described in subparagraph (C)(i), and (II) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph, and*

*"(iii) the product of (I) the national average described in subparagraph (D)(i), and (II) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph.*

*"(F) DETERMINATION OF NATIONAL AVERAGES AND PROPORTIONS.—*

*"(i) IN GENERAL.—The national averages per recipient and the proportions referred to in clauses (i) and (ii), respectively,*

*of subparagraphs (B), (C), and (D) and subparagraph (E) shall be determined by the Secretary using the most recent data available.*

*"(ii) USE OF MEDICAID DATA.—If for a fiscal year there is inadequate data to compute such averages and proportions based on expenditures and numbers of individuals receiving medical assistance under this title, the Secretary may compute such averages based on expenditures and numbers of such individuals under title XIX for the most recent fiscal year for which data are available and, for this purpose—*

*"(I) any reference in subparagraph (B)(i) to 'elderly individuals' is deemed a reference to 'individuals whose eligibility for medical assistance is based on being 65 years of age or older',*

*"(II) the reference in subparagraph (C)(i) to 'and are not elderly individuals' shall be considered to be deleted, and*

*"(III) individuals whose basis for eligibility for medical assistance was reported as unknown shall not be counted as individuals under subparagraph (D)(i).*

*"(iii) EXPENDITURE DEFINED.—For purposes of this paragraph, the term 'expenditure' means medical vendor payments by basis of eligibility as reported by HCFA Form 2082.*

*"(4) INPUT COST INDEX.—*

*"(A) IN GENERAL.—In this section, the 'input cost index' for a State or the District of Columbia for a fiscal year is the sum of—*

*"(i) 0.15, and*

*"(ii) 0.85 multiplied by the ratio of (I) the annual average wages for hospital employees in such State or District for the fiscal year (as determined under subparagraph (B)), to (II) the annual average wages for hospital employees in the 50 States and the District of Columbia for such year (as determined under such subparagraph).*

*"(B) DETERMINATION OF ANNUAL AVERAGE WAGES OF HOSPITAL EMPLOYEES.—The Secretary shall provide for the determination of annual average wages for hospital employees in a State or the District of Columbia and, collectively, in the 50 States and the District of Columbia for a fiscal year based on the area wage data applicable to hospitals under section 1886(d)(2)(E) (or, if such data no longer exists, comparable data of hospital wages) for discharges occurring during the fiscal year involved.*

*"(5) NATIONAL AVERAGE SPENDING PER RESIDENT IN POVERTY.—For purposes of this subsection, the 'national average spending per resident in poverty'—*

*"(A) for fiscal year 1997 is equal to—*

*"(i) the sum (for each of the 50 States and the District of Columbia) of the total of the Federal and State expenditures under title XIX for calendar quarters in fiscal year 1994, increased by the percentage by which (I) the pool amount for fiscal year 1997, exceeds (II) $83,213,431,458 (which represents Federal medicaid expenditures*

*for such States and District for fiscal year 1994); divided by*

*"(ii) the sum of the number of residents in poverty (as defined in paragraph (2)(A)) for all of the 50 States and the District of Columbia for fiscal year 1994; and*

*"(B) for a succeeding fiscal year is equal to the national average spending per resident in poverty under this paragraph for the preceding fiscal year increased by the national MediGrant growth percentage (as defined in subsection (b)(2)) for the fiscal year involved.*

*"(e) PUBLICATION OF OBLIGATION AND OUTLAY ALLOTMENTS.—*

*"(1) NOTICE OF PRELIMINARY ALLOTMENTS.—Not later than April 1 before the beginning of each fiscal year (beginning with fiscal year 1997), the Secretary shall initially compute, after consultation with the Comptroller General, and publish in the Federal Register notice of the proposed obligation and outlay allotments for each State under this section (not taking into account subsection (a)(2)(B)) for the fiscal year. The Secretary shall include in the notice a description of the methodology and data used in deriving such allotments for the year.*

*"(2) REVIEW BY GAO.—The Comptroller General shall submit to Congress by not later than May 15 of each such fiscal year, a report analyzing such allotments and the extent to which they comply with the precise requirements of this section.*

*"(3) NOTICE OF FINAL ALLOTMENTS.—Not later than July 1 before the beginning of each such fiscal year, the Secretary, taking into consideration the analysis contained in the report of the Comptroller General under paragraph (2), shall compute and publish in the Federal Register notice of the final allotments under this section (both taking into account and not taking into account subsection (a)(2)(B)) for the fiscal year. The Secretary shall include in the notice a description of any changes in such allotments from the initial allotments published under paragraph (1) for the fiscal year and the reasons for such changes. Once published under this paragraph, the Secretary is not authorized to change such allotments.*

*"(4) GAO REPORT ON FINAL ALLOTMENTS.—The Comptroller General shall submit to Congress by not later than August 1 of each such fiscal year, a report analyzing the final allotments under paragraph (3) and the extent to which they comply with the precise requirements of this section.*

*"(f) SUPPLEMENTAL ALLOTMENT FOR EMERGENCY HEALTH CARE SERVICES TO CERTAIN ALIENS.—*

*"(1) IN GENERAL.—Notwithstanding the previous provisions of this section, the amount of the State outlay allotment for each of fiscal years 1996 through 2000 for each supplemental allotment eligible State shall be increased by the amount of the supplemental outlay allotment provided under paragraph (2) for the State for that year. The amount of such increased allotment may only be used for the purpose of providing medical assistance for care and services for aliens described in paragraph (1) of section 2123(e) and for which the exception described in paragraph (2) of such section applies. Section 2122(f)(3) shall apply to such assistance in the same manner as it applies to medical assistance described in such section.*

*"(2) SUPPLEMENTAL OUTLAY ALLOTMENT.—*

*"(A) IN GENERAL.—For purposes of paragraph (1), the amount of the supplemental outlay allotment for a supplemental allotment eligible State for a fiscal year is equal to the supplemental allotment ratio (as defined in subparagraph (C)) multiplied by the supplemental pool*

*amount (specified in subparagraph (D)) for the fiscal year.*

*"(B) SUPPLEMENTAL ALLOTMENT ELIGIBLE STATE.—In this subsection, the term 'supplemental allotment eligible State' means one of the 15 States with the highest number of undocumented alien residents of all the States.*

*"(C) SUPPLEMENTAL ALLOTMENT RATIO.—In this paragraph, the 'supplemental allotment ratio' for a State is the ratio of—*

*"(i) the number of undocumented aliens residing in the State, to*

*"(ii) the sum of such numbers for all supplemental allotment eligible States.*

*"(D) SUPPLEMENTAL POOL AMOUNT.—In this paragraph, the 'supplemental pool amount'—*

*"(i) for fiscal year 1996 is $627,325,551,*

*"(ii) for fiscal year 1997 is $673,388,855,*

*"(iii) for fiscal year 1998 is $702,313,450,*

*"(iv) for fiscal year 1999 is $733,140,258, and*

*"(v) for fiscal year 2000 is $763,831,886.*

*"(E) DETERMINATION OF NUMBER.—*

*"(i) IN GENERAL.—The number of undocumented aliens residing in a State under this paragraph—*

*"(I) for fiscal year 1996 shall be determined based on estimates of the resident illegal alien population residing in each State prepared by the Statistics Division of the Immigration and Naturalization Service as of October 1992, and*

*"(II) for a subsequent fiscal year shall be determined based on the most recent updated estimate made under clause (ii).*

*"(ii) UPDATING ESTIMATE.—For each fiscal year beginning with fiscal year 1997, the Secretary, in consultation with the Commission of the Immigration and Naturalization Service, States, and outside experts, shall estimate the number of undocumented aliens residing in each of the 50 States and the District of Columbia.*

*"(3) TREATMENT FOR OBLIGATION PURPOSES.—For purposes of computing obligation allotments under subsection (a)—*

*"(A) the amount of the supplemental pool amount for a fiscal year shall be added to the pool amount under subsection (b) for that fiscal year, and*

*"(B) the amount of the supplemental allotment to a State provided under paragraph (1) shall be added to the outlay allotment of the State for that fiscal year.*

*"(4) SEQUENCE OF OBLIGATIONS.—For purposes of carrying out this title, payments to a supplemental allotment eligible State under section 2122 that are attributable to expenditures for medical assistance described in the second sentence of paragraph (1) shall first be counted toward the supplemental outlay allotment provided under this subsection, rather than toward the outlay allotment otherwise provided under this section.*

***"SEC. 2122. PAYMENTS TO STATES.***

*"(a) AMOUNT OF PAYMENT.—From the allotment of a State under section 2121 for a fiscal year, subject to the succeeding provisions of this title, the Secretary shall pay*

*to each State which has a MediGrant plan approved under part E, for each quarter in the fiscal year—*

*"(1) an amount equal to the applicable Federal medical assistance percentage (as defined in subsection (c)) of the total amount expended during such quarter as medical assistance under the plan; plus*

*"(2) an amount equal to the applicable Federal medical assistance percentage of the total amount expended during such quarter for medically-related services (as defined in section 2112(e)(2)); plus*

*"(3) subject to section 2123(c)—*

*"(A) an amount equal to 90 percent of the amounts expended during such quarter for the design, development, and installation of information systems and for providing incentives to promote the enforcement of medical support orders, plus*

*"(B) an amount equal to 75 percent of the amounts expended during such quarter for medical personnel, administrative support of medical personnel, operation and maintenance of information systems, modification of information systems, quality assurance activities, utilization review, medical and peer review, anti-fraud activities, independent evaluations, coordination of*

*benefits, and meeting reporting requirements under this title, plus*

*"(C) an amount equal to 50 percent of so much of the remainder of the amounts expended during such quarter as are expended by the State in the administration of the State MediGrant plan.*

*"(b) PAYMENT PROCESS.—*

*"(1) QUARTERLY ESTIMATES.—Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsections, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.*

*"(2) PAYMENT.—*

*"(A) IN GENERAL.—The Secretary shall then pay to the State, in such installments as the Secretary may determine and in accordance with section 6503(a) of title 31, United States Code, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section (or section 1903) to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection (or under section 1903(d)).*

*"(B) TREATMENT AS OVERPAYMENTS.—Expenditures for which payments were made to the State under subsection (a) shall be treated as an overpayment to the extent that the State or local agency administering such plan has been reimbursed for such expenditures by a third party pursuant to the provisions of its plan in compliance with section 2135.*

*"(C) RECOVERY OF OVERPAYMENTS.—For purposes of this subsection, when an overpayment is discovered, which was made by a State to a person or other entity, the State shall have a period of 60 days in which to recover or at-*

*tempt to recover such overpayment before adjustment is made in the Federal payment to such State on account of such overpayment. Except as otherwise provided in subparagraph (D), the adjustment in the Federal payment shall be made at the end of the 60 days, whether or not recovery was made.*

*"(D) NO ADJUSTMENT FOR UNCOLLECTABLES.—In any case where the State is unable to recover a debt which represents an overpayment (or any portion thereof) made to a person or other entity on account of such debt having been discharged in bankruptcy or otherwise being uncollectable, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or portion thereof).*

*"(3) FEDERAL SHARE OF RECOVERIES.—The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to medical assistance furnished under the State MediGrant plan shall be considered an overpayment to be adjusted under this subsection.*

*"(4) TIMING OF OBLIGATION OF FUNDS.—Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.*

*"(5) DISALLOWANCES.—In any case in which the Secretary estimates that there has been an overpayment under this section to a State on the basis of a claim by such State that has been disallowed by the Secretary under section 1116(d), and such State disputes such disallowance, the amount of the Federal payment in controversy shall, at the option of the State, be retained by such State or recovered by the Secretary pending a final determination with respect to such payment amount. If such final determination is to the effect that any amount was properly disallowed, and the State chose to retain payment of the amount in controversy, the Secretary shall offset, from any subsequent payments made to such State under this title, an amount equal to the proper amount of the disallowance plus interest on such amount disallowed for the period beginning on the date such amount was disallowed and ending on the date of such final determination at a rate (determined by the Secretary) based on the average of the bond equivalent*

*of the weekly 90-day treasury bill auction rates during such period.*

*"(c) APPLICABLE FEDERAL MEDICAL ASSISTANCE PERCENTAGE DEFINED.—In this section, except as provided in subsection (f), the term 'applicable Federal medical assistance percentage' means, with respect to one of the 50 States or the District of Columbia, at the State's or District's option—*

*"(1) the old Federal medical assistance percentage (as determined in subsection (d));*

*"(2) the lesser of—*

*"(A) new Federal medical assistance percentage (as determined under subsection (e)) or*

*"(B) the old Federal medical assistance percentage plus 10 percentage points; or*

*"(3) 60 percent.*

*"(d) OLD FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—*

*"(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (f), the term 'old Federal medical assistance percentage' for any State is 100 percent less the State percentage; and the State percentage is that percentage which bears the same ratio to 45 percent as the square of the per capita income of such State bears to the square of the per capita in-*

*come of the continental United States (including Alaska) and Hawaii.*

*"(2) LIMITATION ON RANGE.—In no case shall the old Federal medical assistance percentage be less than 50 percent or more than 83 percent.*

*"(3) PROMULGATION.—The old Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of section 1101(a)(8)(B).*

*"(e) NEW FEDERAL MEDICAL ASSISTANCE PERCENTAGE DEFINED.—*

*"(1) IN GENERAL.—*

*"(A) TERM DEFINED.—Except as provided in paragraph (3) and subsection (f), the term 'new Federal medical assistance percentage' means, for each of the 50 States and the District of Columbia, 100 percent reduced by the product 0.39 and the ratio of—*

*"(i)(I) for each of the 50 States, the total taxable resources (TTR) ratio of the State specified in subparagraph (B), or*

*"(II) for the District of Columbia, the per capita income ratio specified in subparagraph (C),*

*to—*

*"(ii) the aggregate expenditure need ratio of the State or District, as described in subparagraph (D).*

*"(B) TOTAL TAXABLE RESOURCES (TTR) RATIO.—For purposes of subparagraph (A)(i)(I), the total taxable resources (TTR) ratio for each of the 50 States is—*

*"(i) an amount equal to the most recent 3-year average of the total taxable resources (TTR) of the State, as determined by the Secretary of the Treasury, divided by*

*"(ii) an amount equal to the sum of the 3-year averages determined under clause (i) for each of the 50 States.*

*"(C) PER CAPITA INCOME RATIO.—For purposes of subparagraph (A)(i)(II), the per capita income ratio of the District of Columbia is—*

*"(i) an amount equal to the most recent 3-year average of the total personal income of the District of Columbia, as determined in accordance with the provisions of section 1101(a)(8)(B), divided by*

*"(ii) an amount equal to the total personal income of the continental United*

*States (including Alaska) and Hawaii, as determined under section 1101(a)(8)(B).*

*"(D) AGGREGATE EXPENDITURE NEED RATIO.—For purposes of subparagraph (A), with respect to each of the 50 States and the District of Columbia for a fiscal year, the aggregate expenditure need ratio is—*

*"(i) the State aggregate expenditure need (as defined in section 2121(d)) for the State for the fiscal year, divided by*

*"(ii) the such of such State aggregate expenditure needs for the 50 States and the District of Columbia for the fiscal year.*

*"(2) LIMITATION ON RANGE.—Except as provided in subsection (f), the new Federal medical assistance percentage shall in no case be less than 40 percent or greater than 83 percent.*

*"(3) PROMULGATION.—The new Federal medical assistance percentage for any State shall be promulgated in a timely manner consistent with the promulgation of the old Federal medical assistance percentage under section 1101(a)(8)(B).*

*"(f) SPECIAL RULES.—For purposes of this title—*

*"(1) COMMONWEALTHS AND TERRITORIES.—In the case of Puerto Rico, the Virgin Islands, Guam, the*

*Northern Mariana Islands, and American Samoa, the old and new Federal medical assistance percentages are 50 percent.*

*"(2) ALASKA.—In the case of Alaska, the old Federal medical assistance percentage is that percentage which bears the same ratio to 45 percent as the square of the adjusted per capita income of such State bears to the square of the per capita income of the continental United States. For purposes of the preceding sentence, the adjusted per capita income for Alaska shall be determined by dividing the State's most recent 3-year average per capita by the input cost index for such State (as determined under section 2121(d)(4)).*

*"(3) INDIAN HEALTH SERVICE FACILITIES.—*

*"(A) IN GENERAL.—The old and new Federal medical assistance percentages shall be 100 percent with respect to the amounts expended as medical assistance for services which are received through a facility described in subparagraph (B) of an Indian tribe or tribal organization or through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as de-*

*fined in section 4 of the Indian Health Care Improvement Act).*

*"(B) FACILITY DESCRIBED.—For purposes of subparagraph (A), a facility described in this subparagraph is a facility of an Indian tribe if—*

*"(i) the facility is located in a State which, as of the date of the enactment of this title, was not operating its State plan under title XIX pursuant to a Statewide waiver approved under section 1115,*

*"(ii) the facility is not an Indian Health Service facility,*

*"(iii) the tribe owns at least 2 such facilities, and*

*"(iv) the tribe has at least 50,000 members (as of the date of the enactment of this title).*

*"(4) NO STATE MATCHING REQUIRED FOR CERTAIN EXPENDITURES.—In applying subsection (a)(1) with respect to medical assistance provided to unlawful aliens pursuant to the exception specified in section 2123(f)(2), payment shall be made for the amount of such assistance without regard to any need for a State match.*

*"(5) SPECIAL TRANSITIONAL RULE.—*

*"(A) IN GENERAL.—Notwithstanding subsections (a) and (f), in order to receive the full State outlay allotment described in section 2121(c)(3)(C)(i), a State described in subparagraph (C) shall expend State funds in a fiscal year (before fiscal year 2000) under a MediGrant plan under this title in an amount not less than the adjusted base year State expenditures, plus the applicable percentage of the difference between such expenditures and the amount necessary to qualify for the full State outlay allotment so described in such fiscal year as determined under this section without regard to this paragraph.*

*"(B) REDUCTION IN ALLOTMENT IF EXPENDITURE NOT MET.—In the event a State described in subparagraph (C) fails to expend State funds in an amount required by subparagraph (A) for a fiscal year, the outlay allotment described in section 2121(c)(3)(C)(i) for such year for such State shall be reduced by an amount which bears the same ratio to such outlay allotment as the State funds expended in*

*such fiscal year bears to the amount required by subparagraph (A).*

*"(C) ADJUSTED BASE YEAR STATE EXPENDITURES.—For purposes of this paragraph, the term 'adjusted base year State expenditures' means—*

*"(i) for New Hampshire, $203,000,000, and*

*"(ii) for Louisiana, $355,000,000.*

*"(D) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage for a fiscal year is specified in the following table:*

| **"Fiscal year:** | **Applicable Percentage:** |
|---|---|
| *1996* | *20* |
| *1997* | *40* |
| *1998* | *60* |
| *1999* | *80.* |

*"(g) STATE FINANCIAL PARTICIPATION.—Each MediGrant plan shall provide for financial participation by the State equal to not less than 40 percent of the non-Federal share of the expenditures under the plan with respect to which payments may be made under this section.*

***"SEC. 2123. LIMITATION ON USE OF FUNDS; DISALLOWANCE.***

*"(a) IN GENERAL.—Funds provided to a State under this title shall only be used to carry out the purposes of this title.*

*"(b) DISALLOWANCES FOR EXCLUDED PROVIDERS.—*

*"(1) IN GENERAL.—Payment shall not be made to a State under this part for expenditures for items and services furnished—*

*"(A) by a provider who was excluded from participation under title V, XVIII, or XX or under this title pursuant to section 1128, 1128A, 1156, or 1842(j)(2), or*

*"(B) under the medical direction or on the prescription of a physician who was so excluded, if the provider of the services knew or had reason to know of the exclusion.*

*"(2) EXCEPTION FOR EMERGENCY SERVICES.—Paragraph (1) shall not apply to emergency items or services, not including hospital emergency room services.*

*"(c) LIMITATIONS.—*

*"(1) IN GENERAL.—No Federal financial assistance is available for expenditures under the MediGrant plan for—*

*"(A) medically-related services for a quarter to the extent such expenditures exceed 5 percent of the total expenditures under the plan for the quarter, or*

*"(B) total administrative expenses (other than expenses described in paragraph (2) during the first 8 quarters in which the plan is in effect under this title) for quarters in a fiscal year to the extent such expenditures exceed the sum of $20,000,000 plus 10 percent of the total expenditures under the plan for the year.*

*"(2) ADMINISTRATIVE EXPENSES NOT SUBJECT TO LIMITATION.—The administrative expenses referred to in this paragraph are expenditures under the MediGrant plan for the following activities:*

*"(A) Quality assurance.*

*"(B) The development and operation of the certification program for nursing facilities and intermediate care facilities for the mentally retarded under section 2137.*

*"(C) Utilization review activities, including medical activities and activities of peer review organizations.*

*"(D) Inspection and oversight of providers and capitated health care organizations.*

*"(E) Anti-fraud activities.*

*"(F) Independent evaluations.*

*"(G) Activities required to meet reporting requirements under this title.*

*"(d) TREATMENT OF THIRD PARTY LIABILITY.—No payment shall be made to a State under this part for expenditures for medical assistance provided for an individual under its MediGrant plan to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under the plan.*

*"(e) MEDIGRANT AS SECONDARY PAYER.—Except as otherwise provided by law, no payment shall be made to a State under this part for expenditures for medical assistance provided for an individual under its MediGrant plan to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care program, other than a program op-*

*erated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this subsection, rules similar to the rules for overpayments under section 2122(b) shall apply.*

*"(f) LIMITATION ON PAYMENTS TO EMERGENCY SERVICES FOR NONLAWFUL ALIENS.—*

*"(1) IN GENERAL.—Notwithstanding the preceding provisions of this section, except as provided in paragraph (2), no payment may be made to a State under this part for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.*

*"(2) EXCEPTION FOR EMERGENCY SERVICES.—Payment may be made under this section for care and services that are furnished to an alien described in paragraph (1) only if—*

*"(A) such care and services are necessary for the treatment of an emergency medical condition of the alien,*

*"(B) such alien otherwise meets the eligibility requirements for medical assistance under the MediGrant plan (other than a requirement of the receipt of aid or assistance under title IV,*

*supplemental security income benefits under title XVI, or a State supplementary payment), and*

*"(C) such care and services are not related to an organ transplant procedure.*

*"(3) EMERGENCY MEDICAL CONDITION DEFINED.—For purposes of this subsection, the term 'emergency medical condition' means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—*

*"(A) placing the patient's health in serious jeopardy,*

*"(B) serious impairment to bodily functions, or*

*"(C) serious dysfunction of any bodily organ or part.*

*"(g) LIMITATION ON PAYMENT FOR CERTAIN OUTPATIENT PRESCRIPTION DRUGS.—*

*"(1) IN GENERAL.—No payment may be made to a State under this part for medical assistance for covered outpatient drugs (as defined in section 2175(i)(2)) of a manufacturer provided under the*

*MediGrant plan unless the manufacturer (as defined in section 2175(i)(4)) of the drug—*

*"(A) has entered into a MediGrant master rebate agreement with the Secretary under section 2175,*

*"(B) is otherwise complying with the provisions of such section,*

*"(C) is complying with the provisions of section 8126 of title 38, United States Code, including the requirement of entering into a master agreement with the Secretary of Veterans Affairs under such section, and*

*"(D) subject to paragraph (4), is complying with the provisions of section 340B of the Public Health Service Act, including the requirement of entering into an agreement with the Secretary under such section.*

*"(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a State to participate in the MediGrant master rebate agreement under section 2175.*

*"(3) EFFECT OF SUBSEQUENT AMENDMENTS.—For purposes of subparagraphs (C) and (D), in determining whether a manufacturer is in compliance with the requirements of section 8126 of title 38,*

*United States Code, or section 340B of the Public Health Service Act—*

*"(A) the Secretary shall not take into account any amendments to such sections that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992, and*

*"(B) a manufacturer is deemed to meet such requirements if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of such sections (as in effect immediately after the enactment of the Veterans Health Care Act of 1992) and would have entered into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after the date of the enactment of the Veterans Health Care Act of 1992.*

*"(4) EFFECT OF ESTABLISHMENT OF ALTERNATIVE MECHANISM UNDER PUBLIC HEALTH SERVICE ACT.—If the Secretary does not establish a mechanism to ensure against duplicate discounts or rebates under section 340B(a)(5)(A) of the Public Health Service Act within 12 months of the date of the enactment of such section, the following requirements shall apply:*

*"(A) Each covered entity under such section shall inform the State when it is seeking reimbursement from the MediGrant plan for medical assistance with respect to a unit of any covered outpatient drug which is subject to an agreement under section 340B(a) of such Act.*

*"(B) Each such State shall provide a means by which such an entity shall indicate on any drug reimbursement claims form (or format, where electronic claims management is used) that a unit of the drug that is the subject of the form is subject to an agreement under section 340B of such Act, and not submit to any manufacturer a claim for a rebate payment with respect to such a drug.*

*"PART D—PROGRAM INTEGRITY AND QUALITY*

***"SEC. 2131. USE OF AUDITS TO ACHIEVE FISCAL INTEGRITY.***

*"(a) FINANCIAL AUDITS OF PROGRAM.—*

*"(1) IN GENERAL.—Each MediGrant plan shall provide for an annual audit of the State's expenditures from amounts received under this title, in compliance with chapter 75 of title 31, United States Code.*

*"(2) VERIFICATION AUDITS.—If, after consultation with the State and the Comptroller General and*

*after a fair hearing, the Secretary determines that a State's audit under paragraph (1) was performed in substantial violation of chapter 75 of title 31, United States Code, the Secretary may—*

*"(A) require that the State provide for a verification audit in compliance with such chapter, or*

*"(B) conduct such a verification audit.*

*"(3) AVAILABILITY OF AUDIT REPORTS.—Within 30 days after completion of each audit or verification audit under this subsection, the State shall—*

*"(A) provide the Secretary with a copy of the audit report, including the State's response to any recommendations of the auditor, and*

*"(B) make the audit report available for public inspection in the same manner as proposed MediGrant plan amendments are made available under section 2105.*

*"(b) FISCAL CONTROLS.—*

*"(1) IN GENERAL.—With respect to the accounting and expenditure of funds under this title, each State shall adopt and maintain such fiscal controls, accounting procedures, and data processing safeguards as the State deems reasonably necessary to as-*

*sure the fiscal integrity of the State's activities under this title.*

*"(2) CONSISTENCY WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—Such controls and procedures shall be generally consistent with generally accepted accounting principles as recognized by the Governmental Accounting Standards Board or the Comptroller General.*

*"(c) AUDITS OF PROVIDERS.—Each MediGrant plan shall provide that the records of any entity providing items or services for which payment may be made under the plan may be audited as necessary to ensure that proper payments are made under the plan.*

***"SEC. 2132. FRAUD PREVENTION PROGRAM.***

*"(a) ESTABLISHMENT.—Each MediGrant plan shall provide for the establishment and maintenance of an effective program for the detection and prevention of fraud and abuse by beneficiaries, providers, and others in connection with the operation of the program.*

*"(b) PROGRAM REQUIREMENTS.—The program established pursuant to subsection (a) shall include at least the following requirements:*

*"(1) DISCLOSURE OF INFORMATION.—Any disclosing entity (as defined in section 1124(a)) receiv-*

*ing payments under the MediGrant plan shall comply with the requirements of section 1124.*

*"(2) SUPPLY OF INFORMATION.—An entity (other than an individual practitioner or a group of practitioners) that furnishes, or arranges for the furnishing of, an item or service under the MediGrant plan shall supply upon request specifically addressed to the entity by the Secretary or the State agency the information described in section 1128(b)(9).*

*"(3) EXCLUSION.—*

*"(A) IN GENERAL.—The MediGrant plan shall exclude any specified individual or entity from participation in the plan for the period specified by the Secretary when required by the Secretary to do so pursuant to section 1128 or section 1128A, and provide that no payment may be made under the plan with respect to any item or service furnished by such individual or entity during such period.*

*"(B) AUTHORITY.—In addition to any other authority, a State may exclude any individual or entity for purposes of participating under the MediGrant plan for any reason for which the Secretary could exclude the individual or entity from participation in a program under*

*title XVIII or under section 1128, 1128A, or 1866(b)(2).*

*"(4) NOTICE.—The MediGrant plan shall provide that whenever a provider of services or any other person is terminated, suspended, or otherwise sanctioned or prohibited from participating under the plan, the State agency responsible for administering the plan shall promptly notify the Secretary and, in the case of a physician, the State medical licensing board of such action.*

*"(5) ACCESS TO INFORMATION.—The MediGrant plan shall provide that the State will provide information and access to certain information respecting sanctions taken against health care practitioners and providers by State licensing authorities in accordance with section 2133.*

***"SEC. 2133. INFORMATION CONCERNING SANCTIONS TAKEN BY STATE LICENSING AUTHORITIES AGAINST HEALTH CARE PRACTITIONERS AND PROVIDERS.***

*"(a) INFORMATION REPORTING REQUIREMENT.—The requirement referred to in section 2132(b)(5) is that the State must provide for the following:*

*"(1) INFORMATION REPORTING SYSTEM.—The State must have in effect a system of reporting the*

*following information with respect to formal proceedings (as defined by the Secretary in regulations) concluded against a health care practitioner or entity by any authority of the State (or of a political subdivision thereof) responsible for the licensing of health care practitioners (or any peer review organization or private accreditation entity reviewing the services provided by health care practitioners) or entities:*

*"(A) Any adverse action taken by such licensing authority as a result of the proceeding, including any revocation or suspension of a license (and the length of any such suspension), reprimand, censure, or probation.*

*"(B) Any dismissal or closure of the proceedings by reason of the practitioner or entity surrendering the license or leaving the State or jurisdiction.*

*"(C) Any other loss of the license of the practitioner or entity, whether by operation of law, voluntary surrender, or otherwise.*

*"(D) Any negative action or finding by such authority, organization, or entity regarding the practitioner or entity.*

*"(2) ACCESS TO DOCUMENTS.—The State must provide the Secretary (or an entity designated by the*

*Secretary) with access to such documents of the authority described in paragraph (1) as may be necessary for the Secretary to determine the facts and circumstances concerning the actions and determinations described in such paragraph for the purpose of carrying out this Act.*

*"(b) FORM OF INFORMATION.—The information described in subsection (a)(1) shall be provided to the Secretary (or to an appropriate private or public agency, under suitable arrangements made by the Secretary with respect to receipt, storage, protection of confidentiality, and dissemination of information) in such a form and manner as the Secretary determines to be appropriate in order to provide for activities of the Secretary under this Act and in order to provide, directly or through suitable arrangements made by the Secretary, information—*

*"(1) to agencies administering Federal health care programs, including private entities administering such programs under contract,*

*"(2) to licensing authorities described in subsection (a)(1),*

*"(3) to State agencies administering or supervising the administration of State health care programs (as defined in section 1128(h)),*

*"(4) to utilization and quality control peer review organizations described in part B of title XI and to appropriate entities with contracts under section 1154(a)(4)(C) with respect to eligible organizations reviewed under the contracts,*

*"(5) to State MediGrant fraud control units (as defined in section 2134),*

*"(6) to hospitals and other health care entities (as defined in section 431 of the Health Care Quality Improvement Act of 1986), with respect to physicians or other licensed health care practitioners that have entered (or may be entering) into an employment or affiliation relationship with, or have applied for clinical privileges or appointments to the medical staff of, such hospitals or other health care entities (and such information shall be deemed to be disclosed pursuant to section 427 of, and be subject to the provisions of, that Act),*

*"(7) to the Attorney General and such other law enforcement officials as the Secretary deems appropriate, and*

*"(8) upon request, to the Comptroller General,*

*in order for such authorities to determine the fitness of individuals to provide health care services, to protect the health and safety of individuals receiving*

*health care through such programs, and to protect the fiscal integrity of such programs.*

*"(c) CONFIDENTIALITY OF INFORMATION PROVIDED.—The Secretary shall provide for suitable safeguards for the confidentiality of the information furnished under subsection (a). Nothing in this subsection shall prevent the disclosure of such information by a party which is otherwise authorized, under applicable State law, to make such disclosure.*

*"(d) APPROPRIATE COORDINATION.—The Secretary shall provide for the maximum appropriate coordination in the implementation of subsection (a) of this section and section 422 of the Health Care Quality Improvement Act of 1986 and section 1128E.*

***"SEC. 2134. STATE MEDIGRANT FRAUD CONTROL UNITS.***

*"(a) IN GENERAL.—Each MediGrant plan shall provide for a State MediGrant fraud control unit described in subsection (b) that effectively carries out the functions and requirements described in such subsection, unless the State demonstrates to the satisfaction of the Secretary that the effective operation of such a unit in the State would not be cost-effective because minimal fraud exists in connection with the provision of covered services to eligible individuals under the plan, and that beneficiaries under the plan will be protected from abuse and neglect in connection with the*

*provision of medical assistance under the plan without the existence of such a unit.*

*"(b) UNITS DESCRIBED.—For purposes of this section, the term 'State MediGrant fraud control unit' means a single identifiable entity of the State government which meets the following requirements:*

*"(1) ORGANIZATION.—The entity—*

*"(A) is a unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations;*

*"(B) is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures that—*

*"(i) assure its referral of suspected criminal violations relating to the program under this title to the appropriate authority or authorities in the State for prosecution, and*

*"(ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions; or*

*"(C) has a formal working relationship with the office of the State Attorney General and*

*has formal procedures (including procedures for its referral of suspected criminal violations to such office) which provide effective coordination of activities between the entity and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to the program under this title.*

*"(2) INDEPENDENCE.—The entity is separate and distinct from any State agency that has principal responsibilities for administering or supervising the administration of the MediGrant plan.*

*"(3) FUNCTION.—The entity's function is conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of medical assistance and the activities of providers of such assistance under the MediGrant plan.*

*"(4) REVIEW OF COMPLAINTS.—The entity has procedures for reviewing complaints of the abuse and neglect of patients of health care facilities which receive payments under the MediGrant plan under this title, and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.*

*"(5) OVERPAYMENTS.—*

*"(A) IN GENERAL.—The entity provides for the collection, or referral for collection to a single State agency, of overpayments that are made under the MediGrant plan to health care providers and that are discovered by the entity in carrying out its activities.*

*"(B) TREATMENT OF CERTAIN OVERPAYMENTS.—If an overpayment is the direct result of the failure of the provider (or the provider's billing agent) to adhere to a change in the State's billing instructions, the entity may recover the overpayment only if the entity demonstrates that the provider (or the provider's billing agent) received prior written or electronic notice of the change in the billing instructions before the submission of the claims on which the overpayment is based.*

*"(6) PERSONNEL.—The entity employs such auditors, attorneys, investigators, and other necessary personnel and is organized in such a manner as is necessary to promote the effective and efficient conduct of the entity's activities.*

***"SEC. 2135. RECOVERIES FROM THIRD PARTIES AND OTHERS.***

*"(a) THIRD PARTY LIABILITY.—Each MediGrant plan shall provide for reasonable steps—*

*"(1) to ascertain the legal liability of third parties to pay for care and services available under the plan, including the collection of sufficient information to enable States to pursue claims against third parties, and*

*"(2) to seek reimbursement for medical assistance provided to the extent legal liability is established where the amount expected to be recovered exceeds the costs of the recovery.*

*"(b) BENEFICIARY PROTECTION.—*

*"(1) IN GENERAL.—Each MediGrant plan shall provide that in the case of a person furnishing services under the plan for which a third party may be liable for payment—*

*"(A) the person may not seek to collect from the individual (or financially responsible relative) payment of an amount for the service more than could be collected under the plan in the absence of such third party liability, and*

*"(B) may not refuse to furnish services to such an individual because of a third party's potential liability for payment for the service.*

*"(2) PENALTY.—A MediGrant plan may provide for a reduction of any payment amount otherwise due with respect to a person who furnishes services under the plan in an amount equal to up to 3 times the amount of any payment sought to be collected by that person in violation of paragraph (1)(A).*

*"(c) GENERAL LIABILITY.—The State shall prohibit any health insurer, including a group health plan as defined in section 607 of the Employee Retirement Income Security Act of 1974, a service benefit plan, or a health maintenance organization, in enrolling an individual or in making any payments for benefits to the individual or on the individual's behalf, from taking into account that the individual is eligible for or is provided medical assistance under a MediGrant plan for any State.*

*"(d) ACQUISITION OF RIGHTS OF BENEFICIARIES.—To the extent that payment has been made under a MediGrant plan in any case where a third party has a legal liability to make payment for such assistance, the State shall have in effect laws under which, to the extent that payment has been made under the plan for health care items or services furnished to an individual, the State is considered to have acquired the rights of such individual to payment by any other party for such health care items or services.*

*"(e) ASSIGNMENT OF MEDICAL SUPPORT RIGHTS.—The MediGrant plan shall provide for mandatory assignment of rights of payment for medical support and other medical care owed to recipients in accordance with section 2136.*

*"(f) REQUIRED LAWS RELATING TO MEDICAL CHILD SUPPORT.—*

*"(1) IN GENERAL.—Each State with a MediGrant plan shall have in effect the following laws:*

*"(A) A law that prohibits an insurer from denying enrollment of a child under the health coverage of the child's parent on the ground that—*

*"(i) the child was born out of wedlock,*

*"(ii) the child is not claimed as a dependent on the parent's Federal income tax return, or*

*"(iii) the child does not reside with the parent or in the insurer's service area.*

*"(B) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an insurer, a law that requires such insurer—*

*"(i) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);*

*"(ii) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and*

*"(iii) not to disenroll, or eliminate coverage of, such a child unless the insurer is provided satisfactory written evidence that—*

*"(I) such court or administrative order is no longer in effect, or*

*"(II) the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment.*

*"(C) In any case in which a parent is required by a court or administrative order to pro-*

*vide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in the State, a law that requires such employer—*

*"(i) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);*

*"(ii) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and*

*"(iii) not to disenroll (or eliminate coverage of) any such child unless—*

*"(I) the employer is provided satisfactory written evidence that such court or administrative order is no longer in effect, or the child is or will be enrolled in comparable health coverage which will take effect not later*

*than the effective date of such disenrollment, or*

*"(II) the employer has eliminated family health coverage for all of its employees; and*

*"(iv) to withhold from such employee's compensation the employee's share (if any) of premiums for health coverage (except that the amount so withheld may not exceed the maximum amount permitted to be withheld under section 303(b) of the Consumer Credit Protection Act), and to pay such share of premiums to the insurer, except that the Secretary may provide by regulation for appropriate circumstances under which an employer may withhold less than such employee's share of such premiums.*

*"(D) A law that prohibits an insurer from imposing requirements on a State agency, which has been assigned the rights of an individual eligible for medical assistance under this title and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.*

*"(E) A law that requires an insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent—*

*"(i) to provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage,*

*"(ii) to permit the custodial parent (or provider, with the custodial parent's approval) to submit claims for covered services without the approval of the noncustodial parent, and*

*"(iii) to make payment on claims submitted in accordance with clause (ii) directly to such custodial parent, the provider, or the State agency.*

*"(F) A law that permits the State agency under this title to garnish the wages, salary, or other employment income of, and requires withholding amounts from State tax refunds to, any person who—*

*"(i) is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under this title,*

*"(ii) has received payment from a third party for the costs of such services to such child, but*

*"(iii) has not used such payments to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services,*

*to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under this title, but any claims for current or past-due child support shall take priority over any such claims for the costs of such services.*

*"(2) DEFINITION.—For purposes of this subsection, the term 'insurer' includes a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a health maintenance organization, and an entity offering a service benefit plan.*

*"(g) ESTATE RECOVERIES AND LIENS PERMITTED.—A State may take such actions as it considers appropriate to adjust or recover from the individual or the individual's estate any amounts paid as medical assistance to or on behalf of the individual under the MediGrant plan, including through the imposition of liens against the property or estate of the individual.*

***"SEC. 2136. ASSIGNMENT OF RIGHTS OF PAYMENT.***

*"(a) IN GENERAL.—For the purpose of assisting in the collection of medical support payments and other payments for medical care owed to recipients of medical assistance under the MediGrant plan, each MediGrant plan shall—*

*"(1) provide that, as a condition of eligibility for medical assistance under the plan to an individual who has the legal capacity to execute an assignment for himself, the individual is required—*

*"(A) to assign the State any rights, of the individual or of any other person who is eligible for medical assistance under the plan and on whose behalf the individual has the legal authority to execute an assignment of such rights, to support (specified as support for the purpose of medical care by a court or administrative order) and to payment for medical care from any third party,*

*"(B) to cooperate with the State (i) in establishing the paternity of such person (referred to in subparagraph (A)) if the person is a child born out of wedlock, and (ii) in obtaining support and payments (described in subparagraph (A)) for himself and for such person, unless (in either case) the individual is a pregnant woman or the individual is found to have good cause for*

*refusing to cooperate as determined by the State, and*

*"(C) to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for care and services available under the plan, unless such individual has good cause for refusing to cooperate as determined by the State; and*

*"(2) provide for entering into cooperative arrangements, including financial arrangements, with any appropriate agency of any State (including, with respect to the enforcement and collection of rights of payment for medical care by or through a parent, with a State's agency established or designated under section 454(3)) and with appropriate courts and law enforcement officials, to assist the agency or agencies administering the plan with respect to—*

*"(A) the enforcement and collection of rights to support or payment assigned under this section, and*

*"(B) any other matters of common concern.*

*"(b) USE OF AMOUNTS COLLECTED.—Such part of any amount collected by the State under an assignment made under the provisions of this section shall be retained*

*by the State as is necessary to reimburse it for medical assistance payments made on behalf of an individual with respect to whom such assignment was executed (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing of such medical assistance), and the remainder of such amount collected shall be paid to such individual.*

***"SEC. 2137. QUALITY ASSURANCE REQUIREMENTS FOR NURSING FACILITIES.***

*"(a) NURSING FACILITY DEFINED.—In this title, the term 'nursing facility' means an institution (or a distinct part of an institution) which—*

*"(1) is primarily engaged in providing to residents—*

*"(A) skilled nursing care and related services for residents who require medical or nursing care,*

*"(B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons, or*

*"(C) on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities,*

*and is not primarily for the care and treatment of mental diseases;*

*"(2) has in effect a transfer agreement (meeting the requirements of section 1861(l)) with one or more hospitals having agreements in effect under section 1866; and*

*"(3) meets the requirements for a nursing facility described in subsections (b), (c), and (d) of this section.*

*Such term also includes any facility which is located in a State on an Indian reservation and is certified by the Secretary as meeting the requirements of paragraph (1) and subsections (b), (c), and (d).*

*"(b) REQUIREMENTS RELATING TO PROVISION OF SERVICES.—*

*"(1) QUALITY OF LIFE.—*

*"(A) IN GENERAL.—A nursing facility must care for its residents in such a manner and in such an environment as will reasonably promote maintenance or enhancement of the quality of life of each resident.*

*"(B) QUALITY ASSESSMENT AND ASSURANCE.—A nursing facility must maintain a quality assessment and assurance committee, consisting of the director of nursing services, a*

*physician designated by the facility, and at least 3 other members of the facility's staff, which (i) meets at least quarterly to identify issues with respect to which quality assessment and assurance activities are necessary and (ii) develops and implements appropriate plans of action to correct identified quality deficiencies. A State or the Secretary may not require disclosure of the records of such committee except insofar as such disclosure is related to the compliance of such committee with the requirements of this subparagraph.*

*"(2) SCOPE OF SERVICES AND ACTIVITIES UNDER PLAN OF CARE.—A nursing facility must provide services and activities in accordance with a written plan of care which—*

*"(A) describes the medical, nursing, and psychosocial needs of the resident and how such needs will be met;*

*"(B) is initially prepared, with the participation to the extent practicable of the resident or the resident's family or legal representative, by a team which includes the resident's attending physician and a registered professional nurse with responsibility for the resident; and*

*"(C) is periodically reviewed and revised by such team after each assessment under paragraph (3).*

*"(3) RESIDENTS' ASSESSMENT.—*

*"(A) REQUIREMENT.—A nursing facility must conduct a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity, which assessment—*

*"(i) describes the resident's capability to perform daily life functions and significant impairments in functional capacity;*

*"(ii) uses an instrument which is specified by the State under subsection (e)(5); and*

*"(iii) includes the identification of medical problems.*

*"(B) CERTIFICATION.—*

*"(i) IN GENERAL.—Each such assessment must be conducted or coordinated (with the appropriate participation of health professionals) by a registered professional nurse who signs and certifies the completion of the assessment. Each individual who completes a portion of such an as-*

*sessment shall sign and certify as to the accuracy of that portion of the assessment.*

*"(ii) PENALTY FOR FALSIFICATION.—*

*"(I) An individual who willfully and knowingly certifies under clause (i) a material and false statement in a resident assessment is subject to a civil money penalty of not more than $1,000 with respect to each assessment.*

*"(II) An individual who willfully and knowingly causes another individual to certify under clause (i) a material and false statement in a resident assessment is subject to a civil money penalty of not more than $5,000 with respect to each assessment.*

*"(III) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this clause in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).*

*"(iii) USE OF INDEPENDENT ASSESSORS.—If a State determines, under a sur-*

*vey under subsection (g) or otherwise, that there has been a knowing and willful certification of false assessments under this paragraph, the State may require (for a period specified by the State) that resident assessments under this paragraph be conducted and certified by individuals who are independent of the facility and who are approved by the State.*

*"(C) FREQUENCY.—*

*"(i) IN GENERAL.—Such an assessment must be conducted—*

*"(I) promptly upon (but no later than 14 days after the date of) admission for each individual admitted;*

*"(II) promptly after a significant change in the resident's physical or mental condition; and*

*"(III) in no case less often than once every 12 months.*

*"(ii) RESIDENT REVIEW.—The nursing facility must examine each resident no less frequently than once every 3 months and, as appropriate, revise the resident's assessment*

*to assure the continuing accuracy of the assessment.*

*"(D) USE.—The results of such an assessment shall be used in developing, reviewing, and revising the resident's plan of care under paragraph (2).*

*"(E) COORDINATION.—Such assessments shall be coordinated with any State-required preadmission screening program to the maximum extent practicable in order to avoid duplicative testing and effort. In addition, a nursing facility shall notify the State mental health authority or State mental retardation or developmental disability authority, as applicable, promptly after a significant change in the physical or mental condition of a resident who is mentally ill or mentally retarded.*

*"(4) PROVISION OF SERVICES AND ACTIVITIES.—*

*"(A) IN GENERAL.—To the extent needed to fulfill all plans of care described in paragraph (2), a nursing facility must provide (or arrange for the provision of)—*

*"(i) nursing and related services and specialized rehabilitative services;*

*"(ii) medically-related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of residents;*

*"(iii) pharmaceutical services (including procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals) to meet the needs of residents;*

*"(iv) dietary services that assure that the meals meet the daily nutritional and special dietary needs of residents;*

*"(v) an on-going program, directed by a qualified professional, of activities designed to meet the interests and the physical, mental, and psychosocial well-being of residents; and*

*"(vi) routine dental services (to the extent covered under the State MediGrant plan) and emergency dental services to meet the needs of residents.*

*The services provided or arranged by the facility must meet professional standards of quality.*

*"(B) QUALIFIED PERSONS PROVIDING SERVICES.—Services described in clauses (i), (ii),*

*(iii), (iv), and (vi) of subparagraph (A) must be provided by qualified persons in accordance with each resident's written plan of care.*

*"(C) REQUIRED NURSING CARE; FACILITY WAIVERS.—*

*"(i) GENERAL REQUIREMENTS.—A nursing facility—*

*"(I) except as provided in clause (ii), must provide 24-hour licensed nursing services which are sufficient to meet the nursing needs of its residents, and*

*"(II) except as provided in clause (ii), must use the services of a registered professional nurse for at least 8 consecutive hours a day, 7 days a week.*

*"(ii) WAIVER BY STATE.—To the extent that a facility is unable to meet the requirements of clause (i), a State may waive such requirements with respect to the facility if—*

*"(I) the facility demonstrates to the satisfaction of the State that the facility has been unable, despite diligent*

*efforts (including offering wages at the community prevailing rate for nursing facilities), to recruit appropriate personnel,*

*"(II) the State determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility,*

*"(III) the State finds that, for any such periods in which licensed nursing services are not available, a registered professional nurse or a physician is obligated to respond immediately to telephone calls from the facility,*

*"(IV) the State agency granting a waiver of such requirements provides notice of the waiver to the State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) and the protection and advocacy system in the State for the mentally ill and the mentally retarded, and*

*"(V) the nursing facility that is granted such a waiver by a State notifies residents of the facility (or, where appropriate, the guardians or legal representatives of such residents) and members of their immediate families of the waiver.*

*A waiver under this clause shall be subject to annual review and to the review of the Secretary and subject to clause (iii) shall be accepted by the Secretary for purposes of this title to the same extent as is the State's certification of the facility. In granting or renewing a waiver, a State may require the facility to use other qualified, licensed personnel.*

*"(iii) ASSUMPTION OF WAIVER AUTHORITY BY SECRETARY.—If the Secretary determines that a State has shown a clear pattern and practice of allowing waivers in the absence of diligent efforts by facilities to meet the staffing requirements, the Secretary shall assume and exercise the authority of the State to grant waivers.*

*"(5) REQUIRED TRAINING OF NURSE AIDES.—*

*"(A) IN GENERAL.—(i) Except as provided in clause (ii), a nursing facility must not use on a full-time basis any individual as a nurse aide in the facility, for more than 4 months unless the individual—*

*"(I) has completed a training and competency evaluation program, or a competency evaluation program, approved by the State under subsection (e)(1)(A), and*

*"(II) is competent to provide nursing or nursing-related services.*

*"(ii) A nursing facility must not use on a temporary, per diem, leased, or on any other basis other than as a permanent employee any individual as a nurse aide in the facility, unless the individual meets the requirements described in clause (i).*

*"(B) OFFERING COMPETENCY EVALUATION PROGRAMS FOR CURRENT EMPLOYEES.—A nursing facility must provide, for individuals used as a nurse aide by the facility, for a competency evaluation program approved by the State under subsection (e)(1) and such preparation as may be necessary for the individual to complete such a program.*

*"(C) COMPETENCY.—The nursing facility must not permit an individual, other than in a training and competency evaluation program approved by the State, to serve as a nurse aide or provide services of a type for which the individual has not demonstrated competency and must not use such an individual as a nurse aide unless the facility has inquired of any State registry established under subsection (e)(2)(A) that the facility believes will include information concerning the individual.*

*"(D) RE-TRAINING REQUIRED.—For purposes of subparagraph (A), if, since an individual's most recent completion of a training and competency evaluation program, there has been a continuous period of 24 consecutive months during none of which the individual performed nursing or nursing-related services for monetary compensation, such individual shall complete a new training and competency evaluation program, or a new competency evaluation program.*

*"(E) REGULAR IN-SERVICE EDUCATION.—The nursing facility must provide such regular performance review and regular in-service education as assures that individuals used as nurse*

*aides are competent to perform services as nurse aides, including training for individuals providing nursing and nursing-related services to residents with cognitive impairments.*

*"(F) NURSE AIDE DEFINED.—In this paragraph, the term 'nurse aide' means any individual providing nursing or nursing-related services to residents in a nursing facility, but does not include an individual—*

*"(i) who is a licensed health professional (as defined in subparagraph (G)) or a registered dietician,*

*"(ii) who volunteers to provide such services without monetary compensation, or*

*"(iii) who is trained, whether compensated or not, to perform a task-specific function which assists residents in their daily activities.*

*"(G) LICENSED HEALTH PROFESSIONAL DEFINED.—In this paragraph, the term 'licensed health professional' means a physician, physician assistant, nurse practitioner, physical, speech, or occupational therapist, physical or occupational therapy assistant, registered profes-*

*sional nurse, licensed practical nurse, or licensed or certified social worker.*

*"(6) PHYSICIAN SUPERVISION AND CLINICAL RECORDS.—A nursing facility must—*

*"(A) require that the health care of every resident be provided under the supervision of a physician (or, at the option of a State, under the supervision of a nurse practitioner, clinical nurse specialist, or physician assistant who is not an employee of the facility but who is working in collaboration with a physician);*

*"(B) provide for having a physician available to furnish necessary medical care in case of emergency; and*

*"(C) maintain clinical records on all residents, which records include the plans of care (described in paragraph (2)) and the residents' assessments (described in paragraph (3)).*

*"(c) REQUIREMENTS RELATING TO RESIDENTS' RIGHTS.—*

*"(1) GENERAL RIGHTS.—*

*"(A) SPECIFIED RIGHTS.—A nursing facility must protect and promote the rights of each resident, including each of the following rights:*

*"(i) FREE CHOICE.—The right to choose a personal attending physician, to be fully informed in advance about care and treatment, to be fully informed in advance of any changes in care or treatment that may affect the resident's well-being, and (except with respect to a resident adjudged incompetent) to participate in planning care and treatment or changes in care and treatment.*

*"(ii) FREE FROM RESTRAINTS.—The right to be free from physical or mental abuse, corporal punishment, involuntary seclusion, and any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms. Restraints may only be imposed—*

*"(I) to ensure the physical safety of the resident or other residents, and*

*"(II) only upon the written order of a physician that specifies the duration and circumstances under which the restraints are to be used (except in emergency circumstances specified by*

*the Secretary until such an order could reasonably be obtained).*

*"(iii) PRIVACY.—The right to privacy with regard to accommodations, medical treatment, written and telephonic communications, visits, and meetings of family and of resident groups.*

*"(iv) CONFIDENTIALITY.—The right to confidentiality of personal and clinical records and to access to current clinical records of the resident upon request by the resident or the resident's legal representative, within 24 hours (excluding hours occurring during a weekend or holiday) after making such a request.*

*"(v) ACCOMMODATION OF NEEDS.—The right—*

*"(I) to reside and receive services with reasonable accommodation of individual needs and preferences, except where the health or safety of the individual or other residents would be endangered, and*

*"(II) to receive notice before the room or roommate of the resident in*

*the facility is changed unless a delay in changing the room or roommate while notice is given would endanger the resident or others.*

*"(vi) GRIEVANCES.—The right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances and the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.*

*"(vii) PARTICIPATION IN RESIDENT AND FAMILY GROUPS.—The right of the resident to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility.*

*"(viii) PARTICIPATION IN OTHER ACTIVITIES.—The right of the resident to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.*

*"(ix) EXAMINATION OF SURVEY RESULTS.—The right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Secretary or a State with respect to the facility and any plan of correction in effect with respect to the facility.*

*"(x) OTHER RIGHTS.—Any other right established by the Secretary.*

*Clause (iii) shall not be construed as requiring the provision of a private room.*

*"(B) NOTICE OF RIGHTS.—A nursing facility must—*

*"(i) inform each resident, orally and in writing at the time of admission to the facility, of the resident's legal rights during the stay at the facility and of the requirements and procedures for establishing eligibility for medical assistance under this title, including the right to request an assessment under section 2115(c)(1)(B);*

*"(ii) make available to each resident, upon reasonable request, a written statement of such rights (which statement is updated upon changes in such rights) includ-*

*ing the notice (if any) of the State developed under subsection (e)(6);*

*"(iii) inform each resident who is entitled to medical assistance under this title—*

*"(I) at the time of admission to the facility or, if later, at the time the resident becomes eligible for such assistance, of the items and services that are included in nursing facility services under the State MediGrant plan and for which the resident may not be charged, and of those other items and services that the facility offers and for which the resident may be charged and the amount of the charges for such items and services, and*

*"(II) of changes in the items and services described in subclause (I) and of changes in the charges imposed for items and services described in that subclause; and*

*"(iv) inform each other resident, in writing before or at the time of admission and periodically during the resident's stay, of services available in the facility and of*

*related charges for such services, including any charges for services not covered under title XVIII or by the facility's basic per diem charge.*

*The written description of legal rights under this subparagraph shall include a description of the protection of personal funds under paragraph (6) and a statement that a resident may file a complaint with a State survey and certification agency respecting resident abuse and neglect and misappropriation of resident property in the facility.*

*"(C) RIGHTS OF INCOMPETENT RESIDENTS.—In the case of a resident adjudged incompetent under the laws of a State, the rights of the resident under this title shall devolve upon, and, to the extent judged necessary by a court of competent jurisdiction, be exercised by, the person appointed under State law to act on the resident's behalf.*

*"(D) USE OF PSYCHOPHARMACOLOGIC DRUGS.—Psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan (included in the written plan of care described in paragraph (2)) de-*

*signed to eliminate or modify the symptoms for which the drugs are prescribed and only if, at least annually an independent, external consultant reviews the appropriateness of the drug plan of each resident receiving such drugs.*

*"(2) TRANSFER AND DISCHARGE RIGHTS.—*

*"(A) IN GENERAL.—A nursing facility must permit each resident to remain in the facility and must not transfer or discharge the resident from the facility unless—*

*"(i) the transfer or discharge is necessary to meet the resident's welfare and the resident's welfare cannot be met in the facility;*

*"(ii) the transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;*

*"(iii) the safety of individuals in the facility is endangered;*

*"(iv) the health of individuals in the facility would otherwise be endangered;*

*"(v) the resident has failed, after reasonable and appropriate notice, to pay (or*

*to have paid under this title or title XVIII on the resident's behalf) for a stay at the facility; or*

*"(vi) the facility ceases to operate.*

*In each of the cases described in clauses (i) through (iv), the basis for the transfer or discharge must be documented in the resident's clinical record. In the cases described in clauses (i) and (ii), the documentation must be made by the resident's physician, and in the case described in clause (iv) the documentation must be made by a physician. For purposes of clause (v), in the case of a resident who becomes eligible for assistance under this title after admission to the facility, only charges which may be imposed under this title shall be considered to be allowable.*

*"(B) PRE-TRANSFER AND PRE-DISCHARGE NOTICE.—*

*"(i) IN GENERAL.—Before effecting a transfer or discharge of a resident, a nursing facility must—*

*"(I) notify the resident (and, if known, an immediate family member of the resident or legal representative)*

*of the transfer or discharge and the reasons therefor,*

*"(II) record the reasons in the resident's clinical record (including any documentation required under subparagraph (A)), and*

*"(III) include in the notice the items described in clause (iii).*

*"(ii) TIMING OF NOTICE.—The notice under clause (i)(I) must be made at least 30 days in advance of the resident's transfer or discharge except—*

*"(I) in a case described in clause (iii) or (iv) of subparagraph (A);*

*"(II) in a case described in clause (ii) of subparagraph (A), where the resident's health improves sufficiently to allow a more immediate transfer or discharge;*

*"(III) in a case described in clause (i) of subparagraph (A), where a more immediate transfer or discharge is necessitated by the resident's urgent medical needs;*

*"(IV) in a case where a resident has not resided in the facility for 30 days; or*

*"(V) in a case where the provision of a 30-day notice would be impossible or impracticable.*

*In the case of such exceptions, notice must be given as many days before the date of the transfer or discharge as is practicable.*

*"(iii) ITEMS INCLUDED IN NOTICE.—Each notice under clause (i) must include—*

*"(I) notice of the resident's right to appeal the transfer or discharge under the State process established under subsection (e)(3);*

*"(II) the name, mailing address, and telephone number of the State long-term care ombudsman (established under title III or VII of the Older Americans Act of 1965);*

*"(III) in the case of residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy system for developmen-*

*tally disabled individuals established under part C of the Developmental Disabilities Assistance and Bill of Rights Act; and*

*"(IV) in the case of mentally ill residents (as defined in subsection (e)(7)(G)(i)), the mailing address and telephone number of the agency responsible for the protection and advocacy system for mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act.*

*"(iv) EXCEPTION.—This subparagraph shall not apply to a voluntary transfer or discharge or a transfer or discharge necessitated by a medical emergency.*

*"(C) ORIENTATION.—A nursing facility must provide reasonable preparation and orientation to residents to promote safe and orderly transfer or discharge from the facility.*

*"(D) NOTICE ON BED-HOLD POLICY AND READMISSION.—*

*"(i) NOTICE BEFORE TRANSFER.—Before a resident of a nursing facility is*

*transferred for hospitalization or therapeutic leave, a nursing facility must provide written information to the resident and an immediate family member or legal representative concerning—*

*"(I) the provisions of the State MediGrant plan under this title regarding the period (if any) during which the resident will be permitted under the State MediGrant plan to return and resume residence in the facility, and*

*"(II) the policies of the facility regarding such a period, which policies must be consistent with clause (iii).*

*"(ii) NOTICE UPON TRANSFER.—At the time of transfer of a resident to a hospital or for therapeutic leave, a nursing facility must provide written notice to the resident and an immediate family member or legal representative of the duration of any period described in clause (i).*

*"(iii) PERMITTING RESIDENT TO RETURN.—A nursing facility must establish*

*and follow a written policy under which a resident—*

*"(I) who is eligible for medical assistance for nursing facility services under a State MediGrant plan,*

*"(II) who is transferred from the facility for hospitalization or therapeutic leave, and*

*"(III) whose hospitalization or therapeutic leave exceeds a period paid for under the State MediGrant plan for the holding of a bed in the facility for the resident,*

*will be permitted to be readmitted to the facility immediately upon the first availability of a bed in a room (not including a private room) in the facility if, at the time of readmission, the resident requires the services provided by the facility.*

*"(3) ACCESS AND VISITATION RIGHTS.—A nursing facility must—*

*"(A) permit immediate access to any resident by any representative of the Secretary, by any representative of the State, by an ombudsman or agency described in subclause (II), (III),*

*or (IV) of paragraph (2)(B)(iii), or by the resident's individual physician;*

*"(B) permit immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives of the resident;*

*"(C) permit immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident, unless such access would endanger the health or safety of the resident or others in the facility;*

*"(D) permit reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time; and*

*"(E) permit representatives of the State ombudsman (described in paragraph (2)(B)(iii)(II)), with the permission of the resident (or the resident's legal representative) and consistent with State law, to examine a resident's clinical records.*

*"(4) EQUAL ACCESS TO QUALITY CARE.—*

*"(A) IN GENERAL.—A nursing facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services required under the State MediGrant plan for all individuals regardless of source of payment.*

*"(B) CONSTRUCTION.—*

*"(i) NOTHING PROHIBITING ANY CHARGES FOR NON-MEDIGRANT PATIENTS.—Subparagraph (A) shall not be construed as prohibiting a nursing facility from charging any amount for services furnished, consistent with the notice in paragraph (1)(B) describing such charges.*

*"(ii) NO ADDITIONAL SERVICES REQUIRED.—Subparagraph (A) shall not be construed as requiring a State to offer additional services on behalf of a resident than are otherwise provided under the State MediGrant plan.*

*"(5) PROTECTION OF RESIDENT FUNDS.—*

*"(A) IN GENERAL.—The nursing facility—*

*"(i) may not require residents to deposit their personal funds with the facility, and*

*"(ii) upon the written authorization of the resident, must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this paragraph.*

*"(B) MANAGEMENT OF PERSONAL FUNDS.—Upon written authorization of a resident under subparagraph (A)(ii), the facility must manage and account for the personal funds of the resident deposited with the facility as follows:*

*"(i) DEPOSIT.—The facility must deposit any amount of personal funds in excess of $250 with respect to a resident in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts and credits all interest earned on such separate account to such account. With respect to any other personal funds, the facility must maintain such funds in a non-interest bearing account or petty cash fund.*

*"(ii) ACCOUNTING AND RECORDS.—The facility must assure a full and complete accounting of each such resident's personal funds, maintain a written record of all fi-*

*nancial transactions involving the personal funds of a resident deposited with the facility, and afford the resident (or a legal representative of the resident) reasonable access to such record.*

*"(iii) CONVEYANCE UPON DEATH.—Upon the death of a resident with such an account, the facility must convey promptly the resident's personal funds (and a final accounting of such funds) to the individual administering the resident's estate. All other personal property, including medical records, shall be considered part of the resident's estate and shall only be released to the administrator of the estate.*

*"(C) ASSURANCE OF FINANCIAL SECURITY.—The facility must purchase a surety bond, or otherwise provide assurance satisfactory to the State, to assure the security of all personal funds of residents deposited with the facility.*

*"(D) LIMITATION ON CHARGES TO PERSONAL FUNDS.—The facility may not impose a charge against the personal funds of a resident for any item or service for which payment is made under this title or title XVIII.*

*"(6) LIMITATION ON CHARGES IN CASE OF MEDIGRANT-ELIGIBLE INDIVIDUALS.—A nursing facility may not impose charges, for certain MediGrant-eligible individuals for nursing facility services covered by the State under its plan under this title, that exceed the payment amounts established by the State for such services under this title.*

*"(7) POSTING OF SURVEY RESULTS.—A nursing facility must post in a place readily accessible to residents, and family members and legal representatives of residents, the results of the most recent survey of the facility conducted under subsection (g).*

*"(d) REQUIREMENTS RELATING TO ADMINISTRATION AND OTHER MATTERS.—*

*"(1) ADMINISTRATION.—*

*"(A) IN GENERAL.—A nursing facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident (consistent with requirements established under subsection (f)(5)).*

*"(B) REQUIRED NOTICES.—If a change occurs in—*

*"(i) the persons with an ownership or control interest (as defined in section 1124(a)(3)) in the facility,*

*"(ii) the persons who are officers, directors, agents, or managing employees (as defined in section 1126(b)) of the facility,*

*"(iii) the corporation, association, or other company responsible for the management of the facility, or*

*"(iv) the individual who is the administrator or director of nursing of the facility,*

*the nursing facility must provide notice to the State agency responsible for the licensing of the facility, at the time of the change, of the change and of the identity of each new person, company, or individual described in the respective clause.*

*"(C) NURSING FACILITY ADMINISTRATOR.—The administrator of a nursing facility, whether freestanding or hospital-based, must meet such standards as are established by the Secretary.*

*"(2) LICENSING AND LIFE SAFETY CODE.—*

*"(A) LICENSING.—A nursing facility must be licensed under applicable State and local law.*

*"(B) LIFE SAFETY CODE.—A nursing facility must meet such provisions of such edition (as specified by the Secretary in regulation) of the Life Safety Code of the National Fire Protection Association as are applicable to nursing homes; except that—*

*"(i) the Secretary may waive, for such periods as he deems appropriate, specific provisions of such Code which if rigidly applied would result in unreasonable hardship upon a facility, but only if such waiver would not adversely affect the health and safety of residents or personnel, and*

*"(ii) the provisions of such Code shall not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects residents of and personnel in nursing facilities.*

*"(3) SANITARY AND INFECTION CONTROL AND PHYSICAL ENVIRONMENT.—A nursing facility must—*

*"(A) establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment in which resi-*

*dents reside and to help prevent the development and transmission of disease and infection, and*

*"(B) be designed, constructed, equipped, and maintained in a manner to protect the health and safety of residents, personnel, and the general public.*

*"(4) MISCELLANEOUS.—*

*"(A) COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND PROFESSIONAL STANDARDS.—A nursing facility, whether freestanding or hospital-based, must operate and provide services in compliance with all applicable Federal, State, and local laws and regulations (including the requirements of section 1124) and with accepted professional standards and principles which apply to professionals providing services in such a facility.*

*"(B) OTHER.—A nursing facility must meet such other requirements relating to the health and safety of residents or relating to the physical facilities thereof as the Secretary may find necessary.*

*"(e) STATE REQUIREMENTS RELATING TO NURSING FACILITY REQUIREMENTS.—A State with a MediGrant plan shall provide for the following:*

*"(1) SPECIFICATION AND REVIEW OF NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS AND OF NURSE AIDE COMPETENCY EVALUATION PROGRAMS.—The State must—*

*"(A) specify those training and competency evaluation programs, and those competency evaluation programs, that the State approves for purposes of subsection (b)(5) and that meet the requirements established under subsection (f)(2), and*

*"(B) provide for the review and reapproval of such programs, at a frequency and using a methodology consistent with the requirements established under subsection (f)(2)(A)(iii).*

*"(2) NURSE AIDE REGISTRY.—*

*"(A) IN GENERAL.—The State shall establish and maintain a registry of all individuals who have satisfactorily completed a nurse aide training and competency evaluation program, or a nurse aide competency evaluation program, approved under paragraph (1) in the State, or any individual described in subsection (f)(2)(B)(ii) or in subparagraph (B), (C), or (D) of section 6901(b)(4) of the Omnibus Budget Reconciliation Act of 1989.*

*"(B) INFORMATION IN REGISTRY.—The registry under subparagraph (A) shall provide for the inclusion of specific documented findings by a State under subsection (g)(1)(C) of resident neglect or abuse or misappropriation of resident property involving an individual listed in the registry, as well as any brief statement of the individual disputing the findings. The State shall make available to the public information in the registry. In the case of inquiries to the registry concerning an individual listed in the registry, any information disclosed concerning such a finding shall also include disclosure of any such statement in the registry relating to the finding or a clear and accurate summary of such a statement.*

*"(C) PROHIBITION AGAINST CHARGES.—A State may not impose any charges on a nurse aide relating to the registry established and maintained under subparagraph (A).*

*"(3) STATE APPEALS PROCESS FOR TRANSFERS AND DISCHARGES.—The State must provide for a fair mechanism, meeting the guidelines established under subsection (f)(3), for hearing appeals on transfers and discharges of residents of such facilities.*

*"(4) NURSING FACILITY ADMINISTRATOR STANDARDS.—The State must implement and enforce the nursing facility administrator standards developed under subsection (f)(4) respecting the qualification of administrators of nursing facilities. Any such standards promulgated shall apply to administrators of hospital-based facilities as well as administrators of freestanding facilities.*

*"(5) SPECIFICATION OF RESIDENT ASSESSMENT INSTRUMENT.—The State shall specify the instrument to be used by nursing facilities in the State in complying with the requirement of subsection (b)(3)(A)(iii).*

*"(6) NOTICE OF MEDIGRANT RIGHTS.—Each State shall develop (and periodically update) a written notice of the rights and obligations of residents of nursing facilities (and spouses of such residents) under this title.*

*"(7) STATE REQUIREMENTS FOR PREADMISSION SCREENING AND RESIDENT REVIEW.—*

*"(A) PREADMISSION SCREENING.—*

*"(i) IN GENERAL.—The State must have in effect a preadmission screening program, for identifying mentally ill and mentally retarded individuals (as defined in*

*subparagraph (B)) who are admitted to nursing facilities.*

*"(ii) STATE REQUIREMENT FOR RESIDENT REVIEW.—The State shall notify the State mental health authority or the State mental retardation or developmental disability authority, as appropriate, of the individuals so identified.*

*"(B) DEFINITIONS.—In this paragraph:*

*"(i) An individual is considered to be 'mentally ill' if the individual has a serious mental illness (as defined by the Secretary in consultation with the National Institute of Mental Health) and does not have a primary diagnosis of dementia (including Alzheimer's disease or a related disorder) or a diagnosis (other than a primary diagnosis) of dementia and a primary diagnosis that is not a serious mental illness.*

*"(ii) An individual is considered to be 'mentally retarded' if the individual is mentally retarded or a person with a related condition.*

*"(f) RESPONSIBILITIES RELATING TO NURSING FACILITY REQUIREMENTS.—*

*"(1) GENERAL RESPONSIBILITY.—It is the duty and responsibility of a State with a MediGrant plan under this title to assure that requirements which govern the provision of care in nursing facilities under the plan, and the enforcement of such requirements, are adequate to protect the health, safety, welfare, and rights of residents and to promote the effective and efficient use of public moneys.*

*"(2) REQUIREMENTS FOR NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS AND FOR NURSE AIDE COMPETENCY EVALUATION PROGRAMS.—For purposes of subsections (b)(5) and (e)(1)(A), the State shall establish—*

*"(A) requirements for the approval of nurse aide training and competency evaluation programs, including requirements relating to (i) the areas to be covered in such a program (including at least basic nursing skills, personal care skills, recognition of mental health and social service needs, care of cognitively impaired residents, basic restorative services, and residents' rights) and content of the curriculum, (ii) minimum hours of initial and ongoing training and retraining, (iii) qualifications of instructors, and (iv) procedures for determination of competency;*

*"(B) requirements for the approval of nurse aide competency evaluation programs, including requirement relating to the areas to be covered in such a program, including at least basic nursing skills, personal care skills, recognition of mental health and social service needs, care of cognitively impaired residents, basic restorative services, and residents' rights, and procedures for determination of competency;*

*"(C) requirements respecting the minimum frequency and methodology to be used by a State in reviewing such programs' compliance with the requirements for such programs; and*

*"(D) requirements, under both such programs, that—*

*"(i) provide procedures for determining competency that permit a nurse aide, at the nurse aide's option, to establish competency through procedures or methods other than the passing of a written examination and to have the competency evaluation conducted at the nursing facility at which the aide is (or will be) employed, and*

*"(ii) prohibit the imposition on a nurse aide who is employed by (or who has*

*received an offer of employment from) a facility on the date on which the aide begins either such program of any charges (including any charges for textbooks and other required course materials and any charges for the competency evaluation) for either such program.*

*"(3) QUALIFICATION OF ADMINISTRATORS.—For purposes of subsections (d)(1)(C) and (e)(4), the State shall develop standards to be applied in assuring the qualifications of administrators of nursing facilities. Any such standards must apply to administrators of hospital-based facilities as well as administrators of freestanding facilities.*

*"(g) SURVEY AND CERTIFICATION PROCESS.—*

*"(1) STATE AND FEDERAL RESPONSIBILITY.—*

*"(A) IN GENERAL.—Under each State MediGrant plan under this title, the State shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of nursing facilities with the requirements of subsections (b), (c), and (d). The Secretary shall be responsible for certifying, in accordance with surveys conducted under para-*

*graph (2), the compliance of State nursing facilities with the requirements of such subsections.*

*"(B) INVESTIGATION OF ALLEGATIONS OF RESIDENT NEGLECT AND ABUSE AND MISAPPROPRIATION OF RESIDENT PROPERTY.—The State shall provide, through the agency responsible for surveys and certification of nursing facilities under this subsection, for a process for the receipt and timely review and investigation of allegations of neglect and abuse and misappropriation of resident property by a nurse aide of a resident in a nursing facility or by another individual used by the facility in providing services to such a resident. The State shall, after notice to the individual involved and a reasonable opportunity for a hearing for the individual to rebut allegations, make a finding as to the accuracy of the allegations. If the State finds that a nurse aide has neglected or abused a resident or misappropriated resident property in a facility, the State shall notify the nurse aide and the registry of such finding. If the State finds that any other individual used by the facility has neglected or abused a resident or misappropriated resident property in a facility, the State shall*

*notify the appropriate licensure authority. A State shall not make a finding that an individual has neglected a resident if the individual demonstrates that such neglect was caused by factors beyond the control of the individual.*

*"(2) SURVEYS.—*

*"(A) ANNUAL STANDARD SURVEY.—*

*"(i) IN GENERAL.—Each nursing facility shall be subject to a standard survey, to be conducted without any prior notice to the facility. Any individual who notifies (or causes to be notified) a nursing facility of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of not to exceed $2,000. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). The State shall take all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.*

*"(ii) CONTENTS.—Each standard survey shall include, for a case-mix stratified sample of residents—*

*"(I) a survey of the quality of care furnished, as measured by indicators of medical, nursing, and rehabilitative care, dietary and nutrition services, activities and social participation, and sanitation, infection control, and the physical environment,*

*"(II) written plans of care provided under subsection (b)(2) and an audit of the residents' assessments under subsection (b)(3) to determine the accuracy of such assessments and the adequacy of such plans of care, and*

*"(III) a review of compliance with residents' rights under subsection (c).*

*"(iii) FREQUENCY.—*

*"(I) IN GENERAL.—Each nursing facility shall be subject to a standard survey not later than 24 months after the date of the previous standard survey conducted under this subpara-*

*graph, except that in the case of a facility which has been subjected to an extended survey under subparagraph (B), a standard survey shall be conducted not later than 12 months after the date of the preceding extended survey.*

*"(II) SPECIAL SURVEYS.—If not otherwise conducted under subclause (I), a standard survey (or an abbreviated standard survey) may be conducted within 4 months of any change of ownership, administration, management of a nursing facility, or director of nursing in order to determine whether the change has resulted in any decline in the quality of care furnished in the facility.*

*"(B) EXTENDED SURVEYS.—*

*"(i) IN GENERAL.—Each nursing facility which is found, under a standard survey, to have provided substandard quality of care shall be subject to an extended survey. Any other facility may, at the State's*

*discretion, be subject to such an extended survey (or a partial extended survey).*

*"(ii) TIMING.—The extended survey shall be conducted immediately after the standard survey (or, if not practicable, not later than 2 weeks after the date of completion of the standard survey).*

*"(iii) CONTENTS.—In such an extended survey, the survey team shall review and identify the policies and procedures which produced such substandard quality of care and shall determine whether the facility has complied with all the requirements described in subsections (b), (c), and (d). Such review shall include an expansion of the size of the sample of residents' assessments reviewed and a review of the staffing, of in-service training, and, if appropriate, of contracts with consultants.*

*"(iv) CONSTRUCTION.—Nothing in this paragraph shall be construed as requiring an extended or partial extended survey as a prerequisite to imposing a sanction against a facility under subsection (h) on the basis of findings in a standard survey.*

*"(C) SURVEY PROTOCOL.—Standard and extended surveys shall be conducted—*

*"(i) based upon the protocol which the Secretary has developed, tested, and validated, as of the date of the enactment of this title, and*

*"(ii) by individuals, of a survey team, who meet such minimum qualifications as the State establishes.*

*"(D) CONSISTENCY OF SURVEYS.—Each State shall implement programs to measure and reduce inconsistency in the application of survey results among surveyors.*

*"(E) SURVEY TEAMS.—*

*"(i) IN GENERAL.—Surveys under this subsection shall be conducted by a multidisciplinary team of professionals (including a registered professional nurse).*

*"(ii) PROHIBITION OF CONFLICTS OF INTEREST.—A State may not use as a member of a survey team under this subsection an individual who is serving (or has served within the previous 2 years) as a member of the staff of, or as a consultant to, the facility surveyed respecting compliance*

*with the requirements of subsections (b), (c), and (d), or who has a personal or familial financial interest in the facility being surveyed.*

*"(3) VALIDATION SURVEYS.—*

*"(A) IN GENERAL.—The Secretary shall conduct onsite surveys of a representative sample of nursing facilities in each State, within 4 months of the date of surveys conducted under paragraph (2) by the State, in a sufficient number to allow inferences about the adequacies of each State's surveys conducted under paragraph (2). In conducting such surveys, the Secretary shall use the same survey protocols as the State is required to use under paragraph (2). If the State has determined that an individual nursing facility meets the requirements of subsections (b), (c), and (d), but the Secretary determines that the facility does not meet such requirements, the Secretary's determination as to the facility's noncompliance with such requirements is binding and supersedes that of the State survey.*

*"(B) SCOPE.—With respect to each State, the Secretary shall conduct surveys under subparagraph (A) at least every third year with re-*

*spect to at least 5 percent of the number of nursing facilities surveyed by the State in the year, but in no case less than 5 nursing facilities in the State.*

*"(C) SPECIAL SURVEYS OF COMPLIANCE.—Where the Secretary has found substantial evidence of a pattern of noncompliance by a nursing facility with any of the requirements of subsections (b), (c), and (d), the Secretary may conduct a survey of the facility and, on the basis of that survey, make determinations concerning the extent to which the nursing facility meets such requirements.*

*"(4) INVESTIGATION OF COMPLAINTS AND MONITORING NURSING FACILITY COMPLIANCE.—Each State shall maintain procedures and adequate staff to—*

*"(A) investigate complaints of violations of requirements by nursing facilities, and*

*"(B) monitor, on-site, on a regular, as needed basis, a nursing facility's compliance with the requirements of subsections (b), (c), and (d), if—*

*"(i) the facility has been found not to be in compliance with such requirements*

*and is in the process of correcting deficiencies to achieve such compliance;*

*"(ii) the facility was previously found not to be in compliance with such requirements, has corrected deficiencies to achieve such compliance, and verification of continued compliance is indicated; or*

*"(iii) the State has reason to question the compliance of the facility with such requirements.*

*"(5) DISCLOSURE OF RESULTS OF INSPECTIONS AND ACTIVITIES.—*

*"(A) PUBLIC INFORMATION.—Each State, and the Secretary, shall make available to the public—*

*"(i) information respecting all surveys and certifications made respecting nursing facilities, including statements of deficiencies, within a reasonable time after such information is made available to those facilities, and approved plans of correction,*

*"(ii) copies of cost reports of such facilities filed under this title or under title XVIII,*

*"(iii) copies of statements of ownership under section 1124, and*

*"(iv) information disclosed under section 1126.*

*"(B) NOTICE TO OMBUDSMAN.—Each State shall notify the State long-term care ombudsman (established under title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act) of the State's findings of noncompliance with any of the requirements of subsections (b), (c), and (d), or of any adverse action taken against a nursing facility under paragraphs (1), (2), or (3) of subsection (h), with respect to a nursing facility in the State.*

*"(C) NOTICE TO PHYSICIANS AND NURSING FACILITY ADMINISTRATOR LICENSING BOARD.—If a State finds that a nursing facility has provided substandard quality of care, the State shall notify—*

*"(i) the attending physician of each resident with respect to which such finding is made, and*

*"(ii) any State board responsible for the licensing of the nursing facility administrator of the facility.*

*"(D) ACCESS TO FRAUD CONTROL UNITS.—Each State shall provide its State MediGrant fraud and abuse control unit (established under section 2134) with access to all information of the State agency responsible for surveys and certifications under this subsection.*

*"(h) ENFORCEMENT PROCESS.—*

*"(1) IN GENERAL.—If a State finds, on the basis of a standard, extended, or partial extended survey under subsection (g)(2) or otherwise, that a nursing facility no longer meets a requirement of subsection (b), (c), or (d)—*

*"(A) the State shall require the facility to correct the deficiency involved;*

*"(B) if the State finds that the facility's deficiencies immediately jeopardize the health or safety of its residents, the State shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in paragraph (2)(A)(iii), or terminate the facility's participation under the State MediGrant plan and may provide, in addition, for one or more of the other remedies described in paragraph (2); and*

*"(C) if the State finds that the facility's deficiencies do not immediately jeopardize the health or safety of its residents, the State may—*

*"(i) terminate the facility's participation under the State MediGrant plan,*

*"(ii) provide for one or more of the remedies described in paragraph (2), or*

*"(iii) do both.*

*"(2) SPECIFIED REMEDIES.—*

*"(A) LISTING.—Except as provided in subparagraph (B), each State shall establish by law (whether statute or regulation) at least the following remedies:*

*"(i) Denial of payment under the State MediGrant plan with respect to any individual admitted to the nursing facility involved after such notice to the public and to the facility as may be provided for by the State.*

*"(ii) A civil money penalty assessed and collected, with interest, for each day in which the facility is or was out of compliance with a requirement of subsection (b), (c), or (d).*

*"(iii) The appointment of temporary management to oversee the operation of the facility and to assure the health and safety of the facility's residents, where there is a need for temporary management while—*

*"(I) there is an orderly closure of the facility, or*

*"(II) improvements are made in order to bring the facility into compliance with all the requirements of subsections (b), (c), and (d).*

*The temporary management under this clause shall not be terminated under subclause (II) until the State has determined that the facility has the management capability to ensure continued compliance with all the requirements of subsections (b), (c), and (d).*

*"(iv) The authority, in the case of an emergency, to close the facility, to transfer residents in that facility to other facilities, or both.*

*The State also shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of*

*each of these remedies, to be used in the imposition of such remedies.*

*"(B) ALTERNATIVE REMEDIES.—A State may establish alternative remedies to the remedies described in subparagraph (A), if the State demonstrates to the Secretary's satisfaction that the alternative remedies are as effective in deterring noncompliance and correcting deficiencies as those described in such subparagraph.*

*"(C) ASSURING PROMPT COMPLIANCE.—If a nursing facility has not complied with any of the requirements of subsections (b), (c), and (d), within 3 months after the date the facility is found to be out of compliance with such requirements, the State may impose the remedy described in subparagraph (A)(i) for all individuals who are admitted to the facility after such date.*

*"(D) REPEATED NONCOMPLIANCE.—In the case of a nursing facility which, on 3 consecutive standard surveys conducted under subsection (g)(2), has been found to have provided substandard quality of care, the State shall (regardless of what other remedies are provided)—*

*"(i) impose the remedy described in subparagraph (A)(i), and*

*"(ii) monitor the facility under subsection (g)(4)(B),*

*until the facility has demonstrated, to the satisfaction of the State, that it is in compliance with the requirements of subsections (b), (c), and (d), and that it will remain in compliance with such requirements.*

*"(3) SECRETARIAL AUTHORITY.—*

*"(A) FOR STATE NURSING FACILITIES.—With respect to a State nursing facility, the Secretary shall have the authority and duties of a State under this subsection. Nothing in this subparagraph shall be construed as restricting the remedies available to the Secretary to remedy a nursing facility's deficiencies.*

*"(B) OTHER NURSING FACILITIES.—With respect to any other nursing facility in a State, if the Secretary finds that a nursing facility no longer meets a requirement of subsection (b), (c), or (d), the Secretary shall notify the State of such deficiency. If, after a reasonable period of time after such notification is given, the Secretary finds that the State has failed to carry*

*out the requirements of paragraph (1)(A) or paragraph (1)(B) (if appropriate) with respect to the deficiency involved, or that the deficiency remains uncorrected—*

*"(i) the Secretary shall require the facility to correct the deficiency involved;*

*"(ii) if the Secretary finds that the deficiency involved immediately jeopardizes the health or safety of its residents, the Secretary shall, in consultation with the State, take action to remove the jeopardy and correct the deficiencies through the remedy specified in subparagraph (C)(iii), or terminate the facility's participation under the State MediGrant plan and may provide, in addition, for one or more of the other remedies described in subparagraph (C); and*

*"(iii) in the case of a deficiency that remains uncorrected, if the Secretary finds that the deficiency involved does not immediately jeopardize the health or safety of its residents, the Secretary may impose any of the remedies described in subparagraph (C).*

*"(C) SPECIFIED REMEDIES.—The remedies specified in this subparagraph are as follows:*

*"(i) DENIAL OF PAYMENT.—Denial of any further payments to the State in accordance with section 2154(f) for medical assistance furnished by the facility to all individuals in the facility or to individuals admitted to the facility after the effective date of the finding.*

*"(ii) AUTHORITY WITH RESPECT TO CIVIL MONEY PENALTIES.—Imposition of a civil money penalty against the facility in an amount not to exceed $5,000 for each day of noncompliance. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).*

*"(iii) APPOINTMENT OF TEMPORARY MANAGEMENT.—Appointment of temporary management (in consultation with the State) to oversee the operation of the facility and to assure the health and safety of the facility's residents, where there is a need for temporary management while—*

*"(I) there is an orderly closure of the facility, or*

*"(II) improvements are made in order to bring the facility into compliance with all the requirements of subsections (b), (c), and (d).*

*The temporary management under this clause shall not be terminated under subclause (II) until the Secretary has determined that the facility has the management capability to ensure continued compliance with all the requirements of subsections (b), (c), and (d).*

*The Secretary shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies.*

*"(4) SPECIAL RULES REGARDING PAYMENTS TO FACILITIES.—*

*"(A) CONTINUATION OF PAYMENTS PENDING REMEDIATION.—The State or the Secretary, as appropriate, may continue payments, over a period of not longer than 6 months after the effective date of the findings, under this title with re-*

*spect to a nursing facility not in compliance with a requirement of subsection (b), (c), or (d).*

*"(B) EFFECTIVE PERIOD OF DENIAL OF PAYMENT.—A finding to deny payment under this subsection shall terminate when the State or Secretary (as the case may be) finds that the facility is in substantial compliance with all the requirements of subsections (b), (c), and (d).*

*"(5) CONSTRUCTION.—The remedies provided under this subsection are in addition to those otherwise available under Federal or State law and shall not be construed as limiting such other remedies, including any remedy available to an individual at common law. The provisions of this subsection shall apply to a nursing facility (or portion thereof) notwithstanding that the facility (or portion thereof) also is a skilled nursing facility for purposes of title XVIII or is accredited by an entity pursuant to subsection (i)(2).*

*"(6) SHARING OF INFORMATION.—Notwithstanding any other provision of law, all information concerning nursing facilities required by this section to be filed with the Secretary or a State agency shall be made available by such facilities to Federal or State employees for purposes consistent with the effective*

*administration of programs established under this title and title XVIII, including investigations by State MediGrant fraud control units.*

*"(i) CONSTRUCTION.—*

*"(1) MEDICARE REQUIREMENTS.—Where requirements or obligations under this section are identical to those provided under section 1819 of this Act, the fulfillment of those requirements or obligations under section 1819 shall be considered to be the fulfillment of the corresponding requirements or obligations under this section.*

*"(2) EFFECT OF ACCREDITATION.—*

*"(A) IN GENERAL.—At the option of a State, or the Secretary, as appropriate, if a nursing facility in the State is accredited by a national accrediting entity meeting such standards as the State or the Secretary may impose, such facility shall be deemed to have met the requirements of this section and the State shall be deemed to have met the survey and certification requirements under subsection (g).*

*"(B) REQUIREMENT FOR ACCREDITING ENTITY.—A State or the Secretary, as appropriate, may not find that an accrediting entity meets standards under subparagraph (A) unless such*

*entity applies standards for accreditation for facilities that meet or exceed the requirements of this section.*

***"SEC. 2138. OTHER PROVISIONS PROMOTING PROGRAM INTEGRITY.***

*"(a) PUBLIC ACCESS TO SURVEY RESULTS.—Each MediGrant plan shall provide that upon completion of a survey of any health care facility or organization by a State agency to carry out the plan, the agency shall make public in readily available form and place the pertinent findings of the survey relating to the compliance of the facility or organization with requirements of law.*

*"(b) RECORD KEEPING.—Each MediGrant plan shall provide for agreements with persons or institutions providing services under the plan under which the person or institution agrees—*

*"(1) to keep such records, including ledgers, books, and original evidence of costs, as are necessary to fully disclose the extent of the services provided to individuals receiving assistance under the plan, and*

*"(2) to furnish the State agency with such information regarding any payments claimed by such person or institution for providing services under the plan, as the State agency may from time to time request.*

*"(c) QUALITY ASSURANCE.—Each MediGrant plan shall provide a program to assure the quality of services provided under the plan, including such services provided to individuals with chronic mental or physical illness.*

*"PART E—ESTABLISHMENT AND AMENDMENT OF MEDIGRANT PLANS*

***"SEC. 2151. SUBMITTAL AND APPROVAL OF MEDIGRANT PLANS.***

*"(a) SUBMITTAL.—As a condition of receiving funding under part C, each State shall submit to the Secretary a MediGrant plan that meets the applicable requirements of this title.*

*"(b) APPROVAL.—Except as the Secretary may provide under section 2154, a MediGrant plan submitted under subsection (a)—*

*"(1) shall be approved for purposes of this title, and*

*"(2) shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than the first calendar quarter that begins at least 60 days after the date the plan is submitted.*

***"SEC. 2152. SUBMITTAL AND APPROVAL OF PLAN AMENDMENTS.***

*"(a) SUBMITTAL OF AMENDMENTS.—A State may amend, in whole or in part, its MediGrant plan at any*

*time through transmittal of a plan amendment under this section.*

*"(b) APPROVAL.—Except as the Secretary may provide under section 2154, an amendment to a MediGrant plan submitted under subsection (a)—*

*"(1) shall be approved for purposes of this title, and*

*"(2) shall be effective as provided in subsection (c).*

*"(c) EFFECTIVE DATES FOR AMENDMENTS.—*

*"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, an amendment to a MediGrant plan shall take effect on one or more effective dates specified in the amendment.*

*"(2) AMENDMENTS RELATING TO ELIGIBILITY OR BENEFITS.—Except as provided in paragraph (4)—*

*"(A) NOTICE REQUIREMENT.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan may not take effect unless the State certifies that it has provided prior or contemporaneous public notice of the change, in a form and manner provided under applicable State law.*

*"(B) TIMELY TRANSMITTAL.—Any plan amendment that eliminates or restricts eligibility*

*or benefits under the plan shall not be effective for longer than a 60 day period unless the amendment has been transmitted to the Secretary before the end of such period.*

*"(3) OTHER AMENDMENTS.—Subject to paragraph (4), any plan amendment that is not described in paragraph (2) becomes effective in a State fiscal year may not remain in effect after the end of such fiscal year (or, if later, the end of the 90-day period on which it becomes effective) unless the amendment has been transmitted to the Secretary.*

*"(4) EXCEPTION.—The requirements of paragraphs (2) and (3) shall not apply to a plan amendment that is submitted on a timely basis pursuant to a court order or an order of the Secretary.*

***"SEC. 2153. PROCESS FOR STATE WITHDRAWAL FROM PROGRAM.***

*"(a) IN GENERAL.—A State may rescind its MediGrant plan and discontinue participation in the program under this title at any time after providing—*

*"(1) the public with 90 days prior notice in a publication in one or more daily newspapers of general circulation in the State or in any publication used by the State to publish State statutes or rules, and*

*"(2) the Secretary with 90 days prior written notice.*

*"(b) EFFECTIVE DATE.—Such discontinuation shall not apply to payments under part C for expenditures made for items and services furnished under the MediGrant plan before the effective date of the discontinuation.*

*"(c) PRORATION OF ALLOTMENTS.—In the case of any withdrawal under this section other than at the end of a Federal fiscal year, notwithstanding any provision of section 2121 to the contrary, the Secretary shall provide for such appropriate proration of the application of allotments under section 2121 as is appropriate.*

***"SEC. 2154. SANCTIONS FOR NONCOMPLIANCE.***

*"(a) PROMPT REVIEW OF PLAN SUBMITTALS.—The Secretary shall promptly review MediGrant plans and plan amendments submitted under this part to determine if they substantially comply with the requirements of this title.*

*"(b) DETERMINATIONS OF SUBSTANTIAL NONCOMPLIANCE.—*

*"(1) AT TIME OF PLAN OR AMENDMENT SUBMITTAL.—*

*"(A) IN GENERAL.—If the Secretary, during the 30-day period beginning on the date of submittal of a MediGrant plan or plan amendment—*

*"(i) determines that the plan or amendment substantially violates (within the meaning of subsection (c)) a requirement of this title, and*

*"(ii) provides written notice of such determination to the State,*

*the Secretary shall issue an order specifying that the plan or amendment, insofar as it is in substantial violation of such a requirement, shall not be effective, except as provided in subsection (c), beginning at the end of a period of not less than 30 days (or 120 days in the case of the initial submission of the MediGrant plan) specified in the order beginning on the date of the notice of the determination.*

*"(B) EXTENSION OF TIME PERIODS.—The time periods specified in subparagraph (A) may be extended by written agreement of the Secretary and the State involved.*

*"(2) VIOLATIONS IN ADMINISTRATION OF PLAN.—*

*"(A) IN GENERAL.—If the Secretary determines, after reasonable notice and opportunity for a hearing for the State, that in the administration of a MediGrant plan there is a substan-*

*tial violation of a requirement of this title, the Secretary shall provide the State with written notice of the determination and with an order to remedy such violation. Such an order shall become effective prospectively, as specified in the order, after the date of receipt of such written notice. Such an order may include the withholding of funds, consistent with subsection (f), for parts of the MediGrant plan affected by such violation, until the Secretary is satisfied that the violation has been corrected.*

*"(B) EFFECTIVENESS.—If the Secretary issues an order under paragraph (1), the order shall become effective, except as provided in subsection (c), beginning at the end of a period (of not less than 30 days) specified in the order beginning on the date of the notice of the determination to the State.*

*"(C) TIMELINESS OF DETERMINATIONS RELATING TO REPORT-BASED COMPLIANCE.—The Secretary shall make determinations under this paragraph respecting violations relating to information contained in an annual report under section 2102, an independent evaluation under section 2103, or an audit report under section 2131*

*not later than 30 days after the date of transmittal of the report or evaluation to the Secretary.*

*"(3) CONSULTATION WITH STATE.—Before making a determination adverse to a State under this section, the Secretary shall (within any time periods provided under this section)—*

*"(A) reasonably consult with the State involved,*

*"(B) offer the State a reasonable opportunity to clarify the submission and submit further information to substantiate compliance with the requirements of this title, and*

*"(C) reasonably consider any such clarifications and information submitted.*

*"(4) JUSTIFICATION OF ANY INCONSISTENCIES IN DETERMINATIONS.—If the Secretary makes a determination under this section that is, in whole or in part, inconsistent with any previous determination issued by the Secretary under this title, the Secretary shall include in the determination a detailed explanation and justification for any such difference.*

*"(5) SUBSTANTIAL VIOLATION DEFINED.—For purposes of this title, a MediGrant plan (or amendment to such a plan) or the administration of the MediGrant plan is considered to 'substantially vio-*

*late' a requirement of this title if a provision of the plan or amendment (or an omission from the plan or amendment) or the administration of the plan—*

*"(A) is material and substantial in nature and effect, and*

*"(B) is inconsistent with an express requirement of this title.*

*A failure to meet a strategic objective or performance goal (as described in section 2101) shall not be considered to substantially violate a requirement of this title.*

*"(c) STATE RESPONSE TO ORDERS.—*

*"(1) STATE RESPONSE BY REVISING PLAN.—*

*"(A) IN GENERAL.—Insofar as an order under subsection (b)(1) relates to a substantial violation by a MediGrant plan or plan amendment, a State may respond (before the date the order becomes effective) to such an order by submitting a written revision of the MediGrant plan or plan amendment to substantially comply with the requirements of this part.*

*"(B) REVIEW OF REVISION.—In the case of submission of such a revision, the Secretary shall promptly review the submission and shall with-*

*hold any action on the order during the period of such review.*

*"(C) SECRETARIAL RESPONSE.—The revision shall be considered to have corrected the deficiency (and the order rescinded insofar as it relates to such deficiency) unless the Secretary determines and notifies the State in writing, within 15 days after the date the Secretary receives the revision, that the MediGrant plan or amendment, as proposed to be revised, still substantially violates a requirement of this title. In such case the State may respond by seeking reconsideration or a hearing under paragraph (2).*

*"(D) REVISION RETROACTIVE.—If the revision provides for substantial compliance, the revision may be treated, at the option of the State, as being effective either as of the effective date of the provision to which it relates or such later date as the State and Secretary may agree.*

*"(2) STATE RESPONSE BY SEEKING RECONSIDERATION OR AN ADMINISTRATIVE HEARING.—A State may respond to an order under subsection (b) by filing a request with the Secretary for—*

*"(A) a reconsideration of the determination, pursuant to subsection (d)(1), or*

*"(B) a review of the determination through an administrative hearing, pursuant to subsection (d)(2).*

*In such case, the order shall not take effect before the completion of the reconsideration or hearing.*

*"(3) STATE RESPONSE BY CORRECTIVE ACTION PLAN.—*

*"(A) IN GENERAL.—In the case of an order described in subsection (b)(2) that relates to a substantial violation in the administration of the MediGrant plan, a State may respond to such an order by submitting a corrective action plan with the Secretary to correct deficiencies in the administration of the plan which are the subject of the order.*

*"(B) REVIEW OF CORRECTIVE ACTION PLAN.—In such case, the Secretary shall withhold any action on the order for a period (not to exceed 30 days) during which the Secretary reviews the corrective action plan.*

*"(C) SECRETARIAL RESPONSE.—The corrective action plan shall be considered to have corrected the deficiency (and the order rescinded insofar as it relates to such deficiency) unless the Secretary determines and notifies the State in*

*writing, within 15 days after the date the Secretary receives the corrective action plan, that the State's administration of the MediGrant plan, as proposed to be corrected in the plan, will still substantially violate a requirement of this title. In such case the State may respond by seeking reconsideration or a hearing under paragraph (2).*

*"(4) STATE RESPONSE BY WITHDRAWAL OF PLAN AMENDMENT; FAILURE TO RESPOND.—Insofar as an order relates to a substantial violation in a plan amendment submitted, a State may respond to such an order by withdrawing the plan amendment and the MediGrant plan shall be treated as though the amendment had not been made.*

*"(d) ADMINISTRATIVE REVIEW AND HEARING.—*

*"(1) RECONSIDERATION.—Within 30 days after the date of receipt of a request under subsection (b)(2)(A), the Secretary shall notify the State of the time and place at which a hearing will be held for the purpose of reconsidering the Secretary's determination. The hearing shall be held not less than 20 days nor more than 60 days after the date notice of the hearing is furnished to the State, unless the Secretary and the State agree in writing to holding the*

*hearing at another time. The Secretary shall affirm, modify, or reverse the original determination within 60 days of the conclusion of the hearing.*

*"(2) ADMINISTRATIVE HEARING.—Within 30 days after the date of receipt of a request under subsection (b)(2)(B), an administrative law judge shall schedule a hearing for the purpose of reviewing the Secretary's determination. The hearing shall be held not less than 20 days nor more than 60 days after the date notice of the hearing is furnished to the State, unless the Secretary and the State agree in writing to holding the hearing at another time. The administrative law judge shall affirm, modify, or reverse the determination within 60 days of the conclusion of the hearing.*

*"(e) JUDICIAL REVIEW.—*

*"(1) IN GENERAL.—A State which is dissatisfied with a final determination made by the Secretary under subsection (d)(1) or a final determination of an administrative law judge under subsection (d)(2) may, within 60 days after it has been notified of such determination, file with the United States court of appeals for the circuit in which the State is located a petition for review of such determination. A copy of the petition shall be forthwith transmitted by the*

*clerk of the court to the Secretary and, in the case of a determination under subsection (d)(2), to the administrative law judge involved. The Secretary (or judge involved) thereupon shall file in the court the record of the proceedings on which the final determination was based, as provided in section 2112 of title 28, United States Code. Only the Secretary, in accordance with this title, may compel a State under Federal law to comply with the provisions of this title or a MediGrant plan, or otherwise enforce a provision of this title against a State, and no action may be filed under Federal law against a State in relation to the State's compliance, or failure to comply, with the provisions of this title or of a MediGrant plan except by the Secretary as provided under this subsection.*

*"(2) STANDARD FOR REVIEW.—The findings of fact by the Secretary or administrative law judge, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary or judge to take further evidence, and the Secretary or judge may thereupon make new or modified findings of fact and may modify a previous determination, and shall certify to the court the transcript and record of the further proceedings. Such*

*new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.*

*"(3) JURISDICTION OF APPELLATE COURT.—The court shall have jurisdiction to affirm the action of the Secretary or judge or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.*

*"(f) WITHHOLDING OF FUNDS.—*

*"(1) IN GENERAL.—Any order under this section relating to the withholding of funds shall be effective not earlier than the effective date of the order and shall only relate to the portions of a MediGrant plan or administration thereof which substantially violate a requirement of this title. In the case of a failure to meet a set-aside requirement under section 2112, any withholding shall only apply to the extent of such failure.*

*"(2) SUSPENSION OF WITHHOLDING.—The Secretary may suspend withholding of funds under paragraph (1) during the period reconsideration or administrative and judicial review is pending under subsection (d) or (e).*

*"(3) RESTORATION OF FUNDS.—Any funds withheld under this subsection under an order shall be immediately restored to a State—*

*"(A) to the extent and at the time the order is—*

*"(i) modified or withdrawn by the Secretary upon reconsideration,*

*"(ii) modified or reversed by an administrative law judge, or*

*"(iii) set aside (in whole or in part) by an appellate court; or*

*"(B) when the Secretary determines that the deficiency which was the basis for the order is corrected;*

*"(C) when the Secretary determines that violation which was the basis for the order is resolved or the amendment which was the basis for the order is withdrawn; or*

*"(D) at any time upon the initiative of the Secretary.*

*"(g) INDIVIDUAL COMPLAINT PROCESS.—The Secretary shall provide for a process under which an individual may notify the Secretary concerning a State's failure to provide medical assistance as required under the State MediGrant plan or otherwise comply with the requirements*

*of this title or such plan. If the Secretary finds that there is a pattern of complaints with respect to a State or that a particular failure or finding of noncompliance is egregious, the Secretary shall notify the chief executive officer of the State of such finding and shall notify the Congress if the State fails to respond to such notification within a reasonable period of time.*

***"SEC. 2155. SECRETARIAL AUTHORITY.***

*"(a) NEGOTIATED AGREEMENT AND DISPUTE RESOLUTION.—*

*"(1) NEGOTIATIONS.—Nothing in this part shall be construed as preventing the Secretary and a State from at any time negotiating a satisfactory resolution to any dispute concerning the approval of a MediGrant plan (or amendments to a MediGrant plan) or the compliance of a MediGrant plan (including its administration) with requirements of this title.*

*"(2) COOPERATION.—The Secretary shall act in a cooperative manner with the States in carrying out this title. In the event of a dispute between a State and the Secretary, the Secretary shall, whenever practicable, engage in informal dispute resolution activities in lieu of formal enforcement or sanctions under section 2154.*

*"(b) LIMITATIONS ON DELEGATION OF DECISION-MAKING AUTHORITY.—The Secretary may not delegate (other than to the Administrator of the Health Care Financing Administration) the authority to make determinations or reconsiderations respecting the approval of MediGrant plans (or amendments to such plans) or the compliance of a MediGrant plan (including its administration) with requirements of this title. Such Administrator may not further delegate such authority to any individual, including any regional official of such Administration.*

*"(c) REQUIRING FORMAL RULEMAKING FOR CHANGES IN SECRETARIAL ADMINISTRATION.—The Secretary shall carry out the administration of the program under this title only through a prospective formal rulemaking process, including issuing notices of proposed rulemaking, publishing proposed rules or modifications to rules in the Federal Register, and soliciting public comment.*

*"PART F—GENERAL PROVISIONS*

***"SEC. 2171. DEFINITIONS.***

*"(a) MEDICAL ASSISTANCE.—For purposes of this title, the term 'medical assistance' means payment of part or all of the cost of any of the following, or assistance in the purchase, in whole or in part, of health benefit coverage that includes any of the following, for eligible low-income*

*individuals (as defined in subsection (b)) as specified under the MediGrant plan:*

*"(1) Inpatient hospital services.*

*"(2) Outpatient hospital services.*

*"(3) Physician services.*

*"(4) Surgical services.*

*"(5) Clinic services and other ambulatory health care services.*

*"(6) Nursing facility services.*

*"(7) Intermediate care facility services for the mentally retarded.*

*"(8) Prescription drugs and biologicals and the administration of such drugs and biologicals, only if such drugs and biologicals are not furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.*

*"(9) Over-the-counter medications.*

*"(10) Laboratory and radiological services.*

*"(11) Family planning services and supplies.*

*"(12) Inpatient mental health services, including services furnished in a State-operated mental hospital and including residential or other 24-hour therapeutically planned structured services in the case of a child.*

*"(13) Outpatient mental health services, including services furnished in a State-operated mental hospital and including community-based services in the case of a child.*

*"(14) Durable medical equipment and other medically-related or remedial devices (such as prosthetic devices, implants, eyeglasses, hearing aids, dental devices, and adaptive devices).*

*"(15) Disposable medical supplies.*

*"(16) Home and community-based health care services and related supportive services (such as home health nursing services, home health aide services, personal care, assistance with activities of daily living, chore services, day care services, respite care services, training for family members, and minor modifications to the home).*

*"(17) Community supported living arrangements.*

*"(18) Nursing care services (such as nurse practitioner services, nurse midwife services, advanced practice nurse services, private duty nursing care, pediatric nurse services, and respiratory care services) in a home, school, or other setting.*

*"(19) Abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.*

*"(20) Dental services.*

*"(21) Inpatient substance abuse treatment services and residential substance abuse treatment services.*

*"(22) Outpatient substance abuse treatment services.*

*"(23) Case management services.*

*"(24) Care coordination services.*

*"(25) Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.*

*"(26) Hospice care.*

*"(27) Any other medical, diagnostic, screening, preventive, restorative, remedial, therapeutic, or rehabilitative services (whether in a facility, home, school, or other setting) if recognized by State law and only if the service is—*

*"(A) prescribed by or furnished by a physician or other licensed or registered practitioner within the scope of practice as defined by State law,*

*"(B) performed under the general supervision or at the direction of a physician, or*

*"(C) furnished by a health care facility that is operated by a State or local government or is licensed under State law and operating within the scope of the license.*

*"(28) Premiums for private health care insurance coverage, including private long-term care insurance coverage.*

*"(29) Medical transportation.*

*"(30) Medicare cost-sharing (as defined in subsection (c)).*

*"(31) Enabling services (such as transportation, translation, and outreach services) only if designed to increase the accessibility of primary and preventive health care services for eligible low-income individuals.*

*"(32) Any other health care services or items specified by the Secretary and not excluded under this section.*

*"(b) ELIGIBLE LOW-INCOME INDIVIDUAL.—*

*"(1) IN GENERAL.—The term 'eligible low-income individual' means an individual—*

*"(A) who has been determined eligible by the State for medical assistance under the*

*MediGrant plan and is not an inmate of a public institution (except as a patient in a State psychiatric hospital), and*

*"(B) whose family income (as determined under the plan) does not exceed a percentage (specified in the MediGrant plan and not to exceed 275 percent) of the poverty line for a family of the size involved.*

*"(2) AMOUNT OF INCOME.—In determining the amount of income under paragraph (1)(B), a State may exclude costs incurred for medical care or other types of remedial care recognized by the State.*

*"(c) MEDICARE COST-SHARING.—For purposes of this title, the term 'medicare cost-sharing' means any of the following:*

*"(1)(A) Premiums under section 1839.*

*"(B) Premiums under section 1818 or 1818A.*

*"(2) Coinsurance under title XVIII (including coinsurance described in section 1813).*

*"(3) Deductibles established under title XVIII (including those described in sections 1813 and 1833(b)).*

*"(4) The difference between the amount that is paid under section 1833(a) and the amount that would be paid under such section if any reference to*

*'80 percent' therein were deemed a reference to '100 percent'.*

*"(5) Premiums for enrollment of an individual with an eligible organization under section 1876 or with a MedicarePlus organization under part C of title XVIII.*

*"(d) ADDITIONAL DEFINITIONS.—For purposes of this title:*

*"(1) CHILD.—The term 'child' means an individual under 19 years of age.*

*"(2) ELDERLY INDIVIDUAL.—The term 'elderly individual' means an individual who has attained retirement age, as defined under section 216(l)(1).*

*"(3) POVERTY LINE DEFINED.—The term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section).*

*"(4) PREGNANT WOMAN.—The term 'pregnant woman' includes a woman during the 60-day period beginning on the last day of the pregnancy.*

***"SEC. 2172. TREATMENT OF TERRITORIES.***

*"Notwithstanding any other requirement of this title, the Secretary may waive or modify any requirement of this title with respect to the medical assistance program for a*

*State other than the 50 States and the District of Columbia, other than a waiver of—*

*"(1) the applicable Federal medical assistance percentage,*

*"(2) the limitation on total payments in a fiscal year to the amount of the allotment under section 2121(c), or*

*"(3) the requirement that payment may be made for medical assistance only with respect to amounts expended by the State for care and services described in section 2171(a) and medically-related services (as defined in section 2112(e)(2)).*

***"SEC. 2173. DESCRIPTION OF TREATMENT OF INDIAN HEALTH SERVICE FACILITIES.***

*"In the case of a State in which one or more facilities of the Indian Health Service are located, the MediGrant plan shall include a description of—*

*"(1) what provision (if any) has been made for payment for items and services furnished by such facilities, and*

*"(2) the manner in which medical assistance for low-income eligible individuals who are Indians will be provided, as determined by the State in consultation with the appropriate Indian tribes and tribal organizations.*

***"SEC. 2174. APPLICATION OF CERTAIN GENERAL PROVISIONS.***

*"The following sections in part A of title XI shall apply to States under this title in the same manner as they applied to a State under title XIX:*

*"(1) Section 1101(a)(1) (relating to definition of State).*

*"(2) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with the provisions of part C.*

*"(3) Section 1124 (relating to disclosure of ownership and related information).*

*"(4) Section 1126 (relating to disclosure of information about certain convicted individuals).*

*"(5) Section 1128B(d) (relating to criminal penalties for certain additional charges).*

*"(6) Section 1132 (relating to periods within which claims must be filed).*

***"SEC. 2175. MEDIGRANT MASTER DRUG REBATE AGREEMENTS.***

*"(a) REQUIREMENT FOR MANUFACTURER TO ENTER INTO AGREEMENT.—*

*"(1) IN GENERAL.—Pursuant to section 2123(f), in order for payment to be made to a State under part C for medical assistance for covered outpatient drugs of a manufacturer, the manufacturer shall enter*

*into and have in effect a MediGrant master rebate agreement described in subsection (b) with the Secretary on behalf of States electing to participate in the agreement.*

*"(2) COVERAGE OF DRUGS NOT COVERED UNDER REBATE AGREEMENTS.—Nothing in this section shall be construed to prohibit a State in its discretion from providing coverage under its MediGrant plan of a covered outpatient drug for which no rebate agreement is in effect under this section.*

*"(3) EFFECT ON EXISTING AGREEMENTS.—If a State has a rebate agreement in effect with a manufacturer on the date of the enactment of this section which provides for a minimum aggregate rebate equal to or greater than the minimum aggregate rebate which would otherwise be paid under the MediGrant master agreement under this section, at the option of the State—*

*"(A) such agreement shall be considered to meet the requirements of the MediGrant master rebate agreement, and*

*"(B) the State shall be considered to have elected to participate in the MediGrant master rebate agreement.*

*"(4) LIMITATION ON PRICES OF DRUGS PURCHASED BY COVERED ENTITIES.—*

*"(A) AGREEMENT WITH SECRETARY.—A manufacturer meets the requirements of this paragraph if the manufacturer has entered into an agreement with the Secretary that meets the requirements of section 340B of the Public Health Service Act with respect to covered outpatient drugs purchased by a covered entity on or after the first day of the first month that begins after the date of the enactment of title VI of the Veterans Health Care Act of 1992.*

*"(B) COVERED ENTITY DEFINED.—In this subsection, the term 'covered entity' means an entity described in section 340B(a)(4) of the Public Health Service Act provided that—*

*"(i) an entity is licensed by the State to purchase and take possession of covered outpatient drugs and furnishes the drugs to patients at a cost no greater than acquisition plus such dispensing fee as may be allowable under a State pharmaceutical assistance program, and*

*"(ii) such entity is certified pursuant to section 340B(a)(7) of such Act.*

*"(C) ESTABLISHMENT OF ALTERNATIVE MECHANISM TO ENSURE AGAINST DUPLICATE DISCOUNTS OR REBATES.—If the Secretary does not establish a mechanism under section 340B(a)(5)(A) of the Public Health Service Act within 12 months of the date of the enactment of such section, the following requirements shall apply:*

*"(i) Each covered entity shall inform the single State agency under this title when it is seeking reimbursement from the medicaid plan for medical assistance with respect to a unit of any covered outpatient drug which is subject to an agreement under section 340B(a) of such Act.*

*"(ii) Each such single State agency shall provide a means by which a covered entity shall indicate on any drug reimbursement claims form (or format, where electronic claims management is used) that a unit of the drug that is the subject of the form is subject to an agreement under section 340B of such Act, and not submit to any manufacturer a claim for a rebate pay-*

*ment under subsection (b) with respect to such a drug.*

*"(D) EFFECT OF SUBSEQUENT AMENDMENTS.—In determining whether an agreement under subparagraph (A) meets the requirements of section 340B of the Public Health Service Act, the Secretary shall not take into account any amendments to such section that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992.*

*"(E) DETERMINATION OF COMPLIANCE.—A manufacturer is deemed to meet the requirements of this paragraph if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of section 340B of the Public Health Service Act (as in effect immediately after the enactment title VI of the Veterans Health Care Act of 1992, and would have entered into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after such enactment.*

*"(b) TERMS OF REBATE AGREEMENT.—*

*"(1) PERIODIC REBATES.—The MediGrant master rebate agreement under this section shall require the manufacturer to provide, to the MediGrant plan of each State participating in the agreement, a rebate for a rebate period in an amount specified in subsection (c) for covered outpatient drugs of the manufacturer dispensed after the effective date of the agreement, for which payment was made under the plan for such period. Such rebate shall be paid by the manufacturer not later than 30 days after the date of receipt of the information described in paragraph (2) for the period involved.*

*"(2) STATE PROVISION OF INFORMATION.—*

*"(A) STATE RESPONSIBILITY.—Each State participating in the MediGrant master rebate agreement shall report to each manufacturer not later than 60 days after the end of each rebate period and in a form consistent with a standard reporting format established by the Secretary, information on the total number of units of each dosage form and strength and package size of each covered outpatient drug, for which payment was made under the MediGrant plan for the period, and shall promptly transmit a copy of such report to the Secretary.*

*"(B) AUDITS.—A manufacturer may audit the information provided (or required to be provided) under subparagraph (A). Adjustments to rebates shall be made to the extent that information indicates that utilization was greater or less than the amount previously specified.*

*"(3) MANUFACTURER PROVISION OF PRICE INFORMATION.—*

*"(A) IN GENERAL.—Each manufacturer which is subject to the MediGrant master rebate agreement under this section shall report to the Secretary—*

*"(i) not later than 30 days after the last day of each rebate period under the agreement, on the average manufacturer price (as defined in subsection (i)(1)) and, for single source drugs and innovator multiple source drugs, the manufacturer's best price (as defined in subsection (c)(1)(C)) for each covered outpatient drug for the rebate period under the agreement, and*

*"(ii) not later than 30 days after the date of entering into an agreement under this section, on the average manufacturer price (as defined in subsection (i)(1)) as of*

*October 1, 1990, for each of the manufacturer's covered outpatient drugs.*

*"(B) VERIFICATION SURVEYS OF AVERAGE MANUFACTURER PRICE.—The Secretary may survey wholesalers and manufacturers that directly distribute their covered outpatient drugs, when necessary, to verify manufacturer prices reported under subparagraph (A). The Secretary may impose a civil monetary penalty in an amount not to exceed $10,000 on a wholesaler, manufacturer, or direct seller, if the wholesaler, manufacturer, or direct seller of a covered outpatient drug refuses a request for information by the Secretary in connection with a survey under this subparagraph. The provisions of section 1128A (other than subsections (a) (with respect to amounts of penalties or additional assessments) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).*

*"(C) PENALTIES.—*

*"(i) FAILURE TO PROVIDE TIMELY INFORMATION.—In the case of a manufacturer which is subject to the MediGrant master*

*rebate agreement that fails to provide information required under subparagraph (A) on a timely basis, the amount of the penalty shall be $10,000 for each day in which such information has not been provided and such amount shall be paid to the Treasury. If such information is not reported within 90 days of the deadline imposed, the agreement shall be suspended for services furnished after the end of such 90-day period and until the date such information is reported (but in no case shall such suspension be for a period of less than 30 days).*

*"(ii) FALSE INFORMATION.—Any manufacturer which is subject to the MediGrant master rebate agreement, or a wholesaler or direct seller, that knowingly provides false information under subparagraph (A) or (B) is subject to a civil money penalty in an amount not to exceed $100,000 for each item of false information. Any such civil money penalty shall be in addition to other penalties as may be prescribed by law. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil*

*money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).*

*"(D) CONFIDENTIALITY OF INFORMATION.—Notwithstanding any other provision of law, information disclosed by manufacturers or wholesalers under this paragraph or under an agreement with the Secretary of Veterans Affairs described in section 2123(f) is confidential and shall not be disclosed by the Secretary or the Secretary of Veterans Affairs or a State agency (or contractor therewith) in a form which discloses the identity of a specific manufacturer or wholesaler or the prices charged for drugs by such manufacturer or wholesaler, except—*

*"(i) as the Secretary determines to be necessary to carry out this section,*

*"(ii) to permit the Comptroller General to review the information provided, and*

*"(iii) to permit the Director of the Congressional Budget Office to review the information provided.*

*"(4) LENGTH OF AGREEMENT.—*

*"(A) IN GENERAL.—The MediGrant master rebate agreement under this section shall be effective for an initial period of not less than 1 year and shall be automatically renewed for a period of not less than one year unless terminated under subparagraph (B).*

*"(B) TERMINATION.—*

*"(i) BY THE SECRETARY.—The Secretary may provide for termination of the MediGrant master rebate agreement with respect to a manufacturer for violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 60 days after the date of notice of such termination. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, but such hearing shall not delay the effective date of the termination. Failure of a State to provide any advance notice of such a termination as required by regulation shall not affect the State's right to terminate coverage of the drugs affected by such termination as of the effective date of such termination.*

*"(ii) BY A MANUFACTURER.—A manufacturer may terminate its participation in the MediGrant master rebate agreement under this section for any reason. Any such termination shall not be effective until the calendar quarter beginning at least 60 days after the date the manufacturer provides notice to the Secretary.*

*"(iii) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.*

*"(iv) NOTICE TO STATES.—In the case of a termination under this subparagraph, the Secretary shall provide notice of such termination to the States within not less than 30 days before the effective date of such termination.*

*"(v) APPLICATION TO TERMINATIONS OF OTHER AGREEMENTS.—The provisions of this subparagraph shall apply to the terminations of master agreements described in section 8126(a) of title 38, United States Code.*

*"(C) DELAY BEFORE REENTRY.—In the case of any rebate agreement with a manufacturer under this section which is terminated, another such agreement with the manufacturer (or a successor manufacturer) may not be entered into until a period of 1 calendar quarter has elapsed since the date of the termination, unless the Secretary finds good cause for an earlier reinstatement of such an agreement.*

*"(5) SETTLEMENT OF DISPUTES.—*

*"(A) SECRETARY.—The Secretary shall have the authority to resolve, settle, and compromise disputes regarding the amounts of rebates owed under this section and section 1927.*

*"(B) STATE.—Each State, with respect to covered outpatient drugs paid for under the State's MediGrant plan, shall have authority, independent of the Secretary' authority under subparagraph (A), to resolve, settle, and compromise disputes regarding the amounts of rebates owed under this section. Any such action shall be deemed to comply with the requirements of this title, and such covered outpatient drugs shall be eligible for payment under the MediGrant plan under this title.*

*"(C) AMOUNT OF REBATE.—The Secretary shall limit the amount of the rebate payable in any case in which the Secretary determines that, because of unusual circumstances or questionable data, the provisions of subsection (c) result in a rebate amount that is inequitable or otherwise inconsistent with the purposes of this section.*

*"(c) DETERMINATION OF AMOUNT OF REBATE.—*

*"(1) BASIC REBATE FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—*

*"(A) IN GENERAL.—Except as provided in paragraph (2), the amount of the rebate specified in this subsection with respect to a State participating in the MediGrant master rebate agreement for a rebate period (as defined in subsection (i)(7)) with respect to each dosage form and strength of a single source drug or an innovator multiple source drug shall be equal to the product of—*

*"(i) the total number of units of each dosage form and strength paid for under the State MediGrant plan in the rebate period (as reported by the State); and*

*"(ii) the greater of—*

*"(I) the difference between the average manufacturer price and the best price (as defined in subparagraph (C)) for the dosage form and strength of the drug, or*

*"(II) the minimum rebate percentage (specified in subparagraph (B)) of such average manufacturer price,*

*for the rebate period.*

*"(B) MINIMUM REBATE PERCENTAGE.—For purposes of subparagraph (A)(ii)(II), the 'minimum rebate percentage' is 15 percent.*

*"(C) BEST PRICE DEFINED.—For purposes of this section—*

*"(i) IN GENERAL.—The term 'best price' means, with respect to a single source drug or innovator multiple source drug of a manufacturer, the lowest price available from the manufacturer during the rebate period to any wholesaler, retailer, provider, health maintenance organization, nonprofit entity, or governmental entity within the United States, excluding—*

*"(I) any prices charged on or after October 1, 1992, to the Indian Health Service, the Department of Veterans Affairs, a State home receiving funds under section 1741 of title 38, United States Code, the Department of Defense, the Public Health Service, or a covered entity described in section 340B(a)(4) of the Public Health Service Act,*

*"(II) any prices charged under the Federal Supply Schedule of the General Services Administration,*

*"(III) any prices used under a State pharmaceutical assistance program, and*

*"(IV) any depot prices and single award contract prices, as defined by the Secretary, of any agency of the Federal Government.*

*"(ii) SPECIAL RULES.—The term 'best price'—*

*"(I) shall be inclusive of cash discounts, free goods that are contingent on any purchase requirement, volume*

*discounts, and rebates (other than rebates under this section),*

*"(II) shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package,*

*"(III) shall not take into account prices that are merely nominal in amount, and*

*"(IV) shall exclude rebates paid under this section or any other rebates paid to a State participating in the MediGrant master rebate agreement.*

*"(2) ADDITIONAL REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.—*

*"(A) IN GENERAL.—The amount of the rebate specified in this subsection with respect to a State participating in the MediGrant master rebate agreement for a rebate period, with respect to each dosage form and strength of a single source drug or an innovator multiple source drug, shall be increased by an amount equal to the product of—*

*"(i) the total number of units of such dosage form and strength dispensed after*

*December 31, 1990, for which payment was made under the MediGrant plan for the rebate period; and*

*"(ii) the amount (if any) by which—*

*"(I) the average manufacturer price for the dosage form and strength of the drug for the period, exceeds*

*"(II) the average manufacturer price for such dosage form and strength for the calendar quarter beginning July 1, 1990 (without regard to whether or not the drug has been sold or transferred to an entity, including a division or subsidiary of the manufacturer, after the first day of such quarter), increased by the percentage by which the Consumer Price Index for All Urban Consumers (United States city average) for the month before the month in which the rebate period begins exceeds such index for September 1990.*

*"(B) TREATMENT OF SUBSEQUENTLY APPROVED DRUGS.—In the case of a covered outpatient drug approved by the Food and Drug*

*Administration after October 1, 1990, clause (ii)(II) of subparagraph (A) shall be applied by substituting 'the first full calendar quarter after the day on which the drug was first marketed' for 'the calendar quarter beginning July 1, 1990' and 'the month prior to the first month of the first full calendar quarter after the day on which the drug was first marketed' for 'September 1990'.*

*"(3) REBATE FOR OTHER DRUGS.—*

*"(A) IN GENERAL.—The amount of the rebate paid to a State participating in the MediGrant master rebate agreement for a rebate period with respect to each dosage form and strength of covered outpatient drugs (other than single source drugs and innovator multiple source drugs) shall be equal to the product of—*

*"(i) the applicable percentage (as described in subparagraph (B)) of the average manufacturer price for the dosage form and strength for the rebate period, and*

*"(ii) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was*

*made under the MediGrant plan for the rebate period.*

*"(B) APPLICABLE PERCENTAGE DEFINED.—For purposes of subparagraph (A)(i), the 'applicable percentage' is 11 percent.*

*"(4) LIMITATION ON AMOUNT OF REBATE TO AMOUNTS PAID FOR CERTAIN DRUGS.—*

*"(A) IN GENERAL.—Upon request of the manufacturer of a covered outpatient drug, the Secretary shall limit, in accordance with subparagraph (B), the amount of the rebate under this subsection with respect to a dosage form and strength of such drug if the majority of the estimated number of units of such dosage form and strength that are subject to rebates under this section were dispensed to inpatients of nursing facilities.*

*"(B) AMOUNT OF REBATE.—In the case of a covered outpatient drug subject to subparagraph (A), the amount of the rebate specified in this subsection for a rebate period, with respect to each dosage form and strength of such drug, shall not exceed the amount paid under the MediGrant plan with respect to such dosage form and strength of the drug in the rebate period*

*(without consideration of any dispensing fees paid).*

*"(5) SUPPLEMENTAL REBATES PROHIBITED.—No rebates shall be required to be paid by manufacturers with respect to covered outpatient drugs furnished to individuals in any State that provides for the collection of such rebates in excess of the rebate amount payable under this section.*

*"(d) LIMITATIONS ON COVERAGE OF DRUGS BY STATES PARTICIPATING IN MASTER AGREEMENT.—*

*"(1) PERMISSIBLE RESTRICTIONS.—A State participating in the MediGrant master rebate agreement under this section may—*

*"(A) subject to prior authorization under its MediGrant plan any covered outpatient drug so long as any such prior authorization program complies with the requirements of paragraph (5); and*

*"(B) exclude or otherwise restrict coverage under its plan of a covered outpatient drug if—*

*"(i) the drug is contained in the list referred to in paragraph (2);*

*"(ii) the drug is subject to such restrictions pursuant to the MediGrant master re-*

*bate agreement or any agreement described in subsection (a)(4); or*

*"(iii) the State has excluded coverage of the drug from its formulary established in accordance with paragraph (4).*

*"(2) LIST OF DRUGS SUBJECT TO RESTRICTION.—The following drugs or classes of drugs, or their medical uses, may be excluded from coverage or otherwise restricted by a State participating in the MediGrant master rebate agreement:*

*"(A) Agents when used for anorexia, weight loss, or weight gain.*

*"(B) Agents when used to promote fertility.*

*"(C) Agents when used for cosmetic purposes or hair growth.*

*"(D) Agents when used for the symptomatic relief of cough and colds.*

*"(E) Agents when used to promote smoking cessation.*

*"(F) Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations.*

*"(G) Nonprescription drugs.*

*"(H) Covered outpatient drugs which the manufacturer seeks to require as a condition of*

*sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee.*

*"(I) Barbiturates.*

*"(J) Benzodiazepines.*

*"(3) ADDITIONS TO DRUG LISTINGS.—The Secretary shall, by regulation, periodically update the list of drugs or classes of drugs described in paragraph (2), or their medical uses, which the Secretary has determined to be subject to clinical abuse or inappropriate use.*

*"(4) REQUIREMENTS FOR FORMULARIES.—A State participating in the MediGrant master rebate agreement may establish a formulary if the formulary meets the following requirements:*

*"(A) The formulary is developed by a committee consisting of physicians, pharmacists, and other appropriate individuals appointed by the Governor of the State.*

*"(B) Except as provided in subparagraph (C), the formulary includes the covered outpatient drugs of any manufacturer which has entered into and complies with the agreement under subsection (a) (other than any drug ex-*

*cluded from coverage or otherwise restricted under paragraph (2)).*

*"(C) A covered outpatient drug may be excluded with respect to the treatment of a specific disease or condition for an identified population (if any) only if, based on the drug's labeling (or, in the case of a drug the prescribed use of which is not approved under the Federal Food, Drug, and Cosmetic Act but is a medically accepted indication, based on information from the appropriate compendia described in subsection (i)(5)), the excluded drug does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome of such treatment for such population over other drugs included in the formulary and there is a written explanation (available to the public) of the basis for the exclusion.*

*"(D) The State MediGrant plan permits coverage of a drug excluded from the formulary (other than any drug excluded from coverage or otherwise restricted under paragraph (2)) pursuant to a prior authorization program that is consistent with paragraph (5).*

*"(E) The formulary meets such other requirements as the Secretary may impose in order to achieve program savings consistent with protecting the health of program beneficiaries.*

*A prior authorization program established by a State under paragraph (5) is not a formulary subject to the requirements of this paragraph.*

*"(5) REQUIREMENTS OF PRIOR AUTHORIZATION PROGRAMS.—The MediGrant plan of a State participating in the MediGrant master rebate agreement may require, as a condition of coverage or payment for a covered outpatient drug for which Federal financial participation is available in accordance with this section, the approval of the drug before its dispensing for any medically accepted indication (as defined in subsection (i)(5)) only if the system providing for such approval—*

*"(A) provides response by telephone or other telecommunication device within 24 hours of a request for prior authorization, and*

*"(B) except with respect to the drugs on the list referred to in paragraph (2), provides for the dispensing of at least a 72-hour supply of a covered outpatient prescription drug in an emergency situation (as defined by the Secretary).*

*"(6) OTHER PERMISSIBLE RESTRICTIONS.—A State participating in the MediGrant master rebate agreement may impose limitations, with respect to all such drugs in a therapeutic class, on the minimum or maximum quantities per prescription or on the number of refills, if such limitations are necessary to discourage waste, and may address instances of fraud or abuse by individuals in any manner authorized under this Act.*

*"(e) DRUG USE REVIEW.—*

*"(1) IN GENERAL.—A State participating in the MediGrant master rebate agreement may provide for a drug use review program to educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs.*

*"(2) APPLICATION OF STATE STANDARDS.—Except as provided in subparagraph (B), a State with a drug use review program under this subsection shall establish and operate the program under such standards as it may establish.*

*"(f) ELECTRONIC CLAIMS MANAGEMENT.—In accordance with chapter 35 of title 44, United States Code (relating to coordination of Federal information policy), the Secretary shall encourage each State to establish, as its principal means of processing claims for covered outpatient drugs under its MediGrant plan, a point-of-sale electronic claims management system, for the purpose of performing on-line, real time eligibility verifications, claims data capture, adjudication of claims, and assisting pharmacists (and other authorized persons) in applying for and receiving payment.*

*"(g) ANNUAL REPORT.—*

*"(1) IN GENERAL.—Not later than May 1 of each year, the Secretary shall transmit to the Committee on Finance of the Senate, and the Committee on Commerce of the House of Representatives, a report on the operation of this section in the preceding fiscal year.*

*"(2) DETAILS.—Each report shall include information on—*

*"(A) ingredient costs paid under this title for single source drugs, multiple source drugs, and nonprescription covered outpatient drugs,*

*"(B) the total value of rebates received and number of manufacturers providing such rebates,*

*"(C) the effect of inflation on the value of rebates required under this section,*

*"(D) trends in prices paid under this title for covered outpatient drugs, and*

*"(E) Federal and State administrative costs associated with compliance with the provisions of this title.*

*"(h) EXEMPTION FOR CAPITATED HEALTH CARE ORGANIZATIONS, HOSPITALS, AND NURSING FACILITIES.—*

*"(1) IN GENERAL.—Except as provided in paragraph (2), the requirements of the MediGrant master rebate agreement under this section shall not apply with respect to covered outpatient drugs dispensed by or through—*

*"(A) a capitated health care organization (as defined in section 2114(c)(1)), or*

*"(B) a hospital or nursing facility that dispenses covered outpatient drugs using a drug formulary system and bills the State no more than the hospital's or facility's purchasing costs for covered outpatient drugs.*

*"(2) CONSTRUCTION IN DETERMINING BEST PRICE.—Nothing in paragraph (1) shall be construed as excluding amounts paid by the entities described in such paragraph for covered outpatient drugs from*

*the determination of the best price (as defined in subsection (c)(1)(C)) for such drugs.*

*"(i) DEFINITIONS.—In the section—*

*"(1) AVERAGE MANUFACTURER PRICE.—The term 'average manufacturer price' means, with respect to a covered outpatient drug of a manufacturer for a rebate period, the average price paid to the manufacturer for the drug in the United States by wholesalers for drugs distributed to the retail pharmacy class of trade, after deducting customary prompt pay discounts.*

*"(2) COVERED OUTPATIENT DRUG.—Subject to the exceptions in paragraph (3), the term 'covered outpatient drug' means—*

*"(A) of those drugs which are treated as prescribed drugs for purposes of section 2171(a)(8), a drug which may be dispensed only upon prescription (except as provided in subparagraph (D)), and—*

*"(i) which is approved as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act;*

*"(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Drug Amendments*

*of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or*

*"(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an ap-*

*plication for such drug under such section because the Secretary has determined that the drug is less than effective for some or all conditions of use prescribed, recommended, or suggested in its labeling;*

*"(B) a biological product, other than a vaccine which—*

*"(i) may only be dispensed upon prescription,*

*"(ii) is licensed under section 351 of the Public Health Service Act, and*

*"(iii) is produced at an establishment licensed under such section to produce such product;*

*"(C) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act; and*

*"(D) a drug which may be sold without a prescription (commonly referred to as an 'over-the-counter drug'), if the drug is prescribed by a physician (or other person authorized to prescribe under State law).*

*"(3) LIMITING DEFINITION.—The term 'covered outpatient drug' does not include any drug, biological product, or insulin provided as part of, or as incident to and in the same setting as, any of the following*

*(and for which payment may be made under a MediGrant plan as part of payment for the following and not as direct reimbursement for the drug):*

*"(A) Inpatient hospital services.*

*"(B) Hospice services.*

*"(C) Dental services, except that drugs for which the MediGrant plan authorizes direct reimbursement to the dispensing dentist are covered outpatient drugs.*

*"(D) Physicians' services.*

*"(E) Outpatient hospital services.*

*"(F) Nursing facility services and services provided by an intermediate care facility for the mentally retarded.*

*"(G) Other laboratory and x-ray services.*

*"(H) Renal dialysis services.*

*Such term also does not include any such drug or product for which a National Drug Code number is not required by the Food and Drug Administration or a drug or biological used for a medical indication which is not a medically accepted indication. Any drug, biological product, or insulin excluded from the definition of such term as a result of this paragraph shall be treated as a covered outpatient drug for purposes of determining the best price (as defined in sub-*

*section (c)(1)(C)) for such drug, biological product, or insulin.*

*"(4) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug, the entity holding legal title to or possession of the National Drug Code number for such drug.*

*"(5) MEDICALLY ACCEPTED INDICATION.—The term 'medically accepted indication' means any use for a covered outpatient drug which is approved under the Federal Food, Drug, and Cosmetic Act, or the use of which is supported by one or more citations included or approved for inclusion in any of the following compendia:*

*"(A) American Hospital Formulary Service Drug Information.*

*"(B) United States Pharmacopeia-Drug Information.*

*"(C) American Medical Association Drug Evaluations.*

*"(D) The DRUGDEX Information System.*

*"(E) The peer-reviewed medical literature.*

*"(6) MULTIPLE SOURCE DRUG; INNOVATOR MULTIPLE SOURCE DRUG; NONINNOVATOR MULTIPLE SOURCE DRUG; SINGLE SOURCE DRUG.—*

*"(A) DEFINED.—*

*"(i) MULTIPLE SOURCE DRUG.—The term 'multiple source drug' means, with respect to a rebate period, a covered outpatient drug (not including any drug described in paragraph (2)(D)) for which there are 2 or more drug products which—*

*"(I) are rated as therapeutically equivalent (under the Food and Drug Administration's most recent publication of 'Approved Drug Products with Therapeutic Equivalence Evaluations'),*

*"(II) except as provided in subparagraph (B), are pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C) and as determined by the Food and Drug Administration, and*

*"(III) are sold or marketed in the State during the period.*

*"(ii) INNOVATOR MULTIPLE SOURCE DRUG.—The term 'innovator multiple source drug' means a multiple source drug that was originally marketed under an original new drug application or product*

*licensing application approved by the Food and Drug Administration.*

*"(iii) NONINNOVATOR MULTIPLE SOURCE DRUG.—The term 'noninnovator multiple source drug' means a multiple source drug that is not an innovator multiple source drug.*

*"(iv) SINGLE SOURCE DRUG.—The term 'single source drug' means a covered outpatient drug which is produced or distributed under an original new drug application approved by the Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributors operating under the new drug application or product licensing application.*

*"(B) EXCEPTION.—Subparagraph (A)(i)(II) shall not apply if the Food and Drug Administration changes by regulation the requirement that, for purposes of the publication described in subparagraph (A)(i)(I), in order for drug products to be rated as therapeutically equivalent, they must be pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C).*

*"(C) DEFINITIONS.—For purposes of this paragraph—*

*"(i) drug products are pharmaceutically equivalent if the products contain identical amounts of the same active drug ingredient in the same dosage form and meet compendial or other applicable standards of strength, quality, purity, and identity,*

*"(ii) drugs are bioequivalent if they do not present a known or potential bioequivalence problem, or, if they do present such a problem, they are shown to meet an appropriate standard of bioequivalence, and*

*"(iii) a drug product is considered to be sold or marketed in a State if it appears in a published national listing of average wholesale prices selected by the Secretary, if the listed product is generally available to the public through retail pharmacies in that State.*

*"(7) REBATE PERIOD.—The term 'rebate period' means, with respect to an agreement under subsection (a), a calendar quarter or other period specified by*

*the Secretary with respect to the payment of rebates under such agreement.".*

***SEC. 7002. TERMINATION OF CURRENT PROGRAM AND TRANSITION.***

*(a) TERMINATION OF CURRENT PROGRAM; LIMITATION ON MEDICAID PAYMENTS IN FISCAL YEAR 1996.—*

*(1) REPEAL OF TITLE.—Title XIX of the Social Security Act is repealed effective October 1, 1996, except that the repeal of section 1928 of such Act is effective on the date of the enactment of this Act and the succeeding two sections of such title shall be effective during fiscal year 1996 in the same manner and to the same extent as such sections were effective during fiscal year 1995.*

*(2) LIMITATION ON OBLIGATION AUTHORITY.—Notwithstanding any other provision of such title—*

*(A) POST-ENACTMENT, PRE-MEDIGRANT.—Subject to subparagraph (B), the Secretary of Health and Human Services (in this section referred to as the "Secretary") may enter into obligations under such title with any State (as defined for purposes of such title) for expenses incurred after the date of the enactment of this Act and during fiscal year 1996, but not in excess of the obligation allotment for that State for fiscal*

*year 1996 under section 2121(a)(4) of the Social Security Act (as added by section 7001).*

*(B) NONE AFTER MEDIGRANT.—The Secretary is not authorized to enter into any obligation with any State under title XIX of such Act for expenses incurred on or after the earlier of—*

*(i) October 1, 1996, or*

*(ii) the first day of the first quarter on which the State MediGrant plan under title XXI of such Act (as added by section 7001) is first effective.*

*(C) AGREEMENT.—A State's submission of claims for payment under section 1903 of such Act after the date of the enactment of this Act with respect to which the limitation described in subparagraph (A) applies is deemed to constitute the State's acceptance of the obligation limitation under such subparagraph (including the formula for computing the amount of such obligation limitation).*

*(D) EFFECT ON MEDICAL ASSISTANCE.—Effective on the date of the enactment of this section—*

*(i) except as provided in this paragraph, the Federal Government has no obli-*

*gation to provide payment with respect to items and services provided under title XIX of the Social Security Act, and*

*(ii) such title and title XXI of such Act shall not be construed as providing for an entitlement, under Federal law in relation to the Federal Government, in an individual or person (including any provider) at the time of provision or receipt of services.*

*(3) REQUIREMENT FOR TIMELY SUBMITTAL OF CLAIMS.—No payment shall be made to a State under title XIX of such Act with respect to an obligation incurred before the date of the enactment of this Act, unless the State has submitted to the Secretary, by not later than June 30, 1996, a claim for Federal financial participation for expenses paid by the State with respect to such obligations. Nothing in paragraph (2) shall be construed as affecting the obligation of the Federal Government to pay claims described in the previous sentence.*

*(b) MEDICAID-TO-MEDIGRANT TRANSITION PROVISIONS.—*

*(1) Notwithstanding any provision of law, in the case where payment has been made under section 1903(a) of the Social Security Act to a State before*

*October 1, 1995, and for which a disallowance has not been taken as of such date (or, if so taken, has not been completed, including judicial review, by such date), the Secretary of Health and Human Services shall discontinue the disallowance proceeding and, if such disallowance has been taken as of the date of the enactment of this Act, any payment reductions effected shall be rescinded and the payments returned to the State.*

*(2) The repeal under subsection (a)(1) of section 1928 of the Social Security Act shall not affect the distribution of vaccines purchased and delivered to the States before the date of the enactment of this Act. No vaccine may be purchased after such date by the Federal Government or any State under any contract under section 1928(d) of the Social Security Act.*

*(3) No judicial or administrative decision rendered regarding requirements imposed under title XIX of the Social Security Act with respect to a State shall have any application to the MediGrant plan of the State title under XXI of such Act. A State may, pursuant to the previous sentence, seek the abrogation or modification of any such decision after the date of termination of the State plan under title XIX of such Act.*

*(4) No cause of action under title XIX of the Social Security Act which seeks to require a State to establish or maintain minimum payment rates under such title or claim which seeks reimbursement for any period before the date of the enactment of this Act based on the alleged failure of the State to comply with such title and which has not become final as of such date shall be brought or continued.*

*(5) Section 6408(a)(3) of the Omnibus Budget Reconciliation Act of 1989 (as amended by section 13642 of the Omnibus Budget Reconciliation Act of 1993) and section 2 of Public Law 102–276 (as amended by section 13644 of the Omnibus Budget Reconciliation Act of 1993) are each amended by striking "December 31, 1995" and inserting "October 1, 1996".*

*(c) ANTI-FRAUD PROVISIONS.—Section 1128(h)(1) of the Social Security Act (42 U.S.C. 1320a–7(h)(1)) is amended by inserting "or a MediGrant plan under title XXI" after "title XIX".*

*(d) TECHNICAL AND CONFORMING AMENDMENTS.—*

*(1) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation, as appropriate,*

*with heads of other Federal agencies and the States (as defined in section 1101(a)(8) of the Social Security Act for purposes of title XIX of such Act), shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of, and amendments made by, this title.*

*(2) TRANSITIONAL RULE.—Any reference in any provision of law to title XIX of the Social Security Act or any provision thereof shall be deemed to be a reference to such title or provision as in effect on the day before the date of the enactment of this Act.*

***SEC. 7003. MEDICARE/MEDIGRANT INTEGRATION DEMONSTRATION PROJECT.***

*(a) DESCRIPTION OF PROJECTS.—*

*(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct demonstration projects under this section to demonstrate the manner in which States may use funds from the medicare program under title XVIII of the Social Security Act and the MediGrant program under title XXI of such Act (in this section referred to as the "medicare and MediGrant programs") for the purpose of providing a more cost-effective full continuum of care for deliver-*

*ing services to meet the needs of chronically-ill elderly and disabled beneficiaries who are eligible for items and services under such programs, through integrated systems of care, with an emphasis on case management, prevention, and interventions designed to avoid institutionalization whenever possible. The Secretary shall use funds from the amounts appropriated for the medicare and MediGrant programs to make the payments required under subsection (d)(1).*

*(2) OPTION TO PARTICIPATE.—A State may not require an individual eligible to receive items and services under the medicare and MediGrant programs to participate in a demonstration project under this section.*

*(b) ESTABLISHMENT.—The Secretary shall make payments in accordance with subsection (d) for the conduct of demonstration projects that provide for integrated systems of care in accordance with subsection (a). Not more than 10 demonstration projects shall be conducted under this section.*

*(c) APPLICATIONS.—Each State, or a coalition of States, desiring to conduct a demonstration project under this section shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including*

*an explanation of a plan for evaluating the project. The Secretary shall approve or deny an application not later than 90 days after the receipt of such application.*

*(d) PAYMENTS.—*

*(1) IN GENERAL.—For each calendar quarter occurring during a demonstration project conducted under this section, the Secretary shall pay to each entity designated under paragraph (3) an amount equal to the Federal capitated payment rate determined under paragraph (2).*

*(2) FEDERAL CAPITATED PAYMENT RATE.—The Secretary shall determine the Federal capitated payment rate for purposes of this section based on the anticipated Federal quarterly cost of providing care to chronically-ill elderly and disabled beneficiaries who are eligible for items and services under the medicare and MediGrant programs and who have elected to participate in a demonstration project under this section.*

*(3) DESIGNATION OF ENTITY.—*

*(A) IN GENERAL.—Each State, or coalition of States, shall designate entities to directly receive the payments described in paragraph (1).*

*(B) REQUIREMENT.—A State, or a coalition of States, may not designate an entity under*

*subparagraph (A) unless such entity meets the quality, solvency, and coverage standards applicable to providers of items and services under the medicare and MediGrant programs.*

*(4) STATE PAYMENTS.—Each State conducting, or in the case of a coalition of States, participating in a demonstration project under this section shall pay to the entities designated under paragraph (3) an amount equal to the product of (A) 100 percent minus the applicable Federal medical assistance percentage (as defined in section 2122(e) of the Social Security Act) for the State, and (B) the expenditures under the project attributable to the MediGrant program for items and services provided to chronically-ill elderly and disabled beneficiaries who have elected to participate in the demonstration.*

*(5) BUDGET NEUTRALITY.—The aggregate amount of Federal payments to entities designated by a State, or coalition of States, under paragraph (3) for a fiscal year shall not exceed the aggregate amount of such payments that would otherwise have been made under the medicare and MediGrant programs for such fiscal year for items and services provided to beneficiaries under such programs but for the election*

*of such beneficiaries to participate in a demonstration project under this section.*

*(e) DURATION.—*

*(1) IN GENERAL.—The demonstration projects conducted under this section shall be conducted for a 5-year period, subject to annual review and approval by the Secretary.*

*(2) TERMINATION.—The Secretary may, with 90 days' notice, terminate any demonstration project conducted under this section that is not in substantial compliance with the terms of the application approved by the Secretary under this section.*

*(f) OVERSIGHT.—The Secretary shall establish quality standards for evaluating and monitoring the demonstration projects conducted under this section. Such quality standards shall include reporting requirements which contain the following:*

*(1) A description of the demonstration project.*

*(2) An analysis of beneficiary satisfaction under such project.*

*(3) An analysis of the quality of the services delivered under the project.*

*(4) A description of the savings to the MediGrant and medicare programs as a result of the demonstration project.*

# *TITLE VIII—MEDICARE*

## *SEC. 8000. SHORT TITLE OF TITLE; AMENDMENTS AND REFERENCES TO OBRA; TABLE OF CONTENTS OF TITLE.*

*(a) SHORT TITLE.—This title may be cited as the "Medicare Preservation Act of 1995".*

*(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.*

*(c) REFERENCES TO OBRA.—In this title, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", "OBRA–1990", and "OBRA–1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), respectively.*

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

*Sec. 8000. Short title of title; amendments and references to OBRA; table of contents of title.*

*Subtitle A—MedicarePlus Program*

*"Part C—MedicarePlus Program*

*Chapter 1—MedicarePlus Program*

*Sec. 8001. Establishment of MedicarePlus program.*

*"Part C—MedicarePlus Program*

*"Sec. 1851. Eligibility, election, and enrollment.*
*"Sec. 1852. Benefits and beneficiary protections.*
*"Sec. 1853. Organizational and financial requirements for MedicarePlus organizations; provider-sponsored organizations.*
*"Sec. 1854. Payments to MedicarePlus organizations.*
*"Sec. 1855. Premiums and rebates.*
*"Sec. 1856. Establishment of standards; certification of organizations and plans.*
*"Sec. 1857. Contracts with MedicarePlus organizations.*
*"Sec. 1858. Standards for MedicarePlus and medicare information transactions and data elements.*
*"Sec. 1859. Definitions; miscellaneous provisions.*
*Sec. 8002. Duplication and coordination of medicare-related plans.*
*Sec. 8003. Transitional rules for current medicare HMO program.*

*Chapter 2—Special Rules for MedicarePlus Medical Savings Accounts*

*Sec. 8011. MedicarePlus MSA.*
*Sec. 8012. Certain rebates excluded from gross income.*

*Chapter 3—Medicare Payment Review Commission*

*Sec. 8021. Medicare Payment Review Commission.*

*Chapter 4—Treatment Of Hospitals Which Participate in Provider-Sponsored Organizations*

*Sec. 8031. Treatment of hospitals which participate in provider-sponsored organizations.*

*Subtitle B—Health Care Fraud and Abuse Prevention*

*Chapter 1—Fraud And Abuse Control Program*

*Sec. 8101. Fraud and abuse control program.*
*Sec. 8102. Medicare integrity program.*
*Sec. 8103. Beneficiary incentive programs.*
*Sec. 8104. Application of certain health anti-fraud and abuse sanctions to fraud and abuse against Federal health care programs.*
*Sec. 8105. Guidance regarding application of health care fraud and abuse sanctions.*

*Chapter 2—Revisions To Current Sanctions for Fraud and Abuse*

*Sec. 8111. Mandatory exclusion from participation in medicare and State health care programs.*

*Sec. 8112. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.*
*Sec. 8113. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.*
*Sec. 8114. Sanctions against practitioners and persons for failure to comply with statutory obligations.*
*Sec. 8115. Intermediate sanctions for medicare health maintenance organizations.*
*Sec. 8116. Additional exception to anti-kickback penalties for discounting and managed care arrangements.*
*Sec. 8117. Penalties for the fraudulent conversion of assets in order to obtain State health care program benefits.*
*Sec. 8118. Effective date.*

*Chapter 3—Administrative And Miscellaneous Provisions*

*Sec. 8121. Establishment of the health care fraud and abuse data collection program.*

*Chapter 4—Civil Monetary Penalties*

*Sec. 8131. Social Security Act civil monetary penalties.*
*Sec. 8132. Clarification of level of intent required for imposition of sanctions.*
*Sec. 8133. Penalty for false certification for home health services.*

*Chapter 5—Amendments To Criminal Law*

*Sec. 8141. Health care fraud.*
*Sec. 8142. Forfeitures for Federal health care offenses.*
*Sec. 8143. Injunctive relief relating to Federal health care offenses.*
*Sec. 8144. False Statements.*
*Sec. 8145. Obstruction of criminal investigations of Federal health care offenses.*
*Sec. 8146. Theft or embezzlement.*
*Sec. 8147. Laundering of monetary instruments.*
*Sec. 8148. Authorized investigative demand procedures.*

*Chapter 6—State Health Care Fraud Control Units*

*Sec. 8151. State health care fraud control units.*

*Subtitle C—Regulatory Relief*

*Sec. 8201. Repeal of physician ownership referral prohibitions based on compensation arrangements.*
*Sec. 8202. Revision of designated health services subject to ownership referral prohibition.*
*Sec. 8203. Delay in implementation of 1993 ownership referral changes until promulgation of regulations.*
*Sec. 8204. Exceptions to ownership referral prohibitions.*
*Sec. 8205. Effective date.*

*Subtitle D—Modification in Payment Policies Regarding Graduate Medical Education*

*Sec. 8301. Indirect medical education payments.*
*Sec. 8302. Direct graduate medical education.*

*Subtitle E—Provisions Relating to Part A*

*Chapter 1—General Provisions Relating to Part A*

*Sec. 8401. PPS hospital payment update.*
*Sec. 8402. PPS-exempt hospital payments.*
*Sec. 8403. Reductions in disproportionate share payment adjustments.*
*Sec. 8404. Capital payments for PPS hospitals.*
*Sec. 8405. Reduction in payments to hospitals for enrollees' bad debts.*
*Sec. 8406. Increase in update for certain hospitals with a high proportion of medicare patients.*

*Chapter 2—Payments To Skilled Nursing Facilities*

*subchapter a—prospective payment system*

*Sec. 8410. Prospective payment system for skilled nursing facilities.*

*subchapter b—interim payment system*

*Sec. 8411. Payments for routine service costs.*
*Sec. 8412. Cost-effective management of covered non-routine services.*
*Sec. 8413. Payments for routine service costs.*
*Sec. 8414. Reductions in payment for capital-related costs.*
*Sec. 8415. Treatment of items and services paid for under part B.*
*Sec. 8416. Medical review process.*
*Sec. 8417. Report by medicare payment review commission.*
*Sec. 8418. Effective date.*

*Chapter 3—Other Provisions Relating to Part A*

*Sec. 8421. Payments for hospice services.*
*Sec. 8422. Permanent extension of hemophilia pass-through.*

*Subtitle F—Provisions Relating to Part B*

*Chapter 1—Payment Reforms*

*Sec. 8501. Payments for physicians' services.*
*Sec. 8502. Elimination of formula-driven overpayments for certain outpatient hospital services.*
*Sec. 8503. Extension of reductions in payments for costs of hospital outpatient services.*
*Sec. 8504. Reduction in updates to payment amounts for clinical diagnostic laboratory tests.*
*Sec. 8505. Payments for durable medical equipment.*
*Sec. 8506. Updates for ambulatory surgical services.*
*Sec. 8507. Payments for ambulance services.*
*Sec. 8508. Ensuring payment for physician and nurse for jointly furnished anesthesia services.*

*Chapter 2—Part B Premium*

*Sec. 8511. Promoting solvency of part a trust fund through part b premium.*
*Sec. 8512. Income-related reduction in medicare subsidy.*

*Subtitle G—Provisions Relating to Parts A and B*

*CHAPTER 1—PAYMENTS FOR HOME HEALTH SERVICES*

*Sec. 8601. Payment for home health services.*
*Sec. 8602. Maintaining savings resulting from temporary freeze on payment increases for home health services.*
*Sec. 8603. Extension of waiver of presumption of lack of knowledge of exclusion from coverage for home health agencies.*
*Sec. 8604. Extension of period of home health agency certification.*

*PART 2—MEDICARE SECONDARY PAYER IMPROVEMENTS*

*Sec. 8611. Extension and expansion of existing requirements.*
*Sec. 8612. Improvements in recovery of payments.*

*CHAPTER 3—OTHER ITEMS AND SERVICES UNDER PARTS A AND B*

*Sec. 8621. Medicare coverage of certain anti-cancer drug treatments.*
*Sec. 8622. Administrative provisions.*

*CHAPTER 4—FAILSAFE*

*Sec. 8631. Failsafe budget mechanism.*

*Subtitle H—Rural Areas*

*Sec. 8701. Medicare-dependent, small, rural hospital payment extension.*
*Sec. 8702. Medicare rural hospital flexibility program.*
*Sec. 8703. Establishment of rural emergency access care hospitals.*
*Sec. 8704. Classification of rural referral centers.*
*Sec. 8705. Floor on area wage index.*
*Sec. 8706. Additional payments for physicians' services furnished in shortage areas.*
*Sec. 8707. Payments to physician assistants and nurse practitioners for services furnished in outpatient or home settings.*
*Sec. 8708. Expanding access to nurse aide training in underserved areas.*

# *Subtitle A—MedicarePlus Program*

## *CHAPTER 1—MEDICAREPLUS PROGRAM*

### *SEC. 8001. ESTABLISHMENT OF MEDICAREPLUS PROGRAM.*

*(a) IN GENERAL.—Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:*

*"PART C—MEDICAREPLUS PROGRAM*

*"ELIGIBILITY, ELECTION, AND ENROLLMENT*

*"SEC. 1851. (a) CHOICE OF MEDICARE BENEFITS THROUGH MEDICAREPLUS PLANS.—*

*"(1) IN GENERAL.—Subject to the provisions of this section, every MedicarePlus eligible individual (as defined in paragraph (3)) is entitled to elect to receive benefits under this title—*

*"(A) through the Medicare fee-for-service program under parts A and B, or*

*"(B) through enrollment in a MedicarePlus plan under this part.*

*"(2) TYPES OF MEDICAREPLUS PLANS THAT MAY BE AVAILABLE.—A MedicarePlus plan may be any of the following types of plans of health insurance:*

*"(A) COORDINATED CARE PLANS.—Private coordinated care plans which provide health care services, including health maintenance organization plans and preferred provider organization plans.*

*"(B) COMBINATION OF HIGH DEDUCTIBLE PLAN AND CONTRIBUTIONS TO HIGH DEDUCTIBLE MEDICARE MSA.—A high deductible plan, as defined in section 1859(b)(2), and a contribution*

*into a High Deductible MedicarePlus medical savings account (MSA).*

*"(C) PLANS OFFERED BY PROVIDER-SPONSORED ORGANIZATION.—A MedicarePlus plan offered by a provider-sponsored organization, as defined in section 1853(i).*

*"(D) UNION, TAFT-HARTLEY, AND ASSOCIATION PLANS.—A MedicarePlus organization plan offered by a MedicarePlus organization that is a union sponsor, Taft-Hartley sponsor, or qualified association sponsor, as defined in section 1859(a).*

*"(E) FEE-FOR-SERVICE PLANS.—Plans that reimburse hospitals, physicians, and other providers on the basis of a privately determined fee schedule or other basis.*

*"(F) OTHER HEALTH CARE PLANS.—Any other private plan for the delivery of health care items and services that is not described in a previous subparagraph.*

*"(3) MEDICAREPLUS ELIGIBLE INDIVIDUAL.—*

*"(A) IN GENERAL.—In this title, subject to subparagraph (B), the term 'MedicarePlus eligible individual' means an individual who is enti-*

*tled to benefits under part A and enrolled under part B.*

*"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—Such term shall not include an individual medically determined to have end-stage renal disease, except that an individual who develops end-stage renal disease while enrolled in a MedicarePlus plan may continue to be enrolled in that plan.*

*"(b) SPECIAL RULES.—*

*"(1) RESIDENCE REQUIREMENT.—*

*"(A) IN GENERAL.—Except as the Secretary may otherwise provide, an individual is eligible to elect a MedicarePlus plan offered by a MedicarePlus organization only if the organization serves the geographic area in which the individual resides under the plan.*

*"(B) CONTINUATION OF ENROLLMENT PERMITTED.—Pursuant to rules specified by the Secretary, the Secretary shall provide that an individual may continue enrollment in a plan, notwithstanding that the individual no longer resides in the service area of the plan, so long as the plan provides benefits for providers located in the area in which the individual resides.*

*"(2) AFFILIATION REQUIREMENTS FOR CERTAIN PLANS.—*

*"(A) IN GENERAL.—Subject to subparagraph (B), an individual is eligible to elect a MedicarePlus plan offered by—*

*"(i) a union sponsor only if (I) the individual is a member of the sponsor and affiliated with the sponsor through an employment relationship with any employer or is the spouse of such a member, and (II) the individual elected under this section a MedicarePlus plan offered by the sponsor during the first enrollment period in which the individual was eligible to make such election with respect to such sponsor;*

*"(ii) a Taft-Hartley sponsor only if (I) the individual is entitled to obtain benefits through such plans under the terms of an applicable collective bargaining agreement, and (II) the individual elected under this section a MedicarePlus plan offered by the sponsor during the first enrollment period in which the individual was eligible to make such election with respect to such sponsor; and*

*"(iii) a qualified association sponsor only if the individual is a member of the association (or is a spouse of such a member).*

*"(B) LIMITATION ON ENROLLMENT.—Subject to subparagraph (C)—*

*"(i) a union sponsor may not enroll an individual under this part unless the individual is described in subparagraph (A)(i)(I),*

*"(ii) a Taft-Hartley sponsor may not enroll an individual under this part unless the individual is described in subparagraph (A)(ii)(I), and*

*"(iii) a qualified association sponsor may not enroll an individual under this part unless the individual is described in subparagraph (A)(iii).*

*"(C) LIMITATION ON TERMINATION OF COVERAGE.—A qualified association sponsor offering a MedicarePlus plan to an individual may not terminate coverage of the individual on the basis that the individual is no longer a member of the association except pursuant to a change of election during an open election period occurring on*

*or after the date of the termination of membership.*

*"(3) SPECIAL RULES FOR UNION, TAFT-HARTLEY, AND QUALIFIED ASSOCIATION SPONSORS.—*

*"(A) UNIONS.—Subject to subparagraph (D), a union sponsor (as defined in section 1859(a)(5)) shall limit eligibility of enrollees under this part for MedicarePlus plans it offers to individuals who are members of the sponsor and affiliated with the sponsor through an employment relationship with any employer or are the spouses of such members.*

*"(B) TAFT-HARTLEY SPONSORS.—Subject to subparagraph (D), a MedicarePlus organization that is a Taft-Hartley sponsor (as defined in section 1859(a)(4)) shall limit eligibility of enrollees under this part for MedicarePlus plans it offers to individuals who are entitled to obtain benefits through such plans under the terms of an applicable collective bargaining agreement.*

*"(C) QUALIFIED ASSOCIATION SPONSORS.—*

*"(i) IN GENERAL.—Subject to subparagraph (D), a MedicarePlus organization that is a qualified association sponsor (as defined in section 1859(a)(3)) shall limit*

*eligibility of individuals under this part for plans it offers to individuals who are members of the association (or who are spouses of such individuals).*

*"(ii) LIMITATION ON TERMINATION OF COVERAGE.—Such a qualifying association sponsor offering a MedicarePlus plan to an individual may not terminate coverage of the individual on the basis that the individual is no longer a member of the association except pursuant to a change of election during an open election period occurring on or after the date of the termination of membership.*

*"(D) LIMITATION.—Rules of eligibility to carry out the previous subparagraphs of this paragraph shall not have the effect of denying eligibility to individuals on the basis of health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability.*

*"(E) NO REELECTION AFTER DISENROLLMENT FOR CERTAIN PLANS.—An individual is not eligible to elect a MedicarePlus plan offered by a MedicarePlus organization that*

*is a union sponsor or a Taft-Hartley sponsor if the individual previously had elected a MedicarePlus plan offered by the organization and had subsequently discontinued election of such a plan offered by the organization.*

*"(4) SPECIAL RULE FOR CERTAIN INDIVIDUALS COVERED UNDER FEHBP.—An individual who is enrolled in a health benefit plan under chapter 89 of title 5, United States Code, is not eligible to enroll in a high deductible plan until such time as the Director of the Office of Management and Budget certifies to the Secretary that the Office of Personnel Management has adopted policies which will ensure that the enrollment of such individuals in such plans will not result in increased expenditures for the Federal Government for health benefit plans under such chapter.*

*"(c) PROCESS FOR EXERCISING CHOICE.—*

*"(1) IN GENERAL.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed only during coverage election periods specified under subsection (e) and shall become effective as provided in subsection (f).*

*"(2) EXPEDITED IMPLEMENTATION.—The Secretary shall establish the process of electing coverage under this section during the transition period (as defined in subsection (e)(1)(B)) in such an expedited manner as will permit such an election for MedicarePlus plans in an area as soon as such plans become available in that area.*

*"(3) COORDINATION THROUGH MEDICAREPLUS ORGANIZATIONS.—*

*"(A) ENROLLMENT.—Such process shall permit an individual who wishes to elect a MedicarePlus plan offered by a MedicarePlus organization to make such election through the filing of an appropriate election form with the organization.*

*"(B) DISENROLLMENT.—Such process shall permit an individual, who has elected a MedicarePlus plan offered by a MedicarePlus organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.*

*"(4) DEFAULT.—*

*"(A) INITIAL ELECTION.—*

*"(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the Medicare fee-for-service program option.*

*"(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary shall establish procedures under which individuals who are enrolled with a MedicarePlus organization at the time of the initial election period and who fail to elect to receive coverage other than through the organization are deemed to have elected the MedicarePlus plan offered by the organization (or, if the organization offers more than one such plan, the MedicarePlus plan offered by the organization with the lowest net monthly premium).*

*"(B) CONTINUING PERIODS.—An individual who has made (or is deemed to have made) an election under this section is considered to have continued to make such election until such time as—*

*"(i) the individual changes the election under this section, or*

*"(ii) a MedicarePlus plan is discontinued, if the individual had elected such plan at the time of the discontinuation.*

*"(d) PROVIDING INFORMATION TO PROMOTE INFORMED CHOICE.—*

*"(1) IN GENERAL.—The Secretary shall provide for activities under this subsection to broadly disseminate information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options.*

*"(2) PROVISION OF NOTICE.—*

*"(A) OPEN SEASON NOTIFICATION.—At least 15 days before the beginning of each annual, coordinated election period, the Secretary shall mail to each MedicarePlus eligible individual residing in an area the following:*

*"(i) GENERAL ELECTION INFORMATION AND INFORMATION ABOUT MEDICARE FEE-FOR-SERVICE PROGRAM.—The general information regarding election, benefits coverage, and procedures described in paragraph (3).*

*"(ii) LIST OF PLANS AND COMPARISON OF PLAN OPTIONS.—A list identifying the MedicarePlus plans that are (or will be)*

*available to residents of the area (and their service areas) and information, described in paragraph (4) and in comparative form, concerning such plans.*

*"(iii) MEDICAREPLUS MONTHLY CAPITATION RATE.—The amount of the monthly MedicarePlus capitation rate for the area.*

*"(iv) ADDITIONAL INFORMATION.—Any other information that the Secretary determines will assist the individual in making the election under this section.*

*The mailing of such information shall be coordinated with the mailing of any annual notice under section 1804.*

*"(B) NOTIFICATION TO NEWLY MEDICAREPLUS ELIGIBLE INDIVIDUALS.—To the extent practicable, the Secretary shall, not later than 2 months before the beginning of the initial MedicarePlus enrollment period for an individual described in subsection (e)(1)(A), mail to the individual the information described in subparagraph (A).*

*"(C) FORM.—The information disseminated under this paragraph shall be written and*

*formatted in the most easily understandable manner possible.*

*"(D) PERIODIC UPDATING.—The information described in subparagraph (A) shall be updated on at least an annual basis to reflect changes in the availability of MedicarePlus plans and the benefits and monthly premiums (and net monthly premiums) for such plans.*

*"(3) GENERAL ELECTION INFORMATION AND INFORMATION ABOUT MEDICARE FEE-FOR-SERVICE PROGRAM.—General information under this paragraph, with respect to coverage under this part during a year, shall include the following:*

*"(A) BENEFITS.—A general description of the benefits covered (and not covered) under the medicare fee-for-service program under parts A and B, including—*

*"(i) covered items and services, and*

*"(ii) beneficiary cost sharing, such as deductibles, coinsurance, and copayment amounts, and the beneficiary liability for balance billing.*

*"(B) PART B PREMIUM.—The part B premium rates that will be charged for part B coverage.*

*"(C) ELECTION PROCEDURES.—Information and instructions on how to exercise election options under this section.*

*"(D) PROCEDURAL RIGHTS.—The general description of procedural rights (including grievance procedures) of beneficiaries under the medicare fee-for-service program and the MedicarePlus program.*

*"(E) RIGHT OF ORGANIZATION TO TERMINATE CONTRACT.—The right of each MedicarePlus organization by law to terminate or refuse to renew its contract and the effect the termination or nonrenewal of its contract may have on individuals enrolled with the MedicarePlus plan under this part.*

*"(F) USE OF 911 EMERGENCY NUMBER.—A statement that the use of the 911 emergency telephone number is appropriate in emergency situations and an explanation of what constitutes an emergency situation.*

*"(4) INFORMATION COMPARING PLAN OPTIONS.—Information under this paragraph, with respect to a MedicarePlus plan for a year, shall include the following:*

*"(A) BENEFITS.—The benefits covered under the plan, including covered items and services beyond those provided under the medicare fee-for-service program, any reductions in beneficiary cost sharing, and any maximum limitations on out-of-pocket losses.*

*"(B) PREMIUMS.—The monthly premium (and net monthly premium, including any rebate) for the plan.*

*"(C) QUALITY.—(i) To the extent available, quality indicators for the benefits under the plan (in comparison with quality indicators under the Medicare fee-for-service program under parts A and B in the area involved), including—*

*"(I) disenrollment rates for medicare enrollees electing to receive benefits through the plan for the previous 2 years (excluding disenrollment due to death or moving outside the plan's service area),*

*"(II) information on medicare enrollee satisfaction and health outcomes, and*

*"(III) whether the plan is out of compliance with any requirements of this part (as determined by the Secretary).*

*"(D) SUPPLEMENTAL COVERAGE OPTIONS.—Whether the organization offering the plan offers optional supplemental coverage.*

*"(5) MAINTAINING A TOLL-FREE NUMBER.—The Secretary shall maintain a toll-free number for inquiries regarding MedicarePlus options and the operation of part C in all areas in which MedicarePlus plans are offered.*

*"(6) USE OF NONFEDERAL ENTITIES.—The Secretary shall, to the maximum extent feasible, enter into contracts with appropriate non-Federal entities to carry out activities under this subsection.*

*"(7) PROVISION OF INFORMATION.—A MedicarePlus organization shall provide the Secretary with such information on the organization and each MedicarePlus plan it offers as may be required for the preparation of the information referred to in paragraph (2)(A).*

*"(e) COVERAGE ELECTION PERIODS.—*

*"(1) INITIAL CHOICE UPON ELIGIBILITY TO MAKE ELECTION.—*

*"(A) IN GENERAL.—In the case of an individual who first becomes entitled to benefits under part A and enrolled under part B after the beginning of the transition period (as defined*

*in subparagraph (B)), the individual shall make the election under this section during a period (of a duration and beginning at a time specified by the Secretary) at the first time the individual both is entitled to benefits under part A and enrolled under part B. Such period shall be specified in a manner so that, in the case of an individual who elects a MedicarePlus plan during the period, coverage under the plan becomes effective as of the first date on which the individual may receive such coverage.*

*"(B) TRANSITION PERIOD DEFINED.—In this subsection, the term 'transition period' means, with respect to an individual in an area, the period beginning on the first day of the first month in which a MedicarePlus plan is first made available to individuals in the area and ending with the month preceding the beginning of the first annual, coordinated election period under paragraph (3).*

*"(2) DURING TRANSITION PERIOD.—Subject to paragraph (6)—*

*"(A) CONTINUOUS OPEN ENROLLMENT INTO A MEDICAREPLUS OPTION.—During the transition period, a MedicarePlus eligible individual*

*who has elected the Medicare fee-for-service program option described in subsection (a)(1)(A) may change such election to a MedicarePlus option described in subsection (a)(1)(B) at any time.*

*"(B) OPEN DISENROLLMENT BEFORE END OF TRANSITION PERIOD.—*

*"(i) IN GENERAL.—During the transition period, an individual who has elected a MedicarePlus option described in subsection (a)(1)(B) for a MedicarePlus plan may change such election to another MedicarePlus plan or to the Medicare fee-for-service program option described in subsection (a)(1)(A).*

*"(ii) SPECIAL RULE.—During the transition period, an individual who has elected a high deductible plan may not change such election to a MedicarePlus plan that is not a high deductible plan unless the individual has had such election in effect for 12 consecutive months.*

*"(3) ANNUAL, COORDINATED ELECTION PERIOD.—*

*"(A) IN GENERAL.—Subject to paragraph (5), each individual who is eligible to make an election under this section may change such election during an annual, coordinated election period.*

*"(B) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 1998), the month of October before such year.*

*"(C) MEDICAREPLUS HEALTH FAIR DURING OCTOBER, 1996.—In the month of October, 1996, the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform MedicarePlus eligible individuals about such plans and the election process provided under this section (including the annual, coordinated election periods that occur in subsequent years).*

*"(4) SPECIAL 90-DAY DISENROLLMENT OPTION.—*

*"(A) IN GENERAL.—In the case of the first time an individual elects any MedicarePlus plan (other than a high deductible plan) offered by a particular MedicarePlus organization under this section, the individual may change such election*

*through the filing of an appropriate notice during the 90-day period beginning on the first day on which the individual's coverage under the MedicarePlus plan under such option becomes effective.*

*"(B) LIMITATION.—Subparagraph (A)—*

*"(i) shall only apply once for an individual with respect to any particular organization, and*

*"(ii) may not apply more than twice for any individual in a calendar year.*

*"(C) EFFECT OF DISCONTINUATION OF ELECTION.—An individual who discontinues an election under subparagraph (A) may, during the period specified by the Secretary, make a new election under this subsection (a) (or, in the absence of such an election, is deemed at the time of such discontinuation to have elected the Medicare fee-for-service program option described in subsection (a)(1)(A)).*

*"(5) SPECIAL ELECTION PERIODS.—An individual may discontinue an election of a MedicarePlus plan offered by a MedicarePlus organization other than during an annual, coordinated election period and make a new election under this section if—*

*"(A) the organization's or plan's certification under part C has been terminated or the organization has terminated or otherwise discontinued providing the plan;*

*"(B) the individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of membership in a qualified association in the case of a plan offered by a qualified association sponsor or termination of the individual's enrollment on the basis described in clause (i) or (ii) section 1851(g)(3)(B));*

*"(C) the individual demonstrates (in accordance with guidelines established by the Secretary) that—*

*"(i) the organization offering the plan substantially violated a material provision of the organization's contract under part C in relation to the individual and the plan; or*

*"(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the plan's*

*provisions in marketing the plan to the individual; or*

*"(D) the individual meets such other conditions as the Secretary may provide.*

*"(6) SPECIAL RULE FOR HIGH DEDUCTIBLE PLANS.—Notwithstanding the previous provisions of this subsection, an individual may elect a high deductible plan only during an annual, coordinated election period described in paragraph (3)(B) or during the month of October, 1996.*

*"(f) EFFECTIVENESS OF ELECTIONS.—*

*"(1) DURING INITIAL COVERAGE ELECTION PERIOD.—An election of coverage made during the initial coverage election period under subsection (e)(1)(A) shall take effect upon the date the individual becomes entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838) in order to prevent retroactive coverage.*

*"(2) DURING TRANSITION; 90-DAY DISENROLLMENT OPTION.—An election of coverage made under subsection (e)(2) and an election to discontinue a MedicarePlus option under subsection (e)(4) at any time shall take effect with the first cal-*

*endar month following the date on which the election is made.*

*"(3) ANNUAL, COORDINATED ELECTION PERIOD AND HIGH DEDUCTIBLE PLAN ELECTION.—An election of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year or for a high deductible plan shall take effect as of the first day of the following year.*

*"(4) OTHER PERIODS.—An election of coverage made during any other period under subsection (e)(5) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.*

*"(g) GUARANTEED ISSUE AND RENEWAL.—*

*"(1) IN GENERAL.—Except as provided in this subsection, a MedicarePlus organization shall provide that at any time during which elections are accepted under this section with respect to a MedicarePlus plan offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.*

*"(2) PRIORITY.—If the Secretary determines that a MedicarePlus organization, in relation to a MedicarePlus plan it offers, has a capacity limit and*

*the number of MedicarePlus eligible individuals who elect the plan under this section exceeds the capacity limit, the organization may limit the election of individuals of the plan under this section but only if priority in election is provided—*

*"(A) first to such individuals as have elected the plan at the time of the determination, and*

*"(B) then to other such individuals in such a manner that does not discriminate among the individuals (who seek to elect the plan) on a basis described in section 1852(b).*

*The preceding sentence shall not apply if it would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the medicare population in the service area of the plan.*

*"(3) LIMITATION ON TERMINATION OF ELECTION.—*

*"(A) IN GENERAL.—Subject to subparagraph (B), a MedicarePlus organization may not for any reason terminate the election of any individual under this section for a MedicarePlus plan it offers.*

*"(B) BASIS FOR TERMINATION OF ELECTION.—A MedicarePlus organization may termi-*

*nate an individual's election under this section with respect to a MedicarePlus plan it offers if—*

*"(i) any net monthly premiums required with respect to such plan are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of net monthly premiums),*

*"(ii) the individual has engaged in disruptive behavior (as specified in such standards), or*

*"(iii) the plan is terminated with respect to all individuals under this part.*

*Any individual whose election is so terminated is deemed to have elected the Medicare fee-for-service program option described in subsection (a)(1)(A).*

*"(C) LIMITATION ON TERMINATION OF COVERAGE.—A qualified association sponsor offering a MedicarePlus plan to an individual may not terminate coverage of the individual on the basis that the individual is no longer a member of the association except pursuant to a change of election during an open election period occurring on*

*or after the date of the termination of membership.*

*"(D) ORGANIZATION OBLIGATION WITH RESPECT TO ELECTION FORMS.—Pursuant to a contract under section 1857, each MedicarePlus organization receiving an election form under subsection (c)(3) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.*

*"(h) APPROVAL OF MARKETING MATERIALS.—*

*"(1) SUBMISSION.—No marketing materials may be distributed by a MedicarePlus organization to (or for the use of) MedicarePlus eligible individuals unless—*

*"(A) at least 45 days before the date of distribution the organization has submitted the material to the Secretary for review, and*

*"(B) the Secretary has not disapproved the distribution of such material.*

*"(2) REVIEW.—The standards established under section 1856 shall include guidelines for the review of all such material submitted and under such guidelines the Secretary shall disapprove such material if*

*the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.*

*"(3) DEEMED APPROVAL (1-STOP SHOPPING).—In the case of material that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing materials under paragraph (1)(B) with respect to a MedicarePlus plan in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the plan and organization.*

*"(4) PROHIBITION OF CERTAIN MARKETING PRACTICES.—Each MedicarePlus organization shall conform to fair marketing standards in relation to MedicarePlus plans offered under this part, included in the standards established under section 1856. Such standards shall include a prohibition against an organization (or agent of such an organization) completing any portion of any election form used to carry out elections under this section on behalf of any individual.*

*"(i) EFFECT OF ELECTION OF MEDICAREPLUS PLAN OPTION.—Subject to section 1852(a)(5)—*

*"(1) payments under a contract with a MedicarePlus organization under section 1854(a) with respect to an individual electing a MedicarePlus plan offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A and B for items and services furnished to the individual, and*

*"(2) subject to subsections (e) and (f) of section 1854, only the MedicarePlus organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.*

*"(j) ADMINISTRATION.—*

*"(1) IN GENERAL.—This part and section 1876 shall be administered through an operating division (A) that is established or identified by the Secretary and is in the Department of Health and Human Services, (B) that is separate from the Health Care Financing Administration, and (C) the primary function of which is the administration of this part and such section. The director of such division shall be of equal pay and rank to that of the individual responsible for overall administration of parts A and B.*

*"(2) TRANSFER AUTHORITY.—The Secretary shall transfer such personnel, administrative support systems, assets, records, funds, and other resources in*

*the Health Care Financing Administration to the operating division referred to in paragraph (1) as are used in the administration of section 1876 and as may be required to implement the provisions of this part promptly and efficiently.*

*"BENEFITS AND BENEFICIARY PROTECTIONS*

*"SEC. 1852. (a) BASIC BENEFITS.—*

*"(1) IN GENERAL.—Except as provided in section 1859(b)(2) for high deductible plans, each MedicarePlus plan shall provide to members enrolled under this part, through providers and other persons that meet the applicable requirements of this title and part A of title XI—*

*"(A) those items and services for which benefits are available under parts A and B to individuals residing in the area served by the plan, and*

*"(B) additional health services as the Secretary may approve.*

*The Secretary shall approve any such additional health care services which the plan proposes to offer to such members, unless the Secretary determines that including such additional services will substantially discourage enrollment by MedicarePlus eligible individuals with the plan.*

*"(2) SATISFACTION OF REQUIREMENT.—A MedicarePlus plan (other than a high deductible plan) offered by a MedicarePlus organization satisfies paragraph (1)(A) with respect to benefits for items and services if the following requirements are met:*

*"(A) FEE FOR SERVICE PROVIDERS.—In the case of benefits furnished through a provider that does not have a contract with the organization, the plan provides for at least the dollar amount of payment for such items and services as would otherwise be provided under parts A and B.*

*"(B) PARTICIPATING PROVIDERS.—In the case of benefits furnished through a provider that has such a contract, the individual's liability for payment for such items and services does not exceed (after taking into account any deductible, which does not exceed any deductible under parts A and B) the lesser of the following:*

*"(i) INDIVIDUAL'S LIABILITY UNDER MEDICARE FEE-FOR-SERVICE PROGRAM.—The amount of the liability that the individual would have had (based on the provider being a participating provider) if the individual had not elected coverage under a MedicarePlus plan.*

*"(ii) MEDICARE COINSURANCE APPLIED TO PLAN PAYMENT RATES.—The applicable coinsurance or copayment rate (that would have applied under the Medicare fee-for-service program option described in section 1851(a)(1)(A)) of the payment rate provided under the contract.*

*"(3) SUPPLEMENTAL OPTIONAL BENEFITS.—Each MedicarePlus organization may offer under a MedicarePlus plan optional supplemental benefits to each individual enrolled in the plan under this part for an additional premium amount. If the supplemental benefits are offered only to individuals enrolled in the sponsor's plan under this part, the additional premium amount shall be the same for all enrolled individuals in the MedicarePlus payment area. Such benefits may be marketed and sold by the MedicarePlus organization outside of the enrollment process described in section 1851(c).*

*"(4) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a MedicarePlus organization may (in the case of the provision of items and services to an individual under a MedicarePlus plan under circumstances in which payment under this title is made secondary*

*pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such a law, plan, or policy—*

*"(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or*

*"(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.*

*"(5) NATIONAL COVERAGE DETERMINATIONS.—If there is a national coverage determination made in the period beginning on the date of an announcement under section 1854(b) and ending on the date of the next announcement under such section and the Secretary projects that the determination will result in a significant change in the costs to a MedicarePlus organization of providing the benefits that are the subject of such national coverage determination and that such change in costs was not incorporated in the determination of the annual MedicarePlus capitation rate under section 1854 included in the announcement made at the beginning of such period—*

*"(A) such determination shall not apply to contracts under this part until the first contract year that begins after the end of such period, and*

*"(B) if such coverage determination provides for coverage of additional benefits or coverage under additional circumstances, section 1851(i) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances until the first contract year that begins after the end of such period,*

*unless otherwise required by law.*

*"(b) ANTIDISCRIMINATION.—A MedicarePlus organization may not deny, limit, or condition the coverage or provision of benefits under this part based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual. A MedicarePlus organization shall notify each enrollee under this part of provisions of this subsection at the time of the individual's enrollment.*

*"(c) DETAILED DESCRIPTION OF PLAN PROVISIONS.—A MedicarePlus organization shall disclose, in clear, accurate, and standardized form to each enrollee with a MedicarePlus plan offered by the organization under this part at the time of enrollment and at least annually thereafter, the following information regarding such plan:*

*"(1) SERVICE AREA.—The plan's service area.*

*"(2) BENEFITS.—Benefits under the plan offered, including information described in section 1851(d)(3)(A) and exclusions from coverage and, if it is a high deductible plan, a comparison of benefits under such a plan with benefits under other MedicarePlus plans.*

*"(3) ACCESS.—The number, mix, and distribution of participating providers.*

*"(4) OUT-OF-AREA COVERAGE.— Out-of-area coverage provided by the plan.*

*"(5) EMERGENCY COVERAGE.—Coverage of emergency services and urgently needed care.*

*"(6) OPTIONAL SUPPLEMENTAL COVERAGE.—Optional supplemental coverage available from the organization offering the plan, including—*

*"(A) supplemental items and services covered, and*

*"(B) the premium price for the optional supplemental benefits.*

*"(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in nonpayment.*

*"(8) PLAN GRIEVANCE PROCEDURES.— Any plan-specific appeal or grievance rights and procedures.*

*"(9) QUALITY ASSURANCE PROGRAM.—A description of the organization's quality assurance program under subsection (e).*

*"(d) ACCESS TO SERVICES.—*

*"(1) IN GENERAL.—A MedicarePlus organization offering a MedicarePlus plan may restrict the providers from whom the benefits under the plan are provided so long as—*

*"(A) the organization makes such benefits available and accessible to each individual electing the plan within the plan service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;*

*"(B) when medically necessary the organization makes such benefits available and accessible 24 hours a day and 7 days a week;*

*"(C) the plan provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—*

*"(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and*

*"(ii) it was not reasonable given the circumstances to obtain the services through the organization;*

*"(D) the organization provides access to appropriate providers, including credentialed specialists, for medically necessary treatment and services, and*

*"(E) coverage is provided for emergency services (as defined in paragraph (3)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization.*

*"(2) PROTECTION OF ENROLLEES FOR CERTAIN EMERGENCY SERVICES.—*

*"(A) PARTICIPATING PROVIDERS.—In the case of emergency services described in subparagraph (C) which are furnished by a participating physician or provider of services to an individual enrolled with a MedicarePlus organization under this section, the applicable participation agreement is deemed to provide that the*

*physician or provider of services will accept as payment in full from the organization for such emergency services described in subparagraph (C) the amount that would be payable to the physician or provider of services under part B and from the individual under such part, if the individual were not enrolled with such an organization under this part.*

*"(B) NONPARTICIPATING PROVIDERS.—In the case of emergency services described in subparagraph (C) which are furnished by a nonparticipating physician, the limitations on actual charges for such services otherwise applicable under part B (to services furnished by individuals not enrolled with a MedicarePlus organization under this section) shall apply in the same manner as such limitations apply to services furnished to individuals not enrolled with such an organization.*

*"(C) EMERGENCY SERVICES DESCRIBED.—The emergency services described in this subparagraph are emergency services which are furnished to an enrollee of a MedicarePlus organization under this part by a physician or pro-*

*vider of services that is not under a contract with the organization.*

*"(D) EXCEPTION FOR UNRESTRICTED FEE-FOR-SERVICE PLANS.—The previous provisions of this paragraph shall not apply in the case of a MedicarePlus organization in relation to a MedicarePlus unrestricted fee-for-service plan (as defined in section 1859(b)(3)).*

*"(3) DEFINITION OF EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means, with respect to an individual enrolled with an organization, covered inpatient and outpatient services that—*

*"(A) are furnished by an appropriate source other than the organization,*

*"(B) are needed immediately because of an injury or sudden illness, and*

*"(C) are needed because the time required to reach the organization's providers or suppliers would have meant risk of serious damage to the patient's health.*

*"(e) QUALITY ASSURANCE PROGRAM.—*

*"(1) IN GENERAL.—Each MedicarePlus organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing*

*quality assurance program for health care services it provides to individuals enrolled with MedicarePlus plans of the organization.*

*"(2) ELEMENTS OF PROGRAM.—The quality assurance program shall—*

*"(A) stress health outcomes;*

*"(B) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;*

*"(C) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;*

*"(D) monitor and evaluate high volume and high risk services and the care of acute and chronic conditions;*

*"(E) evaluate the continuity and coordination of care that enrollees receive;*

*"(F) have mechanisms to detect both underutilization and overutilization of services;*

*"(G) after identifying areas for improvement, establish or alter practice parameters;*

*"(H) take action to improve quality and assesses the effectiveness of such action through systematic follow-up;*

*"(I) make available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate); and*

*"(J) be evaluated on an ongoing basis as to its effectiveness.*

*"(3) EXTERNAL REVIEW.—Each MedicarePlus organization shall, for each MedicarePlus plan it operates, have an agreement with an independent quality review and improvement organization approved by the Secretary.*

*"(4) EXCEPTION FOR UNRESTRICTED FEE-FOR-SERVICE PLANS.—Paragraphs (1) and (3) and subsection (h)(2) (relating to maintaining medical records) shall not apply in the case of a MedicarePlus organization in relation to a MedicarePlus unrestricted fee-for-service plan.*

*"(5) TREATMENT OF ACCREDITATION.—The Secretary shall provide that a MedicarePlus organization is deemed to meet the requirements of paragraphs (1) through (3) of this subsection and subsection (h) (relating to confidentiality and accuracy of medical records) if the organization is accredited (and peri-*

*odically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization meets standards that are no less stringent than the standards established under section 1856 to carry out this subsection and such subsection.*

*"(f) COVERAGE DETERMINATIONS.—*

*"(1) DECISIONS ON NONEMERGENCY CARE.—A MedicarePlus organization shall make determinations regarding authorization requests for nonemergency care on a timely basis, depending on the urgency of the situation.*

*"(2) APPEALS.—*

*"(A) IN GENERAL.—Appeals from a determination of an organization denying coverage shall be decided within 30 days of the date of receipt of medical information, but not later than 60 days after the date of the decision.*

*"(B) PHYSICIAN DECISION ON CERTAIN APPEALS.—Appeal decisions relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician.*

*"(C) EMERGENCY CASES.—Appeals from such a determination involving a life-threatening*

*or emergency situation shall be decided on an expedited asis.*

*"(g) GRIEVANCES AND APPEALS.—*

*"(1) GRIEVANCE MECHANISM.—Each MedicarePlus organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and enrollees with MedicarePlus plans of the organization under this part.*

*"(2) APPEALS.—An enrollee with a MedicarePlus plan of a MedicarePlus organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the organization a party. If the amount in controversy is $1,000 or more, the individual or organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual*

*and the organization shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.*

*"(3) INDEPENDENT REVIEW OF CERTAIN COVERAGE DENIALS.—The Secretary shall contract with an independent, outside entity to review and resolve appeals of denials of coverage related to urgent or emergency services with respect to MedicarePlus plans.*

*"(4) COORDINATION WITH SECRETARY OF LABOR.—The Secretary shall consult with the Secretary of Labor so as to ensure that the requirements of this subsection, as they apply in the case of grievances referred to in paragraph (1) to which section 503 of the Employee Retirement Income Security Act of 1974 applies, are applied in a manner consistent with the requirements of such section 503, so long as such requirements provide at least as much protection for beneficiaries as would apply if this paragraph did not apply.*

*"(h) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Each MedicarePlus organization shall establish procedures—*

*"(1) to safeguard the privacy of individually identifiable enrollee information, and*

*"(2) to maintain accurate and timely medical records for enrollees.*

*"(i) INFORMATION ON ADVANCE DIRECTIVES.—Each MedicarePlus organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).*

*"(j) RULES REGARDING PHYSICIAN PARTICIPATION.—*

*"(1) PROCEDURES.—Each MedicarePlus organization shall establish reasonable procedures relating to the participation (under an agreement etween a physician and the organization) of physicians under MedicarePlus plans offered by the organization under this part. Such procedures shall include—*

*"(A) providing notice of the rules regarding participation,*

*"(B) providing written notice of participation decisions that are adverse to physicians, and*

*"(C) providing a process within the organization for appealing adverse decisions, including*

*the presentation of information and views of the physician regarding such decision.*

*"(2) CONSULTATION IN MEDICAL POLICIES.—A MedicarePlus organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.*

*"(3) LIMITATIONS ON PHYSICIAN INCENTIVE PLANS.—*

*"(A) IN GENERAL.—No MedicarePlus organization may operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:*

*"(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.*

*"(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—*

*"(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or the physician group, and*

*"(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.*

*"(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.*

*"(B) PHYSICIAN INCENTIVE PLAN DEFINED.—In this paragraph, the term 'physician incentive plan' means any compensation arrangement between a MedicarePlus organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part.*

*"(4) LIMITATION ON PROVIDER INDEMNIFICATION.—A MedicarePlus organization may not provide (directly or indirectly) for a provider (or group of providers) to indemnify the organization against any liability resulting from a civil action brought by or on behalf of an enrollee under this part for any damage caused to an enrollee with a MedicarePlus plan of the organization by the organization's denial of medically necessary care.*

*"(5) EXCEPTION FOR UNRESTRICTED FEE-FOR-SERVICE PLANS.—The previous provisions of this subsection shall not apply in the case of a MedicarePlus organization in relation to a MedicarePlus unrestricted fee-for-service plan.*

*"ORGANIZATIONAL AND FINANCIAL REQUIREMENTS FOR MEDICAREPLUS ORGANIZATIONS; PROVIDER-SPONSORED ORGANIZATIONS*

*"SEC. 1853. (a) ORGANIZED AND LICENSED UNDER STATE LAW.—*

*"(1) IN GENERAL.—A MedicarePlus organization shall be organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offers a MedicarePlus plan.*

*"(2) EXCEPTION FOR CERTAIN UNION SPONSORS AND TAFT-HARTLEY SPONSORS.—Paragraph (1) shall not apply to a MedicarePlus organization that is a union sponsor or Taft-Hartley sponsor.*

*"(3) EXCEPTION FOR QUALIFIED ASSOCIATIONS SPONSOR.—Paragraph (1) shall not apply to a MedicarePlus organization that is a qualified association sponsor.*

*"(4) SPECIAL RULES FOR PROVIDER-SPONSORED ORGANIZATIONS.—*

*"(A) IN GENERAL.—A provider-sponsored organization that seeks to offer a MedicarePlus plan in a State may apply for a waiver of the requirement of paragraph (1) for that organization operating in that State.*

*"(B) STANDARD.—The Secretary shall act on such an application within 60 days after the date it is filed and shall grant such a waiver for an organization with respect to a State if the Secretary determines that—*

*"(i) the State has failed to complete action on a licensing application of the organization within 90 days of the date of the State's receipt of the completed application; or*

*"(ii) the State denied such a licensing application and—*

*"(I) the State's licensing standards or review process imposes any requirements, procedures, or other standards to such organizations that are not generally applicable to any other entities engaged in substantially similar business,*

*"(II) such standards or review process applies solvency standards for the organization and the State is not approved under subsection (e)(2)(B), or*

*"(III) the State has used solvency standards to deny or discriminate*

*against such an organization that has been provided a certificate of solvency under subsection (e)(2).*

*No period before the date of the enactment of this section shall be included in determining the 90-day period described in clause (i).*

*"(C) TREATMENT OF WAIVER.—In the case of a waiver granted under this paragraph for a provider-sponsored organization—*

*"(i) the waiver shall be effective for a 36-month period, except it may be renewed based on a subsequent application filed during the last 6 months of such period,*

*"(ii) the waiver is conditioned upon the pendency of the licensure application during the period the waiver is in effect, and*

*"(iii) any provisions of State law which relate to the licensing of the organization and which prohibit the organization from providing coverage pursuant to a contract under this part shall be superseded.*

*Nothing in this subparagraph shall be construed as limiting the number of times such a waiver may be renewed.*

*"(D) CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting the operation of section 514 of the Employee Retirement Income Security Act of 1974.*

*"(5) EXCEPTION IF REQUIRED TO OFFER MORE THAN MEDICAREPLUS PLANS.—Paragraph (1) shall not apply to a MedicarePlus organization in a State if the State requires the organization, as a condition of licensure, to offer any product or plan other than a MedicarePlus plan.*

*"(6) EXCEPTION IN CASES OF UNREASONABLE BARRIERS TO MARKET ENTRY.—*

*"(A) IN GENERAL.—A MedicarePlus organization that seeks to offer a MedicarePlus plan in a State may apply for a waiver of the requirement of paragraph (1) for that organization operating in that State.*

*"(B) STANDARD.—The Secretary shall act on such an application within 60 days after the date it is filed and shall grant such a waiver for an organization with respect to a State if the Secretary determines that—*

*"(i) the State (I) denied such a licensing application or (II) unreasonably delayed in acting upon the application, and*

*"(ii) the State's licensing standards or review process imposes unreasonable barriers to market entry, including through the imposition of any requirements, procedures, or other standards to such organizations that are not generally applicable to any other entities engaged in substantially similar business.*

*"(C) APPLICATION OF CERTAIN RULES.—The provisions of subparagraphs (C) and (D) of paragraph (4) shall apply to this paragraph in the same manner as they apply under such paragraph, except that for this purpose any reference in paragraph (4)(C)(i) to 36-month period is deemed a reference to a 24-month period.*

*"(b) PREPAID PAYMENT.—A MedicarePlus organization shall be compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.*

*"(c) ASSUMPTION OF FULL FINANCIAL RISK.—The MedicarePlus organization shall assume full financial risk*

*on a prospective basis for the provision of the health care services (except, at the election of the organization, hospice care) for which benefits are required to be provided under section 1852(a)(1), except that the organization—*

*"(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year,*

*"(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization,*

*"(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and*

*"(4) may make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.*

*In the case of a MedicarePlus organization that is a union sponsor, Taft-Hartley sponsor, or a qualified association sponsor, this subsection shall not apply with respect to MedicarePlus plans offered by such organization and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)).*

*"(d) PROVISION AGAINST RISK OF INSOLVENCY.—*

*"(1) IN GENERAL.—Each MedicarePlus organization shall meet standards under section 1856 relating to the financial solvency and capital adequacy of the organization and including provision to prevent enrollees from being held liable to any person or entity for the plan sponsor's debts in the event of the plan sponsor's insolvency. Such standards shall take into account the nature and type of MedicarePlus plans offered by the organization.*

*"(2) TREATMENT OF PROVIDER-SPONSORED ORGANIZATIONS.—*

*"(A) IN GENERAL.—In the case of an entity that is a provider-sponsored organization that is operating—*

*"(i) in a State approved under subparagraph (B), the organization shall meet*

*the standards described in paragraph (1) through licensure by the State, or*

*"(ii) in a State that is not so approved, the organization shall meet the standards described in paragraph (1) through application and certification licensure by the Secretary.*

*"(B) APPROVED STATES.—*

*"(i) APPLICATION PROCESS.—For purposes of subparagraph (A), the Secretary shall establish a process under which a State may apply to the Secretary for a determination that the State is applying to provider-sponsored organizations, through its process for licensing provider-sponsored organizations, solvency standards that are identical with the solvency standards established under section 1856(c) for such organizations.*

*"(ii) DETERMINATION.—The Secretary shall approve such a State if the Secretary determines that the State is so applying such standards. If the Secretary denies such an approval, the State may reapply for such a determination.*

*"(iii) PUBLICATION.—The Secretary shall publish a list of States that are approved under this subparagraph.*

*"(3) TREATMENT OF UNION AND TAFT-HARTLEY SPONSORS.—An entity that is a union sponsor or a Taft-Hartley sponsor is deemed to meet the requirement of paragraph (1).*

*"(4) TREATMENT OF CERTAIN QUALIFIED ASSOCIATION SPONSORS.—An entity that is a qualified association sponsor is deemed to meet the requirement of paragraph (1) with respect to MedicarePlus plans offered by such association and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization.*

*"(e) PROVIDER-SPONSORED ORGANIZATION DEFINED.—*

*"(1) IN GENERAL.—In this part, the term 'provider-sponsored organization' means a public or private entity—*

*"(A) that is established or organized by a health care provider, or group of affiliated health care providers,*

*"(B) that provides a substantial proportion (as defined by the Secretary) of the health care items and services under the contract under this*

*part directly through the provider or affiliated group of providers, and*

*"(C) with respect to which those affiliated providers that share, directly or indirectly, substantial financial risk with respect to the provision of such items and services have at least a majority financial interest in the entity.*

*"(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1)(A), the Secretary—*

*"(A) shall take into account the need for such an organization to assume responsibility for a substantial proportion of services in order to assure financial stability and the practical difficulties in such an organization integrating a very wide range of service providers; and*

*"(B) may vary such proportion based upon relevant differences among organizations, such as their location in an urban or rural area.*

*"(3) AFFILIATION.—For purposes of this subsection, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—*

*"(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,*

*"(B) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986, or*

*"(C) both providers are part of an affiliated service group under section 414 of such Code.*

*"(4) CONTROL.—For purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.*

*"(5) HEALTH CARE PROVIDER DEFINED.—In this subsection and subsection (f), the term 'health care provider' means—*

*"(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, and*

*"(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.*

*"(6) REGULATIONS.—The Secretary shall issue regulations to carry out this subsection.*

*"(f) ORGANIZATIONS TREATED AS MEDICAREPLUS ORGANIZATIONS DURING TRANSITION.—Any of the following organizations shall be considered to qualify as a MedicarePlus organization for contract years beginning before January 1, 1998:*

*"(1) HEALTH MAINTENANCE ORGANIZATIONS.—An organization that is organized under the laws of any State and that is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act), an organization recognized under State law as a health maintenance organization, or a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.*

*"(2) LICENSED INSURERS.—An organization that is organized under the laws of any State and—*

*"(A) is licensed by a State agency as an insurer for the offering of health benefit coverage, or*

*"(B) is licensed by a State agency as a service benefit plan,*

*but only for individuals residing in an area in which the organization is licensed to offer health insurance coverage.*

*"(3) CURRENT RISK-CONTRACTORS.—An organization that is an eligible organization (as defined in section 1876(b)) and that has a risk-sharing contract in effect under section 1876 as of the date of the enactment of this section.*

*"PAYMENTS TO MEDICAREPLUS ORGANIZATIONS*

*"SEC. 1854. (a) PAYMENTS TO ORGANIZATIONS.—*

*"(1) MONTHLY PAYMENTS.—*

*"(A) IN GENERAL.—Under a contract under section 1857 and subject to subsections (e) and (f), the Secretary shall make monthly payments under this section in advance to each MedicarePlus organization, with respect to coverage of an individual under this part in a MedicarePlus payment area for a month, in an amount equal to 1/12 of the annual MedicarePlus capitation rate (as calculated under subsection (c)) with respect to that individual for that area, adjusted for such risk factors as age, disability status, gender, institutional status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or sub-*

*stitute for such factors, if such changes will improve the determination of actuarial equivalence.*

*"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—The Secretary shall establish a separate rate of payment to a MedicarePlus organization with respect to any individual determined to have end-stage renal disease and enrolled in a MedicarePlus plan of the organization. Such rate of payment shall be actuarially equivalent to rates paid to other enrollees in the MedicarePlus payment area (or such other area as specified by the Secretary).*

*"(2) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—*

*"(A) IN GENERAL.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled with an organization under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.*

*"(B) SPECIAL RULE FOR CERTAIN ENROLLEES.—*

*"(i) IN GENERAL.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with a MedicarePlus organization under a plan operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.*

*"(ii) EXCEPTION.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the disclosure statement described in section 1852(c) at the time the individual enrolled with the organization.*

*"(b) ANNUAL ANNOUNCEMENT OF PAYMENT RATES.—*

*"(1) ANNUAL ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than August 1 before the calendar year concerned—*

*"(A) the annual MedicarePlus capitation rate for each MedicarePlus payment area for the year, and*

*"(B) the risk and other factors to be used in adjusting such rates under subsection (a)(1)(A) for payments for months in that year.*

*"(2) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (2) for a year, the Secretary shall provide for notice to MedicarePlus organizations of proposed changes to be made in the methodology from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.*

*"(3) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (1) for a year, the Secretary shall include an explanation of the assumptions and changes in methodology used in the announcement in sufficient detail so that*

*MedicarePlus organizations can compute monthly adjusted MedicarePlus capitation rates for individuals in each MedicarePlus payment area which is in whole or in part within the service area of such an organization.*

*"(c) CALCULATION OF ANNUAL MEDICAREPLUS CAPITATION RATES.—*

*"(1) IN GENERAL.—For purposes of this part, the annual MedicarePlus capitation rate, for a MedicarePlus payment area for a contract year consisting of a calendar year, is equal to the greatest of the following:*

*"(A) BLENDED CAPITATION RATE.—The sum of—*

*"(i) area-specific percentage for the year (as specified under paragraph (2) for the year) of the annual area-specific MedicarePlus capitation rate for the year for the MedicarePlus payment area, as determined under paragraph (3), and*

*"(ii) national percentage (as specified under paragraph (2) for the year) of the input-price-adjusted annual national MedicarePlus capitation rate for the year, as determined under paragraph (4),*

*multiplied by a budget neutrality adjustment factor determined under paragraph (5).*

*"(B) MINIMUM AMOUNT.—*

*"(i) For 1996, $300.*

*"(ii) For 1997, $350.*

*"(iii) For a succeeding year, is the minimum amount specified in this subparagraph for the preceding year increased by national average per capita growth percentage, specified under paragraph (6) for that succeeding year.*

*"(C) MINIMUM INCREASE OF 2 PERCENT OVER PREVIOUS YEAR'S RATE.—*

*"(i) For 1996, 102 percent of the annual per capita rate of payment for 1995 determined under section 1876(a)(1)(C) for the MedicarePlus payment area.*

*"(ii) For a subsequent year, 102 percent of the annual MedicarePlus capitation rate under this subsection for the area for the previous year.*

*"(2) AREA-SPECIFIC AND NATIONAL PERCENTAGES.—For purposes of paragraph (1)(A)—*

*"(A) for 1996 and 1997, the 'area-specific percentage' is 90 percent and the 'national percentage' is 10 percent,*

*"(B) for 1998, the 'area-specific percentage' is 85 percent and the 'national percentage' is 15 percent,*

*"(C) for 1999, the 'area-specific percentage' is 80 percent and the 'national percentage' is 20 percent,*

*"(D) for 2000, the 'area-specific percentage' is 75 percent and the 'national percentage' is 25 percent, and*

*"(E) for a year after 2000, the 'area-specific percentage' is 70 percent and the 'national percentage' is 30 percent.*

*"(3) ANNUAL AREA-SPECIFIC MEDICAREPLUS CAPITATION RATE.—For purposes of paragraph (1)(A), the annual area-specific MedicarePlus capitation rate for a MedicarePlus payment area—*

*"(A) for 1996 is the annual per capita rate of payment for 1995 determined under section 1876(a)(1)(C) for the MedicarePlus payment area, increased by the national average per capita growth percentage for 1996 (as defined in paragraph (6)); or*

*"(B) for a subsequent year is the annual area-specific MedicarePlus capitation rate for the previous year determined under this paragraph for the MedicarePlus payment area, increased by the national average per capita growth percentage for such subsequent year.*

*"(4) INPUT-PRICE-ADJUSTED ANNUAL NATIONAL MEDICAREPLUS CAPITATION RATE.—*

*"(A) IN GENERAL.—For purposes of paragraph (1)(A), the input-price-adjusted annual national MedicarePlus capitation rate for a MedicarePlus payment area for a year is equal to the sum, for all the types of medicare services (as classified by the Secretary), of the plan (for each such type) of—*

*"(i) the national standardized annual MedicarePlus capitation rate (determined under subparagraph (B)) for the year,*

*"(ii) the proportion of such rate for the year which is attributable to such type of services, and*

*"(iii) an index that reflects (for that year and that type of services) the relative input price of such services in the area com-*

*pared to the national average input price of such services.*

*In applying clause (iii), the Secretary shall, subject to subparagraph (C), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.*

*"(B) NATIONAL STANDARDIZED ANNUAL MEDICAREPLUS CAPITATION RATE.—In subparagraph (A)(i), the 'national standardized annual MedicarePlus capitation rate' for a year is equal to—*

*"(i) the sum (for all MedicarePlus payment areas) of the product of (I) the annual area-specific MedicarePlus capitation rate for that year for the area under paragraph (3), and (II) the average number of medicare beneficiaries residing in that area in the year; divided by*

*"(ii) the total average number of medicare beneficiaries residing in all the MedicarePlus payment areas for that year.*

*"(C) SPECIAL RULES FOR 1996.—In applying this paragraph for 1996—*

*"(i) medicare services shall be divided into 2 types of services: part A services and part B services;*

*"(ii) the proportions described in subparagraph (A)(ii) for such types of services shall be—*

*"(I) for part A services, the ratio (expressed as a percentage) of the average annual per capita rate of payment for the area for part A for 1995 to the total average annual per capita rate of payment for the area for parts A and B for 1995, and*

*"(II) for part B services, 100 percent minus the ratio described in subclause (I);*

*"(iii) for the part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(d)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area involved;*

*"(iv) for part B services—*

*"(I) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and*

*"(II) of the remaining 34 percent of the amount of such payments, 70 percent shall be adjusted by the index described in clause (iii);*

*"(v) the index values shall be computed based only on the beneficiary population who are 65 years of age or older who are not determined to have end stage renal disease.*

*The Secretary may continue to apply the rules described in this subparagraph (or similar rules) for 1997.*

*"(5) BUDGET NEUTRALITY ADJUSTMENT FACTOR.—For each year, the Secretary shall compute a budget neutrality adjustment factor so that the aggregate of the payments under this part shall not exceed the aggregate payments that would have been made under this part if the area-specific percentage for the*

*year had been 100 percent and the national percentage had been 0 percent.*

*"(6) NATIONAL AVERAGE PER CAPITA GROWTH PERCENTAGE DEFINED.—In this part, the 'national average per capita growth percentage' for—*

*"(A) 1996 is 8.0 percent,*

*"(B) 1997 is 3.8 percent,*

*"(C) 1998 is 4.6 percent,*

*"(D) 1999 is 4.3 percent,*

*"(E) 2000 is 3.8 percent,*

*"(F) 2001 is 5.5 percent,*

*"(G) 2002 is 5.6 percent, and*

*"(H) each subsequent year is 5.0 percent.*

*"(d) MEDICAREPLUS PAYMENT AREA DEFINED.—*

*"(1) IN GENERAL.—In this part, except as provided in paragraph (3), the term 'MedicarePlus payment area' means a county, or equivalent area specified by the Secretary.*

*"(2) RULE FOR ESRD BENEFICIARIES.—In the case of individuals who are determined to have end stage renal disease, the MedicarePlus payment area shall be each State.*

*"(3) GEOGRAPHIC ADJUSTMENT.—*

*"(A) IN GENERAL.—Upon request of a State for a contract year (beginning after 1996) made*

*at least 7 months before the beginning of the year, the Secretary shall make a geographic adjustment to a MedicarePlus payment areas in the State otherwise determined under paragraph (1)—*

*"(i) to a single statewide MedicarePlus payment area,*

*"(ii) to the metropolitan based system described in subparagraph (C), or*

*"(iii) to consolidating into a single MedicarePlus payment area noncontinuous counties (or equivalent areas described in paragraph (1)) within a State.*

*Such adjustment shall be effective for payments for months beginning with January of the year following the year in which the request is received.*

*"(B) BUDGET NEUTRALITY ADJUSTMENT.—In the case of a State requesting an adjustment under this paragraph, the Secretary shall adjust the payment rates otherwise established under this paragraph for MedicarePlus payment areas in the State in a manner so that the aggregate of the payments under this section in the State shall not exceed the aggregate payments that*

*would have been made under this section for MedicarePlus payment areas in the State in the absence of the adjustment under this paragraph.*

*"(C) METROPOLITAN BASED SYSTEM.—The metropolitan based system described in this subparagraph is one in which—*

*"(i) all the portions of each metropolitan statistical area in the State or in the case of a consolidated metropolitan statistical area, all of the portions of each primary metropolitan statistical area within the consolidated area within the State, are treated as a single MedicarePlus payment area, and*

*"(ii) all areas in the State that do not fall within a metropolitan statistical area are treated as a single MedicarePlus payment area.*

*"(D) AREAS.—In subparagraph (C), the terms 'metropolitan statistical area', 'consolidated metropolitan statistical area', and 'primary metropolitan statistical area' mean any area designated as such by the Secretary of Commerce.*

*"(e) SPECIAL RULES FOR INDIVIDUALS ELECTING HIGH DEDUCTIBLE PLANS.—*

*"(1) IN GENERAL.—In the case of an individual who has elected a high deductible plan, notwithstanding the preceding provisions of this section—*

*"(A) the amount of the monthly payment to the MedicarePlus organization offering the high deductible plan shall not exceed the monthly premium for the plan, and*

*"(B) subject to paragraph (2), the difference between the amount of payment that would otherwise be made and the amount of payment to such organization shall be made directly into a High Deductible MedicarePlus MSA established (and, if applicable, designated) by the individual under paragraph (2).*

*"(2) ESTABLISHMENT AND DESIGNATION OF MEDICAREPLUS MEDICAL SAVINGS ACCOUNT AS REQUIREMENT FOR PAYMENT OF CONTRIBUTION.—In the case of an individual who has elected coverage under a high deductible plan, no payment shall be made under paragraph (1)(B) on behalf of an individual for a month unless the individual—*

*"(A) has established before the beginning of the month (or by such other deadline as the Sec-*

*retary may specify) a High Deductible MedicarePlus MSA (as defined in section 137(b)(2) of the Internal Revenue Code of 1986), and*

*"(B) if the individual has established more than one High Deductible MedicarePlus MSA, has designated one of such accounts as the individual's High Deductible MedicarePlus MSA for purposes of this part.*

*Under rules under this section, such an individual may change the designation of such account under subparagraph (B) for purposes of this part.*

*"(3) LUMP SUM DEPOSIT OF MEDICAL SAVINGS ACCOUNT CONTRIBUTION.—In the case of an individual electing a high deductible plan effective beginning with a month in a year, the amount of the contribution to the High Deductible MedicarePlus MSA on behalf of the individual for that month and all successive months in the year shall be deposited during that first month. In the case of a termination of such an election as of a month before the end of a year, the Secretary shall provide for a procedure for the recovery of deposits attributable to the remaining months in the year.*

*"(4) PERMITTING CONTRIBUTIONS INTO MEDICAREPLUS MSA.—Effective January 1, 1997, if a member of a Federally-qualified health maintenance organization certifies that a Rebate MedicarePlus MSA (as defined in section 137(c) of the Internal Revenue Code of 1986) has been established for the benefit of such member, the health maintenance organization may reduce the basic health services payment otherwise determined under otherwise applicable law by requiring the payment of a deductible by the member for basic health services.*

*"(f) PAYMENTS OF REBATES.—*

*"(1) IN GENERAL.—If the amount of the monthly premium for a MedicarePlus plan (other than a high deductible plan) for an MedicarePlus payment area for a year is less than 1/12 of the annual MedicarePlus capitation rate applied under this section 1854 for the area and year involved, at the election of an individual enrolled under the plan the Secretary shall either—*

*"(A) in the case of an individual who has a Rebate MedicarePlus MSA account (as defined in section 137(b)(3) of the Internal Revenue Code of 1986), to deposit 100 percent of such difference*

*in such an account specified by the individual; or*

*"(B)(i) pay to the MedicarePlus organization on behalf of such individual the monthly amount equal to 100 percent of such difference up to the amount of the premium amount of such individual for supplemental benefits described in section 1895H(b),*

*"(ii) pay to such individual an amount equal to 75 percent of the remainder of such difference, and*

*"(iii) deposit any remainder of such difference in the Federal Hospital Insurance Trust Fund.*

*"(2) TIME FOR PAYMENT.—*

*"(A) IN GENERAL.—Subject to subparagraph (B), payments and deposits described in paragraph (1) shall be made on a monthly basis.*

*"(B) CASH REBATES.—A rebate under paragraph (1)(B)(ii) shall be paid as of the close of the calendar year to which the enrollment applied.*

*"(g) PAYMENTS FROM TRUST FUND.—The payment to a MedicarePlus organization under this section for individuals enrolled under this part with the organization, and*

*payments to a High Deductible or Rebate MedicarePlus MSA under subsection (e)(1)(B) or subsection (f), shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title.*

*"(h) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—In the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—*

*"(1) election under this part of a MedicarePlus plan offered by a MedicarePlus organization—*

*"(A) payment for such services until the date of the individual's discharge shall be made under this title through the MedicarePlus plan or the Medicare fee-for-service program option described in section 1851(a)(1)(A) (as the case may be) elected before the election with such organization,*

*"(B) the elected organization shall not be financially responsible for payment for such serv-*

*ices until the date after the date of the individual's discharge, and*

*"(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or*

*"(2) termination of election with respect to a MedicarePlus organization under this part—*

*"(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,*

*"(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding MedicarePlus organization, and*

*"(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.*

*"PREMIUMS AND REBATES*

*"SEC. 1855. (a) SUBMISSION AND CHARGING OF PREMIUMS.—*

*"(1) IN GENERAL.—Subject to paragraph (3), each MedicarePlus organization shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary—*

*"(A) the amount of the monthly premium for coverage for services under section 1852(a) under each MedicarePlus plan it offers under this part in each MedicarePlus payment area (as defined in section 1854(d)) in which the plan is being offered; and*

*"(B) the enrollment capacity in relation to the plan in each such area.*

*"(2) TERMINOLOGY.—In this part—*

*"(A) the term 'monthly premium' means, with respect to a MedicarePlus plan offered by a MedicarePlus organization, the monthly premium filed under paragraph (1), not taking into account the amount of any payment made toward the premium under section 1854; and*

*"(B) the term 'net monthly premium' means, with respect to such a plan and an individual enrolled with the plan, the premium (as defined in subparagraph (A)) for the plan reduced by the amount of payment made toward such premium under section 1854.*

*"(3) LIMITATION ON PORTION OF MONTHLY PREMIUM ATTRIBUTABLE TO REQUIRED COVERAGE.—In no case may the portion of the monthly premium for a MedicarePlus plan for an area and year attrib-*

*utable to required services under section 1852(a)(1) exceed the adjusted community rate for the plan (as defined in subsection (f)(5)).*

*"(b) NET MONTHLY PREMIUM.—The amount of the net monthly premium charged by a MedicarePlus organization for a MedicarePlus plan offered in a MedicarePlus payment area to an individual under this part shall be equal to the amount (if any) by which—*

*"(1) the amount of the monthly premium for the plan for the period involved, exceeds*

*"(2) 1/12 of the annual MedicarePlus capitation rate applied under section 1854 for the area and year involved.*

*"(c) UNIFORM PREMIUM.—The monthly premium and net monthly premium (including rebates offered) by a MedicarePlus organization under this part may not vary among individuals who reside in the same MedicarePlus payment area.*

*"(d) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each MedicarePlus organization shall permit the payment of net monthly premiums on a monthly basis and may terminate election of individuals for a MedicarePlus plan for failure to make premium payments only in accordance with section 1851(g)(3)(B)(i).*

*"(e) RELATION OF PREMIUMS AND COST-SHARING TO BENEFITS.—In no case may the portion of a MedicarePlus organization's monthly premium and the actuarial value of its deductibles, coinsurance, and copayments charged for (to the extent attributable to the required benefits described in section 1852(a)(1) and not counting any amount attributable to balance billing) to individuals who are enrolled under this part with the organization exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this part with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this part with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B if they were not members of a MedicarePlus organization.*

*"(f) REQUIREMENT FOR ADDITIONAL BENEFITS, REBATES, OR BOTH.—*

*"(1) REQUIREMENT.—*

*"(A) IN GENERAL.—Each MedicarePlus organization (in relation to a MedicarePlus plan it offers) shall provide that if there is an excess amount (as defined in subparagraph (B)) for the*

*plan for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits (as the organization may specify), a monetary rebate (paid on a monthly basis), or a combination thereof, in a total value which is at least equal to the adjusted excess amount (as defined in subparagraph (C)).*

*"(B) EXCESS AMOUNT.—For purposes of this paragraph, the 'excess amount', for an organization for a plan, is the amount (if any) by which—*

*"(i) the average of the capitation payments made to the organization under section 1854 for the plan at the beginning of contract year, exceeds*

*"(ii) the actuarial value of the required benefits described in section 1852(a)(1) under the plan for individuals under this part, as determined based upon an adjusted community rate described in paragraph (5) (as reduced for the actuarial value of the coinsurance and deductibles under parts A and B).*

*"(C) ADJUSTED EXCESS AMOUNT.—For purposes of this paragraph, the 'adjusted excess amount', for an organization for a plan, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (3).*

*"(D) NO APPLICATION TO HIGH DEDUCTIBLE PLANS.—Subparagraph (A) shall not apply to a high deductible plan.*

*"(E) UNIFORM APPLICATION.—This paragraph shall be applied uniformly for all enrollees for a plan in a MedicarePlus payment area.*

*"(F) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a MedicarePlus organization from providing health care benefits that are in addition to the benefits otherwise required to be provided under this paragraph and from imposing a premium for such additional benefits.*

*"(2) RULES IN RELATION TO REBATES.—To the extent that the adjusted excess amount for a plan exceeds the value of additional benefits provided under subparagraph (A) by the MedicarePlus organization in relation to the plan for a month, then the organi-*

*zation shall provide for payment of the amount of such excess as follows:*

*"(A) REBATE MEDICAREPLUS MSA.—If the individual has a Rebate MedicarePlus MSA and elects treatment under this subparagraph, the organization shall provide for payment of such excess into such MSA.*

*"(B) ADDITIONAL AMOUNT.—The organization shall provide for payment of the amount of any additional excess as follows:*

*"(i) 75 percent of such excess to the individual.*

*"(ii) 25 percent to the Federal Hospital Insurance Trust Fund.*

*"(3) STABILIZATION FUND.—A MedicarePlus organization may provide that a part of the value of an excess actuarial amount described in paragraph (1) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits and rebates offered in those subsequent periods by the*

*organization in accordance with such paragraph. Any of such value of the amount reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the MedicarePlus plan of the organization in accordance with such paragraph prior to the end of such periods, shall revert for the use of such trust funds.*

*"(4) DETERMINATION BASED ON INSUFFICIENT DATA.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment experience (including no enrollment experience in the case of a provider-sponsored organization) to determine an average of the capitation payments to be made under this part at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part.*

*"(5) ADJUSTED COMMUNITY RATE.—*

*"(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (B), the term 'adjusted community rate' for a service or services means, at the election of a MedicarePlus organization, either—*

*"(i) the rate of payment for that service or services which the Secretary annually*

*determines would apply to an individual electing a MedicarePlus plan under this part if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or*

*"(ii) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,*

*but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other MedicarePlus coverage, or MedicarePlus eligible individuals in the area, in the State, or in the United States, eligible to elect MedicarePlus coverage under this part and the utilization charac-*

*teristics of the rest of the population in the area, in the State, or in the United States, respectively).*

*"(B) SPECIAL RULE FOR PROVIDER-SPONSORED ORGANIZATIONS.—In the case of a MedicarePlus organization that is a provider-sponsored organization, the adjusted community rate under subparagraph (A) for a MedicarePlus plan of the organization may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a plan.*

*"(g) TRANSITIONAL FILE AND USE FOR CERTAIN REQUIREMENTS.—*

*"(1) IN GENERAL.—In the case of a MedicarePlus plan proposed to be offered before the end of the transition period (as defined in section 1851(e)(1)(B)) by a MedicarePlus organization described in section 1853(f)(3) or by a MedicarePlus organization with a contract in effect under section 1857, if the organization submits complete information to the Secretary regarding the plan demonstrating that the plan meets the requirements and standards under section 1852(a) and subsections (a)*

*through (f) of this section (relating to benefits and premiums), the plan shall be deemed as meeting such requirements and standards under such provisions unless the Secretary disapproves the plan within 60 days after the date of submission of the complete information.*

*"(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed as waiving the requirement of a contract under section 1857 or waiving requirements and standards not referred to in paragraph (1).*

*"ESTABLISHMENT OF STANDARDS; CERTIFICATION OF ORGANIZATIONS AND PLANS*

*"SEC. 1856. (a) ESTABLISHMENT OF STANDARDS.—*

*"(1) STANDARDS APPLICABLE TO STATE-REGULATED ORGANIZATIONS AND PLANS AND NON-SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—*

*"(A) RECOMMENDATIONS OF NAIC.—The Secretary shall request the National Association of Insurance Commissioners to develop and submit to the Secretary, not later than 12 months after the date of the enactment of the Medicare Preservation Act of 1995, proposed standards consistent with the requirements of this part for MedicarePlus organizations (other than union sponsors and Taft-Hartley sponsors, and other*

*than solvency standards described in subsection (b) for provider-sponsored organizations) and MedicarePlus plans offered by such organizations, except that such proposed standards may relate to MedicarePlus organizations that are qualified association sponsors only with respect to MedicarePlus plans offered by them and only if such plans are issued by organizations to which section 1853(a)(1) applies.*

*"(B) REVIEW.—If the Association submits such standards on a timely basis, the Secretary shall review such standards to determine if the standards meet the requirements of this part. The Secretary shall complete the review of the standards not later than 90 days after the date of their submission. The Secretary shall promulgate such proposed standards to apply to organizations and plans described in subparagraph (A) except to the extent that the Secretary modifies such proposed standards because they do not meet such requirements.*

*"(C) FAILURE TO SUBMIT.—If the Association does not submit such standards on a timely basis, the Secretary shall promulgate such standards by not later than the date the Secretary*

*would otherwise have been required to promulgate standards under subparagraph (B).*

*"(D) USE OF INTERIM RULES.—For the period in which this part is in effect and standards are being developed and established under the preceding provisions of this subsection, the Secretary shall provide by not later than June 1, 1996, for the application of such interim standards (without regard to any requirements for notice and public comment) as may be appropriate to provide for the expedited implementation of this part. Such interim standards shall not apply after the date standards are established under the preceding provisions of this paragraph.*

*"(2) ESTABLISHMENT OF STANDARDS FOR UNION AND TAFT-HARTLEY SPONSORS, QUALIFIED ASSOCIATION SPONSORS, AND PLANS.—*

*"(A) IN GENERAL.—The Secretary shall develop and promulgate by regulation standards consistent with the requirements of this part for union and Taft-Hartley sponsors, for qualified association sponsors, and for MedicarePlus plans offered by such organizations (other than MedicarePlus plans offered by qualified associa-*

*tion sponsors that are issued by organizations to which section 1853(a)(1) applies).*

*"(B) CONSULTATION WITH SECRETARY OF LABOR.—The Secretary shall consult with the Secretary of Labor with respect to such standards for such sponsors and plans.*

*"(C) TIMING.—Standards under this paragraph shall be promulgated at or about the time standards are promulgated under paragraph (1).*

*"(3) COORDINATION AMONG FINAL STANDARDS.—In establishing standards (other than on an interim basis) under this subsection and subsection (b), the Secretary shall seek to provide for consistency (as appropriate) across the different types of MedicarePlus organizations, in order to promote equitable treatment of different types of organizations and consistent protection for individuals who elect plans offered by the different types of MedicarePlus organizations.*

*"(4) USE OF CURRENT STANDARDS FOR INTERIM STANDARDS.—To the extent practicable and consistent with the requirements of this part, standards established on an interim basis to carry out requirements of this part may be based on currently applicable standards, such as the rules established under section 1876 (as in effect as of the date of the enactment of*

*this section) to carry out analogous provisions of such section or standards established or developed for application in the private health insurance market.*

*"(5) APPLICATION OF NEW STANDARDS TO ENTITIES WITH A CONTRACT.—In the case of a MedicarePlus organization with a contract in effect under this part at the time standards applicable to the organization under this section are changed, the organization may elect not to have such changes apply to the organization until the end of the current contract year (or, if there is less than 6 months remaining in the contract year, until 1 year after the end of the current contract year).*

*"(6) RELATION TO STATE LAWS.—The standards established under this subsection shall supersede any State law or regulation with respect to MedicarePlus plans which are offered by MedicarePlus organizations under this part and are issued by organizations to which section 1853(a)(1) applies, to the extent such law or regulation is inconsistent with such standards.*

*"(b) ESTABLISHMENT OF SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—*

*"(1) ESTABLISHMENT.—*

*"(A) IN GENERAL.—The Secretary shall establish, on an expedited basis and using a nego-*

*tiated rulemaking process under subchapter 3 of chapter 5 of title 5, United States Code, standards described in section 1853(e) (relating to the financial solvency and capital adequacy of the organization) that entities must meet to qualify as provider-sponsored organizations under this part.*

*"(B) FACTORS TO CONSIDER.—In establishing solvency standards under subparagraph (A) for provider-sponsored organizations, the Secretary shall consult with interested parties and shall take into account—*

*"(i) the delivery system assets of such an organization and ability of such an organization to provide services directly to enrollees through affiliated providers, and*

*"(ii) alternative means of protecting against insolvency, including reinsurance, unrestricted surplus, letters of credit, guarantees, organizational insurance coverage, partnerships with other licensed entities, and valuation attributable to the ability of such an organization to meet its service obligations through direct delivery of care.*

*"(2) PUBLICATION OF NOTICE.—In carrying out the rulemaking process under this subsection, the Secretary, after consultation with the National Association of Insurance Commissioners, the American Academy of Actuaries, organizations representative of medicare beneficiaries, and other interested parties, shall publish the notice provided for under section 564(a) of title 5, United States Code, by not later than 45 days after the date of the enactment of Medicare Preservation Act of 1995.*

*"(3) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice under paragraph (2), and for purposes of this subsection, the 'target date for publication' (referred to in section 564(a)(5) of such title) shall be September 1, 1996.*

*"(4) ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.—In applying section 564(c) of such title under this subsection, '15 days' shall be substituted for '30 days'.*

*"(5) APPOINTMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR.—The Secretary shall provide for—*

*"(A) the appointment of a negotiated rulemaking committee under section 565(a) of such title by not later than 30 days after the end of*

*the comment period provided for under section 564(c) of such title (as shortened under paragraph (4)), and*

*"(B) the nomination of a facilitator under section 566(c) of such title by not later than 10 days after the date of appointment of the committee.*

*"(6) PRELIMINARY COMMITTEE REPORT.—The negotiated rulemaking committee appointed under paragraph (5) shall report to the Secretary, by not later than June 1, 1996, regarding the committee's progress on achieving a consensus with regard to the rulemaking proceeding and whether such consensus is likely to occur before one month before the target date for publication of the rule. If the committee reports that the committee has failed to make significant progress towards such consensus or is unlikely to reach such consensus by the target date, the Secretary may terminate such process and provide for the publication of a rule under this subsection through such other methods as the Secretary may provide.*

*"(7) FINAL COMMITTEE REPORT.—If the committee is not terminated under paragraph (6), the rulemaking committee shall submit a report containing a*

*proposed rule by not later than one month before the target publication date.*

*"(8) INTERIM, FINAL EFFECT.—The Secretary shall publish a rule under this subsection in the Federal Register by not later than the target publication date. Such rule shall be effective and final immediately on an interim basis, but is subject to change and revision after public notice and opportunity for a period (of not less than 60 days) for public comment. In connection with such rule, the Secretary shall specify the process for the timely review and approval of applications of entities to be certified as provider-sponsored organizations pursuant to such rules and consistent with this subsection.*

*"(9) PUBLICATION OF RULE AFTER PUBLIC COMMENT.—The Secretary shall provide for consideration of such comments and republication of such rule by not later than 1 year after the target publication date.*

*"(10) PROCESS FOR APPROVAL OF APPLICATIONS FOR CERTIFICATION OF SOLVENCY.—*

*"(A) IN GENERAL.—The Secretary shall establish a process for the receipt and approval of applications of entities for certification of solvency of provider-sponsored organizations under*

*this part. Under such process, the Secretary shall act upon a complete application submitted within 60 days after the date it is received.*

*"(B) CIRCULATION OF PROPOSED APPLICATION FORM.—By March 1, 1996, the Secretary, after consultation with the negotiated rulemaking committee, shall circulate a proposed application form that could be used by entities considering being certified for solvency under this part.*

*"(c) CERTIFICATION PROCESS.—*

*"(1) STATE CERTIFICATION PROCESS FOR STATE-REGULATED ORGANIZATIONS AND NON-SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—*

*"(A) APPROVAL OF STATE PROCESS.—The Secretary shall approve a MedicarePlus certification and enforcement program established by a State for applying the standards established under this section to MedicarePlus organizations (other than union sponsors and Taft-Hartley sponsors and other than solvency standards for provider-sponsored organizations) and MedicarePlus plans offered by such organizations if the Secretary determines that the program ef-*

*fectively provides for the application and enforcement of such standards in the State with respect to such organizations and plans and does not discriminate in its application by type of organization or plan. Such program shall provide for certification of compliance of MedicarePlus organizations and plans with the applicable requirements of this part not less often than once every 3 years.*

*"(B) EFFECT OF CERTIFICATION UNDER STATE PROCESS.—A MedicarePlus organization and MedicarePlus plan offered by such an organization that is certified under such program is considered to have been certified under this paragraph with respect to the offering of the plan to individuals residing in the State.*

*"(C) USER FEES.—The State may impose user fees on organizations seeking certification under this paragraph in such amounts as the State deems sufficient to finance the costs of such certification. Nothing in this subparagraph shall be construed as restricting a State's authority to impose premium taxes, other taxes, or other levies.*

*"(D) REVIEW.—The Secretary periodically shall review State programs approved under subparagraph (A) to determine if they continue to provide for certification and enforcement described in such paragraph. If the Secretary finds that a State program no longer so provides, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the State program to meet the requirements of paragraph (1). If the Secretary makes a final determination that the State program, after such an opportunity, fails to meet such requirements, the provisions of subsection (b) shall apply to MedicarePlus organizations and plans in the State.*

*"(E) EFFECT OF NO STATE PROGRAM.—Beginning on the date standards are established under section 1856, in the case of organizations and plans in States in which a certification program has not been approved and in operation under subparagraph (A), the Secretary shall establish a process for the certification of MedicarePlus organizations (other than union sponsors and Taft-Hartley sponsors and other*

*than solvency standards for provider-sponsored organizations) and plans of such organizations as meeting such standards.*

*"(F) PUBLICATION OF LIST OF APPROVED STATE PROGRAMS.—The Secretary shall publish (and periodically update) a list of those State programs which are approved for purposes of this paragraph.*

*"(2) FEDERAL CERTIFICATION PROCESS FOR UNION SPONSORS AND TAFT-HARTLEY SPONSORS.—*

*"(A) ESTABLISHMENT.—The Secretary shall establish a process for the certification of union sponsors and Taft-Hartley sponsors and MedicarePlus plans offered by such sponsors and organizations as meeting the applicable standards established under this section.*

*"(B) INVOLVEMENT OF SECRETARY OF LABOR.—Such process shall be established and operated in cooperation with the Secretary of Labor with respect to union sponsors and Taft-Hartley sponsors.*

*"(C) USE OF STATE LICENSING AND PRIVATE ACCREDITATION PROCESSES.—*

*"(i) IN GENERAL.—The process under this paragraph shall, to the maximum ex-*

*tent practicable, provide that MedicarePlus organizations and plans that are licensed or certified through a qualified private accreditation process that the Secretary finds applies standards that are no less stringent than the requirements of this part are deemed to meet the corresponding requirements of this part for such an organization or plan.*

*"(ii) PERIODIC ACCREDITATION.—The use of an accreditation under clause (i) shall be valid only for such period as the Secretary specifies.*

*"(D) USER FEES.—The Secretary may impose user fees on entities seeking certification under this paragraph in such amounts as the Secretary deems sufficient to finance the costs of such certification.*

*"(3) NOTICE TO ENROLLEES IN CASE OF DECERTIFICATION.—If a MedicarePlus organization or plan is decertified under this subsection, the organization shall notify each enrollee with the organization and plan under this part of such decertification.*

*"(4) QUALIFIED ASSOCIATION SPONSORS.—In the case of MedicarePlus plans offered by a*

*MedicarePlus organization that is a qualified association sponsor and issued by an organization to which section 1853(a)(1) applies or by a provider-sponsored organization, nothing in this subsection shall be construed as limiting the authority of States to regulate such plans.*

*"CONTRACTS WITH MEDICAREPLUS ORGANIZATIONS*

*"SEC. 1857. (a) IN GENERAL.—The Secretary shall not permit the election under section 1851 of a MedicarePlus plan offered by a MedicarePlus organization under this part, and no payment shall be made under section 1854 to an organization, unless the Secretary has entered into a contract under this section with an organization with respect to the offering of such plan. Such a contract with an organization may cover more than one MedicarePlus plan. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.*

*"(b) MINIMUM ENROLLMENT REQUIREMENTS.—*

*"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may not enter into a contract under this section with a MedicarePlus organization (other than a union sponsor or Taft-Hartley sponsor) unless the organization has at least 5,000 individuals (or 1,500 individuals in the case of an organization*

*that is a provider-sponsored organization) who are receiving health benefits through the organization, except that the standards under section 1856 may permit the organization to have a lesser number of beneficiaries (but not less than 500 in the case of an organization that is a provider-sponsored organization) if the organization primarily serves individuals residing outside of urbanized areas.*

*"(2) EXCEPTION FOR HIGH DEDUCTIBLE PLAN.—Paragraph (1) shall not apply with respect to a contract that relates only to a high deductible plan.*

*"(3) ALLOWING TRANSITION.—The Secretary may waive the requirement of paragraph (1) during the first 3 contract years with respect to an organization.*

*"(c) CONTRACT PERIOD AND EFFECTIVENESS.—*

*"(1) PERIOD.—Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.*

*"(2) TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such con-*

*tract or may impose the intermediate sanctions described in an applicable paragraph of subsection (g) on the MedicarePlus organization if the Secretary determines that the organization—*

*"(A) has failed substantially to carry out the contract;*

*"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part; and*

*"(C) no longer substantially meets the applicable conditions of this part.*

*"(3) EFFECTIVE DATE OF CONTRACTS.—The effective date of any contract executed pursuant to this section shall be specified in the contract, except that in no case shall a contract under this section which provides for coverage under a high deductible account be effective before January 1997 with respect to such coverage.*

*"(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a contract with a MedicarePlus organization if a previous contract with that organization under this section was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.*

*"(5) NO CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.*

*"(d) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—*

*"(1) INSPECTION AND AUDIT.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—*

*"(A) shall have the right to inspect or otherwise evaluate (i) the quality, appropriateness, and timeliness of services performed under the contract and (ii) the facilities of the organization when there is reasonable evidence of some need for such inspection, and*

*"(B) shall have the right to audit and inspect any books and records of the MedicarePlus organization that pertain (i) to the ability of the organization to bear the risk of potential financial losses, or (ii) to services performed or deter-*

*minations of amounts payable under the contract.*

*"(2) ENROLLEE NOTICE AT TIME OF TERMINATION.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled with the organization under this part.*

*"(3) DISCLOSURE.—*

*"(A) IN GENERAL.—Each MedicarePlus organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:*

*"(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.*

*"(ii) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.*

*"(iii) A description of transactions, as specified by the Secretary, between the orga-*

*nization and a party in interest. Such transactions shall include—*

*"(I) any sale or exchange, or leasing of any property between the organization and a party in interest;*

*"(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and*

*"(III) any lending of money or other extension of credit between an organization and a party in interest.*

*The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consoli-*

*dated financial statement for the organization and such entity.*

*"(B) PARTY IN INTEREST DEFINED.—For the purposes of this paragraph, the term 'party in interest' means—*

*"(i) any director, officer, partner, or employee responsible for management or administration of a MedicarePlus organization, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a MedicarePlus organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;*

*"(ii) any entity in which a person described in clause (i)—*

*"(I) is an officer or director;*

*"(II) is a partner (if such entity is organized as a partnership);*

*"(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or*

*"(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;*

*"(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and*

*"(iv) any spouse, child, or parent of an individual described in clause (i).*

*"(C) ACCESS TO INFORMATION.—Each MedicarePlus organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.*

*"(4) LOAN INFORMATION.—The contract shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.*

*"(e) ADDITIONAL CONTRACT TERMS.—The contract shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to*

*provide the Secretary with such information) as the Secretary may find necessary and appropriate.*

*"(f) INTERMEDIATE SANCTIONS.—*

*"(1) IN GENERAL.—If the Secretary determines that a MedicarePlus organization with a contract under this section—*

*"(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;*

*"(B) imposes net monthly premiums on individuals enrolled under this part in excess of the net monthly premiums permitted;*

*"(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;*

*"(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or his-*

*tory indicates a need for substantial future medical services;*

*"(E) misrepresents or falsifies information that is furnished—*

*"(i) to the Secretary under this part, or*

*"(ii) to an individual or to any other entity under this part;*

*"(F) fails to comply with the requirements of section 1852(j)(3); or*

*"(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;*

*the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).*

*"(2) REMEDIES.—The remedies described in this paragraph are—*

*"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,*

*"(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or*

*"(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis*

*for such determination has been corrected and is not likely to recur.*

*"(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a MedicarePlus organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:*

*"(A) civil money penalties of not more than $25,000 for each determination under subsection (c)(2) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract;*

*"(B) civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (h) during which the deficiency that is the basis of a determination under subsection (c)(2) exists; and*

*"(C) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) and until the Secretary is satis-*

*fied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.*

*"(4) PROCEEDINGS.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under paragraph (1) or (2) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).*

*"(g) PROCEDURES FOR IMPOSING SANCTIONS.—The Secretary may terminate a contract with a MedicarePlus organization under this section or may impose the intermediate sanctions described in subsection (f) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—*

*"(1) the Secretary provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under subsection (c)(2);*

*"(2) the Secretary shall impose more severe sanctions on organizations that have a history of deficiencies or that have not taken steps to correct deficiencies the Secretary has brought to their attention;*

*"(3) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and*

*"(4) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.*

*"STANDARDS FOR MEDICAREPLUS AND MEDICARE INFORMATION TRANSACTIONS AND DATA ELEMENTS*

*"SEC. 1858. (a) ADOPTION OF STANDARDS FOR DATA ELEMENTS.—*

*"(1) IN GENERAL.—Pursuant to subsection (b), the Secretary shall adopt standards for information transactions and data elements of MedicarePlus and medicare information and modifications to the standards under this section that are—*

*"(A) consistent with the objective of reducing the administrative costs of providing and paying for health care; and*

*"(B) developed or modified by a standard setting organization (as defined in subsection (h)(8)).*

*"(2) SPECIAL RULE RELATING TO DATA ELEMENTS.—The Secretary may adopt or modify a standard relating to data elements that is different*

*from the standard developed by a standard setting organization, if—*

*"(A) the different standard or modification will substantially reduce administrative costs to health care providers and health plans compared to the alternative; and*

*"(B) the standard or modification is promulgated in accordance with the rulemaking procedures of subchapter III of chapter 5 of title 5, United States Code.*

*"(3) SECURITY STANDARDS FOR HEALTH INFORMATION NETWORK.—*

*"(A) IN GENERAL.—Each person, who maintains or transmits MedicarePlus and medicare information or data elements of MedicarePlus and medicare information and is subject to this section, shall maintain reasonable and appropriate administrative, technical, and physical safeguards—*

*"(i) to ensure the integrity and confidentiality of the information;*

*"(ii) 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*

*"(iii) to otherwise ensure compliance with this section by the officers and employees of such person.*

*"(B) SECURITY STANDARDS.—The Secretary shall establish security standards and modifications to such standards with respect to MedicarePlus and medicare information network services, health plans, and health care providers that—*

*"(i) take into account—*

*"(I) the technical capabilities of record systems used to maintain MedicarePlus and medicare information;*

*"(II) the costs of security measures;*

*"(III) the need for training persons who have access to MedicarePlus and medicare information; and*

*"(IV) the value of audit trails in computerized record systems; and*

*"(ii) ensure that a MedicarePlus and medicare information network service, if it is part of a larger organization, has policies and security procedures which isolate the activities of such service with respect to processing information in a manner that prevents unauthorized access to such information by such larger organization.*

*The security standards established by the Secretary shall be based on the standards developed or modified by standard setting organizations. If such standards do not exist, the Secretary shall rely on the recommendations of the MedicarePlus and Medicare Information Advisory Committee (established under subsection (g)) and shall consult with appropriate government agencies and private organizations in accordance with paragraph (5).*

*"(4) IMPLEMENTATION SPECIFICATIONS.—The Secretary shall establish specifications for implementing each of the standards and the modifications to the standards adopted pursuant to paragraph (1) or (3).*

*"(5) ASSISTANCE TO THE SECRETARY.—In complying with the requirements of this section, the Secretary shall rely on recommendations of the MedicarePlus and Medicare Information Advisory Committee established under subsection (g) and shall consult with appropriate Federal and State agencies and private organizations. The Secretary shall publish in the Federal Register the recommendations of the MedicarePlus and Medicare Information Advisory Committee regarding the adoption of a standard under this section.*

*"(b) STANDARDS FOR INFORMATION TRANSACTIONS AND DATA ELEMENTS.—*

*"(1) IN GENERAL.—The Secretary shall adopt standards for transactions and data elements to make MedicarePlus and medicare information uniformly available to be exchanged electronically, that is—*

*"(A) appropriate for the following financial and administrative transactions: claims (including coordination of benefits) or equivalent encounter information, enrollment and disenrollment, eligibility, premium payments, and referral certification and authorization; and*

*"(B) related to 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) UNIQUE HEALTH IDENTIFIERS.—*

*"(A) ADOPTION OF STANDARDS.—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 MedicarePlus and medicare information system. In developing unique health identifiers 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.*

*"(B) PENALTY FOR IMPROPER DISCLOSURE.—A person who knowingly uses or causes to be used a unique health identifier under subparagraph (A) for a purpose that is not authorized by the Secretary shall—*

*"(i) be fined not more than $50,000, imprisoned not more than 1 year, or both; or*

*"(ii) if the offense is committed under false pretenses, be fined not more than*

*$100,000, imprisoned not more than 5 years, or both.*

*"(3) CODE SETS.—*

*"(A) IN GENERAL.—The Secretary, in consultation with the MedicarePlus and Medicare Information Advisory Committee, experts from the private sector, and Federal and State agencies, shall—*

*"(i) select code sets for appropriate data elements from among the code sets that have been developed by private and public entities; or*

*"(ii) establish code sets for such data elements if no code sets for the data elements have been developed.*

*"(B) 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 subsection (c)(2).*

*"(4) ELECTRONIC SIGNATURE.—*

*"(A) IN GENERAL.—The Secretary, after consultation with the MedicarePlus and Medicare Information Advisory Committee, shall promulgate regulations specifying procedures for the*

*electronic transmission and authentication of signatures, compliance with which will be deemed to satisfy Federal and State statutory requirements for written signatures with respect to information transactions required by this section and written signatures on enrollment and disenrollment forms.*

*"(B) PAYMENTS FOR SERVICES AND PREMIUMS.—Nothing in this section shall be construed to prohibit the payment of health care services or health plan premiums by debit, credit, payment card or numbers, or other electronic means.*

*"(5) TRANSFER OF INFORMATION BETWEEN HEALTH PLANS.—The Secretary shall develop rules and procedures—*

*"(A) for determining the financial liability of health plans when health care benefits are payable under two or more health plans; and*

*"(B) 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.*

*"(6) COORDINATION OF BENEFITS.—If, at the end of the 5-year period beginning on the date of the enactment of this section, the Secretary determines that additional transaction standards for coordinating benefits are necessary to reduce administrative costs or duplicative (or inappropriate) payment of claims, the Secretary shall establish further transaction standards for the coordination of benefits between health plans.*

*"(7) PROTECTION OF TRADE SECRETS.—Except as otherwise required by law, the standards adopted under this section shall not require disclosure of trade secrets or confidential commercial information by an entity operating a MedicarePlus and medicare information network.*

*"(c) TIMETABLES FOR ADOPTION OF STANDARDS.—*

*"(1) INITIAL STANDARDS.—Not later than 18 months after the date of the enactment of this section, the Secretary shall adopt standards relating to the information transactions, data elements of MedicarePlus and medicare information and security described in subsections (a) and (b).*

*"(2) ADDITIONS AND MODIFICATIONS TO STANDARDS.—*

*"(A) IN GENERAL.—The Secretary shall review the standards adopted under this section and shall adopt additional or modified standards, that have been developed or modified by a standard setting organization, as determined appropriate, but not more frequently than once every 12 months. Any addition or modification to such standards shall be completed in a manner which minimizes the disruption and cost of compliance.*

*"(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 paragraph, the modified code set shall include instructions on how data elements of MedicarePlus and medicare 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 modifica-*

*tion to a code set under this paragraph shall be implemented in a manner that minimizes the disruption and cost of complying with such modification.*

*"(d) REQUIREMENTS FOR HEALTH PLANS.—*

*"(1) IN GENERAL.—If a person desires to conduct any of the information transactions described in subsection (b)(1) with a health plan as a standard transaction, the health plan shall conduct such standard transaction in a timely manner and the information transmitted or received in connection with such transaction shall be in the form of standard data elements of MedicarePlus and medicare information.*

*"(2) SATISFACTION OF REQUIREMENTS.—A health plan may satisfy the requirement imposed on such plan under paragraph (1) by directly transmitting standard data elements of MedicarePlus and medicare information or submitting nonstandard data elements to a MedicarePlus and medicare information network service for processing into standard data elements and transmission.*

*"(3) TIMETABLES FOR COMPLIANCE WITH REQUIREMENTS.—Not later than 24 months after the date on which standards are adopted under subsections (a) and (b) with respect to any type of infor-*

*mation transaction or data element of MedicarePlus and medicare information or with respect to security, a health plan shall comply with the requirements of this section with respect to such transaction or data element.*

*"(4) COMPLIANCE WITH MODIFIED STANDARDS.—If the Secretary adopts a modified standard under subsection (a) or (b), a health plan shall be required to comply with the modified standard 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. However, the time determined appropriate under the preceding sentence shall be not earlier than the last day of the 180-day period beginning on the date such modified standard is adopted. The Secretary may extend the time for compliance for small health plans, if the Secretary determines such extension is appropriate.*

*"(e) GENERAL PENALTY FOR FAILURE TO COMPLY WITH REQUIREMENTS AND STANDARDS.—*

*"(1) GENERAL PENALTY.—*

*"(A) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall impose on any person that violates a requirement or standard—*

*"(i) with respect to MedicarePlus and medicare information transactions, data elements of MedicarePlus and medicare information, or security imposed under subsection (a) or (b); or*

*"(ii) with respect to health plans imposed under subsection (d);*

*a penalty of not more than $100 for each such violation of a specific standard or requirement, but the total amount imposed for all such violations of a specific standard or requirement during the calendar year shall not exceed $25,000.*

*"(B) 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 paragraph in the same manner as such provisions apply to the imposition of a penalty under such section 1128A.*

*"(C) DENIAL OF PAYMENT.—Except as provided in paragraph (2), the Secretary may deny payment under this title for an item or service furnished by a person if the person fails to comply with an applicable requirement or standard*

*for MedicarePlus and medicare information relating to that item or service.*

*"(2) LIMITATIONS.—*

*"(A) NONCOMPLIANCE NOT DISCOVERED.—A penalty may not be imposed under paragraph (1) 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 failed to comply with the requirement or standard described in paragraph (1).*

*"(B) FAILURES DUE TO REASONABLE CAUSE.—*

*"(i) IN GENERAL.—Except as provided in clause (ii), a penalty may not be imposed under paragraph (1) 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.*

*"(ii) EXTENSION OF PERIOD.—*

*"(I) NO PENALTY.—The period referred to in clause (i)(II) may be extended as determined appropriate by the Secretary based on the nature and extent of the failure to comply.*

*"(II) ASSISTANCE.—If the Secretary determines that a health plan failed to comply because such plan was unable to comply, the Secretary may provide technical assistance to such plan during the period described in clause (i)(II). Such assistance shall be provided in any manner determined appropriate by the Secretary.*

*"(C) REDUCTION.—In the case of a failure to comply which is due to reasonable cause and not to willful neglect, any penalty under paragraph (1) that is not entirely waived under subparagraph (B) may be waived to the extent that the payment of such penalty would be excessive relative to the compliance failure involved.*

*"(f) EFFECT ON STATE LAW.—*

*"(1) GENERAL EFFECT.—*

*"(A) GENERAL RULE.—Except as provided in subparagraph (B), a provision, requirement, or standard under this section 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.*

*"(B) EXCEPTIONS.—A provision, requirement, or standard under this section shall not supersede a contrary provision of State law if the Secretary determines that the provision of State law should be continued for any reason, including for reasons relating to prevention of fraud and abuse or regulation of controlled substances.*

*"(2) PUBLIC HEALTH REPORTING.—Nothing in this section 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.*

*"(g) MEDICAREPLUS AND MEDICARE INFORMATION ADVISORY COMMITTEE.—*

*"(1) ESTABLISHMENT.—There is established a committee to be known as the MedicarePlus and Medicare Information Advisory Committee (in this subsection referred to as the 'committee').*

*"(2) DUTIES.—The committee shall—*

*"(A) advise the Secretary in the development of standards under this section; and*

*"(B) be generally responsible for advising the Secretary and the Congress on the status and the future of the MedicarePlus and medicare information network.*

*"(3) MEMBERSHIP.—*

*"(A) IN GENERAL.—The committee shall consist of 9 members of whom—*

*"(i) 3 shall be appointed by the President;*

*"(ii) 3 shall be appointed by the Speaker of the House of Representatives after consultation with the minority leader of the House of Representatives; and*

*"(iii) 3 shall be appointed by the President pro tempore of the Senate after consultation with the minority leader of the Senate.*

*The appointments of the members shall be made not later than 60 days after the date of the enactment of this section. The President shall designate 1 member as the Chair.*

*"(B) EXPERTISE.—The membership of the committee shall consist of individuals who are of recognized standing and distinction in the areas of information systems, information networking and integration, consumer health, or health care financial management, and who possess the demonstrated capacity to discharge the duties imposed on the committee.*

*"(C) TERMS.—Each member of the committee shall be appointed for a term of 5 years, except that the members first appointed shall serve staggered terms such that the terms of not more than 3 members expire at one time.*

*"(D) INITIAL MEETING.—Not later than 30 days after the date on which a majority of the members have been appointed, the committee shall hold its first meeting.*

*"(4) REPORTS.—Not later than 1 year after the date of the enactment of this section, and annually thereafter, the committee shall submit to Congress and the Secretary a report regarding—*

*"(A) the extent to which entities using the MedicarePlus and medicare information network are meeting the standards adopted under this section and working together to form an integrated network that meets the needs of its users;*

*"(B) the extent to which such entities are meeting the security standards established pursuant to this section and the types of penalties assessed for noncompliance with such standards;*

*"(C) any problems that exist with respect to implementation of the MedicarePlus and medicare information network; and*

*"(D) the extent to which timetables under this section are being met.*

*Reports made under this subsection shall be made available to health care providers, health plans, and other entities that use the MedicarePlus and medicare information network to exchange MedicarePlus and medicare information.*

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

*"(1) CODE SET.—The term 'code set' means any set of codes used for encoding data elements, such as tables of terms, enrollment information, and encounter data.*

*"(2) COORDINATION OF BENEFITS.—The term 'coordination of benefits' means determining and coordinating the financial obligations of health plans when health care benefits are payable under such a plan and under this title (including under a MedicarePlus plan).*

*"(3) MEDICAREPLUS AND MEDICARE INFORMATION.—The term 'MedicarePlus and medicare information' means any information that relates to the enrollment of individuals under this title (including information relating to elections of MedicarePlus plans under section 1851) and the provision of health benefits (including benefits provided under such plans) under this title.*

*"(4) MEDICAREPLUS AND MEDICARE INFORMATION NETWORK.—The term 'MedicarePlus and medicare information network' means the MedicarePlus and medicare information system that is formed through the application of the requirements and standards established under this section.*

*"(5) MEDICAREPLUS AND MEDICARE INFORMATION NETWORK SERVICE.—The term 'MedicarePlus and medicare information network service' means a public or private entity that—*

*"(A) processes or facilitates the processing of nonstandard data elements of MedicarePlus and medicare information into standard data elements;*

*"(B) provides the means by which persons may meet the requirements of this section; or*

*"(C) provides specific information processing services.*

*"(6) HEALTH PLAN.—The term 'health plan' means a plan which provides, or pays the cost of, health benefits. Such term includes the following, or any combination thereof:*

*"(A) Part A or part B of this title, and includes a MedicarePlus plan.*

*"(B) The medicaid program under title XIX and the MediGrant program under title XXI.*

*"(C) A medicare supplemental policy (as defined in section 1882(g)(1)).*

*"(D) Worker's compensation or similar insurance.*

*"(E) Automobile or automobile medical-payment insurance.*

*"(F) A long-term care policy, other than a fixed indemnity policy.*

*"(G) The Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code.*

*"(H) 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.*

*"(7) INDIVIDUALLY IDENTIFIABLE MEDICAREPLUS AND MEDICARE INFORMATION.—The term 'individually identifiable MedicarePlus and medicare information' means MedicarePlus and medicare enrollment information, including demographic information collected from an individual, that—*

*"(A) is created or received by a health care provider, health plan, employer, or MedicarePlus and medicare information network service, and*

*"(B) identifies an individual.*

*"(8) STANDARD SETTING ORGANIZATION.—The term 'standard setting organization' means a standard setting organization accredited by the American National Standards Institute and includes the National Council for Prescription Drug Program.*

*"(9) STANDARD TRANSACTION.—The term 'standard transaction' means, when referring to an information transaction or to data elements of MedicarePlus and medicare information, any transaction that meets the requirements and implementation specifications adopted by the Secretary under subsections (a) and (b).*

*"DEFINITIONS; MISCELLANEOUS PROVISIONS*

*"SEC. 1859. (a) DEFINITIONS RELATING TO MEDICAREPLUS ORGANIZATIONS.—In this part—*

*"(1) MEDICAREPLUS ORGANIZATION.—The term 'MedicarePlus organization' means a public or private entity that is certified under section 1857 as meeting the requirements and standards of this part for such an organization.*

*"(2) PROVIDER-SPONSORED ORGANIZATION.—The term 'provider-sponsored organization' is defined in section 1853(e).*

*"(3) QUALIFIED ASSOCIATION SPONSOR.—The term 'qualified association sponsor' means an association, religious fraternal organization, or other organization (which may be a trade, industry, or professional association, a chamber of commerce, or a public entity association) that the Secretary finds—*

*"(A) is organized for purposes other than to market a health plan,*

*"(B) may not condition its membership on health status, health claims experience, receipt of health care, medical history, or lack of evidence of insurability of a potential member,*

*"(C) may not exclude a member or spouse of a member from health plan coverage based on factors described in clause (ii);*

*"(D) does not exist solely or principally for the purpose of selling insurance,*

*"(E) has at least 1,000 individual members or 200 employer members,*

*"(F) is a permanent entity which receives a substantial proportion of its financial support from active members; and*

*"(G) is not owned or controlled by an insurance company.*

*Such term includes a subsidiary or corporation that is wholly owned by one or more qualified organizations.*

*"(4) TAFT-HARTLEY SPONSOR.—The term 'Taft-Hartley sponsor' means, in relation to a group health plan that is established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar*

*group of representatives of parties who establish or maintain the plan.*

*"(5) UNION SPONSOR.—The term 'union sponsor' means an employee organization in relation to a group health plan that is established or maintained by the organization other than pursuant to a collective bargaining agreement.*

*"(6) EMPLOYER, ETC.—In this subsection and section 1851(b), the terms 'employer', 'employee organization', and 'group health plan' have the meanings given such terms for purposes of part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.*

*"(b) DEFINITIONS RELATING TO MEDICAREPLUS PLANS.—*

*"(1) MEDICAREPLUS PLAN.—The term 'MedicarePlus plan' means health benefits coverage offered under a policy, contract, or plan by a MedicarePlus organization pursuant to and in accordance with a contract under section 1857.*

*"(2) HIGH DEDUCTIBLE PLAN.—*

*"(A) IN GENERAL.—The term 'high deductible plan' means a MedicarePlus plan that—*

*"(i) provides reimbursement for at least the items and services described in sec-*

*tion 1852(a)(1) in a year but only after the enrollee incurs countable expenses (as specified under the plan) equal to the amount of a deductible (described in subparagraph (B));*

*"(ii) counts as such expenses (for purposes of such deductible) at least all amounts that would have been payable under parts A and B or by the enrollee if the enrollee had elected to receive benefits through the provisions of such parts; and*

*"(iii) provides, after such deductible is met for a year and for all subsequent expenses for benefits referred to in clause (i) in the year, for a level of reimbursement that is not less than—*

*"(I) 100 percent of such expenses, or*

*"(II) 100 percent of the amounts that would have been paid (without regard to any deductibles or coinsurance) under parts A and B with respect to such expenses,*

*whichever is less.*

*"(B) DEDUCTIBLE.—The amount of deductible under a high deductible plan—*

*"(i) for contract year 1997 shall be not more than $6,000; and*

*"(ii) for a subsequent contract year shall be not more than the maximum amount of such deductible for the previous contract year under this subparagraph increased by the national average per capita growth percentage under section 1854(c)(6) for the year.*

*If the amount of the deductible under clause (ii) is not a multiple of $50, the amount shall be rounded to the nearest multiple of $50.*

*"(3) MEDICAREPLUS UNRESTRICTED FEE-FOR-SERVICE PLAN.—The term 'MedicarePlus unrestricted fee-for-service plan' means a MedicarePlus plan that provides for coverage of benefits without restrictions relating to utilization and without regard to whether the provider has a contract or other arrangement with the organization offering the plan for the provision of such benefits.*

*"(c) OTHER REFERENCES TO OTHER TERMS.—*

*"(1) MEDICAREPLUS ELIGIBLE INDIVIDUAL.—The term 'MedicarePlus eligible individual' is defined in section 1851(a)(3).*

*"(2) MEDICAREPLUS PAYMENT AREA.—The term 'MedicarePlus payment area' is defined in section 1854(d).*

*"(3) NATIONAL AVERAGE PER CAPITA GROWTH PERCENTAGE.—The 'national average per capita growth percentage' is defined in section 1854(c)(6).*

*"(4) MONTHLY PREMIUM; NET MONTHLY PREMIUM.—The terms 'monthly premium' and 'net monthly premium' are defined in section 1855(a)(2).*

*"(d) COORDINATED ACUTE AND LONG-TERM CARE BENEFITS UNDER A MEDICAREPLUS PLAN.—Nothing in this part shall be construed as preventing a State from coordinating benefits under its MediGrant program under title XXI with those provided under a MedicarePlus plan in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such program.".*

*(b) CONFORMING REFERENCES TO PREVIOUS PART C.—Any reference in law (in effect before the date of the enactment of this Act) to part C of title XVIII of the Social*

*Security Act is deemed a reference to part D of such title (as in effect after such date).*

*(c) USE OF INTERIM, FINAL REGULATIONS.—In order to carry out the amendment made by subsection (a) in a timely manner, the Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment.*

*(d) ADVANCE DIRECTIVES.—Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended—*

*(1) by inserting "1853(g)," after "1833(s),", and*

*(2) by inserting ", MedicarePlus organization," after "provider of services".*

*(e) CONFORMING AMENDMENT.—Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended by inserting before the semicolon at the end the following: "and in the case of hospitals to accept as payment in full for inpatient hospital services that are emergency services (as defined in section 1853(b)(4)) that are covered under this title and are furnished to any individual enrolled under part C with a MedicarePlus organization which does not have a contract establishing payment amounts for services furnished to members of the organization the amounts that would be made as a payment in full under this title if the individuals were not so enrolled".*

*(f) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this chapter.*

***SEC. 8002. DUPLICATION AND COORDINATION OF MEDICARE-RELATED PLANS.***

*(a) TREATMENT OF CERTAIN HEALTH INSURANCE POLICIES AS NONDUPLICATIVE.—*

*(1) IN GENERAL.—Section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—*

*(A) by amending clause (i) to read as follows:*

*"(i) It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title or electing a MedicarePlus plan under section 1851—*

*"(I) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,*

*"(II) in the case of an individual not electing a MedicarePlus plan, a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or*

*"(III) in the case of an individual electing a MedicarePlus plan, a medicare supplemental policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or under another medicare supplemental policy.";*

*(B) in clause (iii), by striking "clause (i)" and inserting "clause (i)(II)"; and*

*(C) by adding at the end the following new clauses:*

*"(iv) For purposes of this subparagraph a health insurance policy shall be considered to 'duplicate' benefits under this title only when, under its terms, the policy provides specific reimbursement for identical items and services to the extent paid for under this title, and 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.*

*"(v) For purposes of this subparagraph, a health insurance policy (or a rider to an insurance contract which*

*is not a health insurance policy), including a policy (such as a qualified long-term care insurance contract described in section 7702B(b) of the Internal Revenue Code of 1986, as added by the Revenue Reconciliation Act of 1995) providing benefits for long-term care, nursing home care, home health care, or community-based care, that coordinates against or excludes items and services available or paid for under this title and (for policies sold or issued after January 1, 1996) that discloses such coordination or exclusion in the policy's outline of coverage, is not considered to 'duplicate' health benefits under this title. 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) A State may not impose, with respect to the sale or issuance of a policy (or rider) that meets the requirements of this title pursuant to clause (iv) or (v) to an individual entitled to benefits under part A or enrolled under part B or enrolled under a MedicarePlus plan under part C, any requirement based on the premise that such a policy or rider duplicates health benefits to which the individual is otherwise entitled under this title.".*

*(2) CONFORMING AMENDMENTS.—Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended—*

*(A) in subparagraph (B), by inserting "(including any MedicarePlus plan)" after "health insurance policies";*

*(B) in subparagraph (C)—*

*(i) by striking "with respect to (i)" and inserting "with respect to", and*

*(ii) by striking ", (ii) the sale" and all that follows up to the period at the end; and*

*(C) by striking subparagraph (D).*

*(3) MEDICAREPLUS PLANS NOT TREATED AS MEDICARE SUPPLEMENTARY POLICIES.—Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by inserting "a MedicarePlus plan or" after "and does not include".*

*(b) ADDITIONAL RULES RELATING TO INDIVIDUALS ENROLLED IN MEDICAREPLUS PLANS.—Section 1882 (42 U.S.C. 1395ss) is further amended by adding at the end the following new subsection:*

*"(u)(1) Notwithstanding the previous provisions of this section, this section shall not apply to the sale or issuance of a medicare supplemental policy to an individual who has elected to enroll in a MedicarePlus plan under section 1851.*

*"(2)(A) It is unlawful for a person to sell or issue a policy described in subparagraph (B) to an individual with knowledge that the individual has in effect under section 1851 an election of a high deductible plan.*

*"(B) A policy described in this subparagraph is a health insurance policy that provides for coverage of expenses that are otherwise required to be counted toward meeting the annual deductible amount provided under the high deductible plan.".*

***SEC. 8003. TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM.***

*(a) IN GENERAL.—Section 1876 (42 U.S.C. 1395mm) is amended—*

*(1) in subsection (c)(3)(A)(i), by striking "would result in failure to meet the requirements of subsection (f) or";*

*(2) by amending subsection (f) to read as follows:*

*"(f)(1) Except as provided in paragraph (3), the Secretary shall not enter into, renew, or continue any risk-sharing contract under this section with an eligible organization for any contract year beginning on or after—*

*"(A) the date standards for MedicarePlus organizations and plans are first established under section 1856(a) with respect to MedicarePlus organizations*

*that are insurers or health maintenance organizations, or*

*"(B) in the case of in the case of such an organization with such a contract in effect as of the date such standards were first established, 1 year after such date.*

*"(2) The Secretary shall not enter into, renew, or continue any risk-sharing contract under this section with an eligible organization for any contract year beginning on or after January 1, 2000.*

*"(3) An individual who is enrolled in part B only and is enrolled in an eligible organization with a risk-sharing contract under this section on December 31, 1996, may continue enrollment in such organization. Not later then July 1, 1996, the Secretary shall issue regulations relating to such individuals and such organizations.*

*"(4) Notwithstanding subsection (a), the Secretary shall provide that payment amounts under risk-sharing contracts under this section for months in a year (beginning with January 1996) shall be computed—*

*"(A) with respect to individuals entitled to benefits under both parts A and B, by substituting payment rates under section 1854(a) for the payment rates otherwise established under subsection 1876(a), and*

*"(B) with respect to individuals only entitled to benefits under part B, by substituting an appropriate proportion of such rates (reflecting the relative proportion of payments under this title attributable to such part) for the payment rates otherwise established under subsection (a).*

*For purposes of carrying out this paragraph for payments for months in 1996, the Secretary shall compute, announce, and apply the payment rates under section 1854(a) (notwithstanding any deadlines specified in such section) in as timely a manner as possible and may (to the extent necessary) provide for retroactive adjustment in payments made under this section not in accordance with such rates."; and*

*(3) in subsection (i)(1)(C), by striking "(e), and (f)" and inserting "and (e)".*

## *CHAPTER 2—SPECIAL RULES FOR MEDICAREPLUS MEDICAL SAVINGS ACCOUNTS*

### *SEC. 8011. MEDICAREPLUS MSA.*

*(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:*

***"SEC. 137. MEDICAREPLUS MSA.***

*"(a) EXCLUSION.—Gross income shall not include any payment to the MedicarePlus MSA of an individual by the Secretary of Health and Human Services under part C of title XVIII of the Social Security Act.*

*"(b) MEDICAREPLUS MSA.—For purposes of this section—*

*"(1) MEDICAREPLUS MSA.—The term 'MedicarePlus MSA' means a medical savings account (as defined in section 222(d))—*

*"(A) which is designated as a MedicarePlus MSA,*

*"(B) notwithstanding section 222(f)(5), with respect to which no contribution may be made other than—*

*"(i) a contribution made by the Secretary of Health and Human Services pursuant to part C of title XVIII of the Social Security Act, or*

*"(ii) a trustee-to-trustee transfer described in subsection (c)(4), and*

*"(C) the governing instrument of which provides that trustee-to-trustee transfers described in subsection (c)(4) may be made to and from such account.*

*"(2) HIGH DEDUCTIBLE MSA.—The term 'High Deductible MedicarePlus MSA' means a MedicarePlus MSA which is established in connection with a high deductible plan described in section 1859(b)(2) of the Social Security Act.*

*"(3) REBATE MEDICAREPLUS MSA.—The term 'Rebate MedicarePlus MSA' means a MedicarePlus MSA other than a High Deductible MedicarePlus MSA.*

*"(c) SPECIAL RULES FOR DISTRIBUTIONS.—*

*"(1) DISTRIBUTIONS FOR QUALIFIED MEDICAL EXPENSES.—In applying section 222—*

*"(A) to a High Deductible MedicarePlus MSA, qualified medical expenses shall include only expenses for medical care of the account holder, and*

*"(B) to a Rebate MedicarePlus MSA, qualified medical expenses shall include only expenses for medical care of the account holder and of the spouse of the account holder if such spouse is entitled to benefits under part A of title XVIII of the Social Security Act and is enrolled under part B of such title.*

*"(2) PENALTY FOR DISTRIBUTIONS FROM HIGH DEDUCTIBLE MSA NOT USED FOR QUALIFIED MEDICAL EXPENSES IF MINIMUM BALANCE NOT MAINTAINED.—*

*"(A) IN GENERAL.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a High Deductible MedicarePlus MSA which is not used exclusively to pay the qualified medical expenses of the account holder shall be increased by 50 percent of the excess (if any) of—*

*"(i) the amount of such payment or distribution, over*

*"(ii) the excess (if any) of—*

*"(I) the fair market value of the assets in such MSA as of the close of the calendar year preceding the calendar year in which the taxable year begins, over*

*"(II) an amount equal to 60 percent of the deductible under the high deductible plan covering the account holder as of January 1 of the calendar year in which the taxable year begins.*

*Section 222(f)(2) shall not apply to any payment or distribution from a High Deductible MedicarePlus MSA.*

*"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account holder—*

*"(i) becomes disabled within the meaning of section 72(m)(7), or*

*"(ii) dies.*

*"(C) SPECIAL RULES.—For purposes of subparagraph (A)—*

*"(i) all High Deductible MedicarePlus MSAs of the account holder shall be treated as 1 account,*

*"(ii) all payments and distributions not used exclusively to pay the qualified medical expenses of the account holder during any taxable year shall be treated as 1 distribution, and*

*"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.*

*"(3) WITHDRAWAL OF ERRONEOUS CONTRIBUTIONS.—Section 222(f)(2) and paragraph (2) of this subsection shall not apply to any payment or dis-*

*tribution from a MedicarePlus MSA to the Secretary of Health and Human Services of an erroneous contribution to such MSA and of the net income attributable to such contribution.*

*"(4) TRUSTEE-TO-TRUSTEE TRANSFERS.—Section 222(f)(2) and paragraph (2) of this subsection shall not apply to—*

*"(A) any trustee-to-trustee transfer from a High Deductible MedicarePlus MSA of an account holder to another High Deductible MedicarePlus MSA of such account holder, and*

*"(B) any trustee-to-trustee transfer from a Rebate MedicarePlus MSA of an account holder to another Rebate MedicarePlus MSA of such account holder.*

*"(d) SPECIAL RULES FOR TREATMENT OF ACCOUNT AFTER DEATH OF ACCOUNT HOLDER.—Notwithstanding section 222(f)(1)(B), if, as of the date of the death of the account holder, the spouse of such holder is not entitled to benefits under title XVIII of the Social Security Act, then after the date of such death—*

*"(1) the Secretary of Health and Human Services may not make any payments to such MedicarePlus MSA, other than payments attributable to periods before such date, and*

*"(2) such MSA shall be treated as medical savings account which is not a MedicarePlus MSA.*

*"(e) REPORTS.—In the case of a MedicarePlus MSA, the report under section 222(h)—*

*"(1) shall include the fair market value of the assets in such MedicarePlus MSA as of the close of each calendar year, and*

*"(2) shall be furnished to the account holder—*

*"(A) not later than January 31 of the calendar year following the calendar year to which such reports relate, and*

*"(B) in such manner as the Secretary prescribes in such regulations."*

*(b) CONFORMING AMENDMENTS.—*

*(1) The last sentence of section 4973(d) of such Code, as added by section 11066(f)(4), is amended by "or section 137(c)(3)" after "section 222(f)(3)".*

*(2) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:*

*"Sec. 137. MedicarePlus MSA.*
*"Sec. 138. Cross references to other Acts."*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.*

***SEC. 8012. CERTAIN REBATES EXCLUDED FROM GROSS INCOME.***

*(a) IN GENERAL.—Section 105 of the Internal Revenue Code of 1986 (relating to amounts received under accident and health plans) is amended by adding at the end the following new subsection:*

*"(j) CERTAIN REBATES UNDER SOCIAL SECURITY ACT.—Gross income does not include any rebate received under part C of title XVIII of the Social Security Act during the taxable year."*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after the date of the enactment of this Act.*

## *CHAPTER 3—MEDICARE PAYMENT REVIEW COMMISSION*

***SEC. 8021. MEDICARE PAYMENT REVIEW COMMISSION.***

*(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:*

*"MEDICARE PAYMENT REVIEW COMMISSION*

*"SEC. 1805. (a) ESTABLISHMENT.—There is hereby established the Medicare Payment Review Commission (in this section referred to as the 'Commission').*

*"(b) DUTIES.—*

*"(1) GENERAL DUTIES AND REPORTS.—*

*"(A) IN GENERAL.—The Commission shall review, and make recommendations to Congress concerning, payment policies under this title.*

*"(B) ANNUAL REPORTS.—By not later than June 1 of each year, the Commission shall submit a report to Congress containing an examination of issues affecting the medicare program, including the implications of changes in health care delivery in the United States and in the market for health care services on the medicare program.*

*"(C) ADDITIONAL REPORTS.—The Commission may submit to Congress from time to time such other reports as the Commission deems appropriate. By not later than May 1, 1997, the Commission shall submit to Congress a report on the matter described in paragraph (2)(G).*

*"(D) AVAILABILITY OF REPORTS.—The Commission shall transmit to the Secretary a copy of each report submitted to Congress under this subsection and shall make such reports available to the public.*

*"(2) SPECIFIC DUTIES RELATING TO MEDICAREPLUS PROGRAM.—Specifically, the Commis-*

*sion shall review, with respect to the MedicarePlus program under part C—*

*"(A) the methodology for making payment to plans under such program, including the making of differential payments and the distribution of differential updates among different payment areas;*

*"(B) the mechanisms used to adjust payments for risk and the need to adjust such mechanisms to take into account health status of beneficiaries;*

*"(C) the implications of risk selection both among MedicarePlus organizations and between the MedicarePlus option and the Medicare fee-for-service option;*

*"(D) in relation to payment under part C, the development and implementation of mechanisms to assure the quality of care for those enrolled with MedicarePlus organizations;*

*"(E) the impact of the MedicarePlus program on access to care for medicare beneficiaries;*

*"(F) the feasibility and desirability of extending the rules for open enrollment that apply during the transition period to apply in each county during the first 2 years in which*

*MedicarePlus plans are made available to individuals residing in the county; and*

*"(G) other major issues in implementation and further development of the MedicarePlus program.*

*"(3) SPECIFIC DUTIES RELATING TO THE FEE-FOR-SERVICE SYSTEM.—Specifically, the Commission shall review payment policies under parts A and B, including—*

*"(A) the factors affecting expenditures for services in different sectors, including the process for updating hospital, physician, and other fees,*

*"(B) payment methodologies; and*

*"(C) the impact of payment policies on access and quality of care for medicare beneficiaries.*

*"(4) SPECIFIC DUTIES RELATING TO INTERACTION OF PAYMENT POLICIES WITH HEALTH CARE DELIVERY GENERALLY.—Specifically the Commission shall review the effect of payment policies under this title on the delivery of health care services under this title and assess the implications of changes in the health services market on the medicare program.*

*"(c) MEMBERSHIP.—*

*"(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members appointed by the Comptroller General.*

*"(2) QUALIFICATIONS.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, allopathic and osteopathic physicians, and other providers of services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives, including physicians and other health professionals, employers, third party payors, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research and expertise in outcomes and effectiveness research and technology assessment. Such membership shall also include representatives of consumers and the elderly.*

*"(3) TERMS.—*

*"(A) IN GENERAL.—The terms of members of the Commission shall be for 3 years except*

*that the Comptroller General shall designate staggered terms for the members first appointed.*

*"(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.*

*"(4) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, Unit-*

*ed States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.*

*"(5) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General shall designate a member of the Commission, at the time of appointment of the member, as Chairman and a member as Vice Chairman for that term of appointment.*

*"(6) MEETINGS.—The Commission shall meet at the call of the Chairman.*

*"(d) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—*

*"(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);*

*"(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;*

*"(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));*

*"(4) make advance, progress, and other payments which relate to the work of the Commission;*

*"(5) provide transportation and subsistence for persons serving without compensation; and*

*"(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.*

*"(e) POWERS.—*

*"(1) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.*

*"(2) DATA COLLECTION.—In order to carry out its functions, the Commission shall collect and assess information to—*

*"(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,*

*"(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate, and*

*"(C) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.*

*"(3) ACCESS OF GAO TO INFORMATION.—The Comptroller General shall have unrestricted access to all deliberations, records, and data of the Commission, immediately upon request.*

*"(4) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the General Accounting Office.*

*"(5) OPEN MEETINGS, ETC..—Pursuant to regulations of the Comptroller General, rules based upon the requirements of section 10 of the Federal Advisory Committee Act shall apply with respect to the Commission.*

*"(f) AUTHORIZATION OF APPROPRIATIONS.—*

*"(1) REQUEST FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.*

*"(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".*

*(b) ABOLITION OF PROPAC AND PPRC.—*

*(1) PROPAC.—*

*(A) IN GENERAL.—Section 1886(e) (42 U.S.C. 1395ww(e)) is amended—*

*(i) by striking paragraphs (2) and (6); and*

*(ii) in paragraph (3), by striking "(A) The Commission" and all that follows through "(B)".*

*(B) CONFORMING AMENDMENT.—Section 1862 (42 U.S.C. 1395y) is amended by striking "Prospective Payment Assessment Commission"*

*each place it appears in subsection (a)(1)(D) and subsection (i) and inserting "Medicare Payment Review Commission".*

*(2) PPRC.—*

*(A) IN GENERAL.—Title XVIII is amended by striking section 1845 (42 U.S.C. 1395w–1).*

*(B) CONFORMING AMENDMENTS.—*

*(i) Section 1834(b)(2) (42 U.S.C. 1395m(b)(2)) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Review Commission".*

*(ii) Section 1842(b) (42 U.S.C. 1395u(b)) is amended by striking "Physician Payment Review Commission" each place it appears in paragraphs (9)(D) and (14)(C)(i) and inserting "Medicare Payment Review Commission".*

*(iii) Section 1848 (42 U.S.C. 1395w–4) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Review Commission" each place it appears in paragraph (2)(A)(ii), (2)(B)(iii), and (5) of subsection (c), subsection (d)(2)(F), paragraphs (1)(B),*

*(3), and (4)(A) of subsection (f), and paragraphs (6)(C) and (7)(C) of subsection (g).*

*(c) EFFECTIVE DATE; TRANSITION.—*

*(1) IN GENERAL.—The Comptroller General shall first provide for appointment of members to the Medicare Payment Review Commission (in this subsection referred to as "MPRC") by not later than September 30, 1996.*

*(2) TRANSITION.—Effective January 1, 1997, the Prospective Payment Assessment Commission (in this subsection referred to as "ProPAC") and the Physician Payment Review Commission (in this subsection referred to as "PPRC") are terminated and amendments made by subsection (b) shall become effective. The Comptroller General, to the maximum extent feasible, shall provide for the transfer to the MPRC of assets and staff of ProPAC and PPRC, without any loss of benefits or seniority by virtue of such transfers. Fund balances available to the ProPAC or PPRC for any period shall be available to the MPRC for such period for like purposes.*

*(3) CONTINUING RESPONSIBILITY FOR REPORTS.—The MPRC shall be responsible for the preparation and submission of reports required by law to be submitted (and which have not been submitted by*

*the date of establishment of the MPRC) by the ProPAC and PPRC, and, for this purpose, any reference in law to either such Commission is deemed, after the appointment of the MPRC, to refer to the MPRC.*

## *CHAPTER 4—TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS*

### *SEC. 8031. TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS.*

*(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.), as amended by title XI, is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:*

*"(o) TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS.—An organization shall not fail to be treated as organized and operated exclusively for a charitable purpose for purposes of subsection (c)(3) solely because a hospital which is owned and operated by such organization participates in a provider-sponsored organization (as defined in section 1853 of the Social Security Act), whether or not the provider-sponsored organization is exempt from tax. For purposes of subsection (c)(3), any person with a material financial interest in such a*

*provider-sponsored organization shall be treated as a private shareholder or individual with respect to the hospital.''*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.*

# *Subtitle B—Health Care Fraud and Abuse Prevention*

## *CHAPTER 1—FRAUD AND ABUSE CONTROL PROGRAM*

### *SEC. 8101. 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, 1996, 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 interpretative rulings 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 payer, 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 Con-*

*trol 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 8141(b) and 8142(c) of the Medicare Preservation Act of 1995, 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 XXI, 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 1996, $104,000,000, and*

*"(II) for each of the fiscal years 1997 through 2002, the limit for the preceding fiscal year, increased by 15 percent; and*

*"(III) for each fiscal year after fiscal year 2002, the limit for fiscal year 2002.*

*"(ii) MEDICARE AND MEDIGRANT 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 MediGrant programs—*

*"(I) for fiscal year 1996, not less than $60,000,000 and not more than $70,000,000;*

*"(II) for fiscal year 1997, not less than $80,000,000 and not more than $90,000,000;*

*"(III) for fiscal year 1998, not less than $90,000,000 and not more than $100,000,000;*

*"(IV) for fiscal year 1999, not less than $110,000,000 and not more than $120,000,000;*

*"(V) for fiscal year 2000, not less than $120,000,000 and not more than $130,000,000;*

*"(VI) for fiscal year 2001, not less than $140,000,000 and not more than $150,000,000; and*

*"(VII) for each fiscal year after fiscal year 2001, not less than $150,000,000 and not more than $160,000,000.*

*"(B) FEDERAL BUREAU OF INVESTIGATIONS.—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 Investigations to carry out the purposes described in subparagraph (C)(i), to be available without further appropriation—*

*"(i) for fiscal year 1996, $47,000,000;*

*"(ii) for fiscal year 1997, $56,000,000;*

*"(iii) for fiscal year 1998, $66,000,000;*

*"(iv) for fiscal year 1999, $76,000,000;*

*"(v) for fiscal year 2000, $88,000,000;*

*"(vi) for fiscal year 2001, $101,000,000; and*

*"(vii) for each fiscal year after fiscal year 2001, $114,000,000.*

*"(C) USE OF FUNDS.—The purposes described in this subparagraph are as follows:*

*"(i) GENERAL USE.—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.*

*"(ii) USE BY STATE MEDIGRANT FRAUD CONTROL UNITS FOR INVESTIGATION REIMBURSEMENTS.—To reimburse the various State MediGrant fraud control units established under section 2134(a) upon request to the Secretary for the costs of the activities authorized under section 2134(b).*

*"(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 1996, such amount shall be not less than $430,000,000 and not more than $440,000,000.*

*"(ii) For fiscal year 1997, such amount shall be not less than $490,000,000 and not more than $500,000,000.*

*"(iii) For fiscal year 1998, such amount shall be not less than $550,000,000 and not more than $560,000,000.*

*"(iv) For fiscal year 1999, such amount shall be not less than $620,000,000 and not more than $630,000,000.*

*"(v) For fiscal year 2000, such amount shall be not less than $670,000,000 and not more than $680,000,000.*

*"(vi) For fiscal year 2001, such amount shall be not less than $690,000,000 and not more than $700,000,000.*

*"(vii) For each fiscal year after fiscal year 2001, 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. 8102. 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. 8103. 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 re-*

*port 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. 8104. 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; 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, 1996.*

***SEC. 8105. GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS.***

*Title XI (42 U.S.C. 1301 et seq.), as amended by section 8101, 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, 1996, 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) interpretive rulings 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 Services (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) INTERPRETIVE RULINGS.—*

*"(1) IN GENERAL.—*

*"(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B (in this section referred to as an 'interpretive ruling').*

*"(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—*

*"(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling not later than 90 days after receiving a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to*

*this clause shall be published in the Federal Register or otherwise made available for public inspection.*

*"(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision not later than 60 days after receiving such a request and shall identify the reasons for such decision.*

*"(2) CRITERIA FOR INTERPRETIVE RULINGS.—*

*"(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—*

*"(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and*

*"(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rul-*

*ings, or whether the request would require a substantive ruling (as defined in section 552 of title 5, United States Code) not authorized under this subsection.*

*"(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.*

*"(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.".*

## *CHAPTER 2—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE*

### *SEC. 8111. 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 Medicare Preservation Act of 1995, 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 Medicare Preservation Act of 1995, under Federal or State law—*

*"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzle-*

*ment, 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 Medicare Preservation Act of 1995, 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. 8112. 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. 8113. 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. 8114. 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. 8115. 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. 8116. 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 a MedicarePlus organization under part C of title XVIII 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, 1996.*

**SEC. 8117. PENALTIES FOR THE FRAUDULENT CONVERSION OF ASSETS IN ORDER TO OBTAIN STATE HEALTH CARE PROGRAM BENEFITS.**

*Section 1128B(a) (42 U.S.C. 1320a–7b(a)) is amended by striking "or" at the end of paragraph (4), by inserting "or" at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:*

*"(6) knowingly and willfully converts assets, by transfer (including any transfer in trust), aiding in such a transfer, or otherwise, in order for an individual to become eligible for benefits under a State health care program,".*

**SEC. 8118. EFFECTIVE DATE.**

*Except as otherwise provided, the amendments made by this chapter shall take effect January 1, 1996.*

## CHAPTER 3—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

**SEC. 8121. 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 8101 and 8105, 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, 1996, 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, non-renewability, 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 MediGrant 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.".*

## *CHAPTER 4—CIVIL MONETARY PENALTIES*

### *SEC. 8131. 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 Medicare Preservation Act of 1995 (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—*

*"(i) 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*

*"(ii) 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 oc-*

*curs" 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;*

*(3) in subparagraph (D), by striking "; or" and inserting ", or"; and*

*(4) 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 8115(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)) is amended—*

*(A) by striking "or" at the end of paragraph (1)(D);*

*(B) by striking ", or" at the end of paragraph (2) and inserting a semicolon;*

*(C) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and*

*(D) by inserting after paragraph (3) the following new paragraph:*

*"(4) 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 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 Medicare Preservation Act of 1995; 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, 1996.*

***SEC. 8132. 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)) is amended by adding at the end the following new paragraph:*

*"(6) 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, 1996.*

***SEC. 8133. 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.*

## *CHAPTER 5—AMENDMENTS TO CRIMINAL LAW*

### *SEC. 8141. HEALTH CARE FRAUD.*

*(a) IN GENERAL.—*

*(1) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:*

***"§ 1347. Health care fraud***

*"(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—*

*"(1) to defraud any Federal health care program, in connection with the delivery of or payment for health care benefits, items, or services; 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 Federal health care 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(g)(3) of this title), such person may be imprisoned for any term of years.*

*"(b) For purposes of this section, the term 'Federal health care program' has the same meaning given such term in section 1128B(f) of the Social Security Act.".*

*(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, as added by section 8101(b), an amount equal*

*to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).*

***SEC. 8142. 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)(A) 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) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—*

*"(i) section 1347 of this title;*

*"(ii) section 1128B of the Social Security Act; and*

*"(iii) sections 287, 371, 664, 666, 669, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud.".*

*(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 8101(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. 8143. INJUNCTIVE RELIEF RELATING TO FEDERAL 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 new subparagraph:*

*"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".*

*(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting "or a Federal health care offense (as defined in section 982(a)(6)(B))" after "title)".*

***SEC. 8144. FALSE STATEMENTS.***

*(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:*

***"§ 1033. False statements relating to health care matters***

*"(a) Whoever, in any matter involving a Federal health care program, knowingly and willfully—*

*"(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or*

*"(2) makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry,*

*shall be fined under this title or imprisoned not more than 5 years, or both.*

*"(b) For purposes of this section, the term 'Federal health care program' has the same meaning given such term in section 1128B(f) of the Social Security Act.".*

*(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, in amended by adding at the end the following:*

*"1033. False statements relating to health care matters.".*

***SEC. 8145. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF FEDERAL HEALTH CARE OFFENSES.***

*(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:*

***"§ 1518. Obstruction of criminal investigations of Federal 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 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 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.*

*"(c) 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:*

*"1518. Obstruction of Criminal Investigations of Federal Health Care Offenses.".*

**SEC. 8146. THEFT OR EMBEZZLEMENT.**

*(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:*

**"§ 669. Theft or embezzlement in connection with health care**

*"(a) Whoever willfully embezzles, steals, or otherwise willfully and unlawfully 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 Federal health care program, shall be fined under this title or imprisoned not more than 10 years, or both.*

*"(b) As used in this section the term 'Federal health care program' has the same meaning given such term in section 1128B(f) of the Social Security Act.".*

*(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. 8147. LAUNDERING OF MONETARY INSTRUMENTS.**

*Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:*

*"(F) Any act or activity constituting an offense involving a Federal health care offense as*

*that term is defined in section 982(a)(6)(B) of this title.".*

***SEC. 8148. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.***

*(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:*

***"§ 3486. Authorized investigative demand procedures***

*"(a)(1)(A) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue in writing and cause to be served a subpoena compelling 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.*

*"(B) A custodian of records may be required to give testimony concerning the production and authentication of such records.*

*"(C) The production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served.*

*"(D) Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.*

*"(E) A subpoena requiring the production of records 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.*

*"(2) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—*

*"(A) to defraud any Federal health care program, in connection with the delivery of or payment for health care benefits, items, or services; or*

*"(B) 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 or, any Federal health care program in connection with the delivery of or payment for health care benefits, items, or services.*

*"(b)(1) A subpoena issued under this section may be served by any person designated in the subpoena to serve it.*

*"(2) Service upon a natural person may be made by personal delivery of the subpoena to such person.*

*"(3) Service may be made upon a domestic or foreign 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.*

*"(4) 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)(1) 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 such person carries on business or may be found, to compel compliance with the subpoena.*

*"(2) 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 required under subsection (a)(1)(B).*

*"(3) Any failure to obey the order of the court may be punished by the court as a contempt thereof.*

*"(4) All process in any such case may be served in any judicial district in which such person may be found.*

*"(d) Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena 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)(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 therefore.*

*"(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.*

*"(f) As used in this section the term 'Federal health care program' has the same meaning given such term in section 1128B(f) of the Social Security Act.".*

*(b) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3405 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)," after "subpoena".*

## *CHAPTER 6—STATE HEALTH CARE FRAUD CONTROL UNITS*

### *SEC. 8151. STATE HEALTH CARE FRAUD CONTROL UNITS.*

*(a) EXTENSION OF CONCURRENT AUTHORITY TO INVESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL PROGRAMS.—Paragraph (3) of section 2134(b), as added by section 7001 of this Act, is amended—*

*(1) by inserting "(A)" after "in connection with"; and*

*(2) by striking "plan." and inserting "plan; and*

*(B) upon the approval of the relevant Federal agency*

*and the chief executive officer of the State or such officer's designee, any aspect of the provision of health care services and activities of providers of such services under any Federal health care program (as defined in section 1128B(f)(1)).".*

*(b) EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE PATIENT ABUSE IN NON-MEDIGRANT BOARD AND CARE FACILITIES.—Paragraph (4) of section 2134(b), as added by section 7001 of this Act, is amended to read as follows:*

*"(4)(A) The entity has—*

*"(i) procedures for reviewing complaints of abuse or neglect of patients in health care facilities which receive payments under the MediGrant plan funded under this title;*

*"(ii) at the option of the entity, procedures for reviewing complaints of abuse or neglect of patients residing in board and care facilities; and*

*"(iii) where appropriate, procedures for acting upon such complaints under the criminal laws of the State or for referring such complaints to other State agencies for action.*

*"(B) For purposes of this paragraph, the term 'board and care facility' means a residential setting*

*which receives payment from or on behalf of two or more unrelated adults who reside in such facility, and for whom one or both of the following is provided:*

*"(i) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.*

*"(ii) Personal care services that assist residents with the activities of daily living, including personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.".*

## *Subtitle C—Regulatory Relief*

### *SEC. 8201. REPEAL OF PHYSICIAN OWNERSHIP REFERRAL PROHIBITIONS BASED ON COMPENSATION ARRANGEMENTS.*

*(a) IN GENERAL.—Section 1877(a)(2) (42 U.S.C. 1395nn(a)(2)) is amended by striking "is—" and all that follows through "equity," and inserting the following: "is (except as provided in subsection (c)) an ownership or investment interest in the entity through equity,".*

*(b) CONFORMING AMENDMENTS.—Section 1877 (42 U.S.C. 1395nn) is amended as follows:*

*(1) In subsection (b)—*

*(A) in the heading, by striking "TO BOTH OWNERSHIP AND COMPENSATION ARRANGEMENT PROHIBITIONS" and inserting "WHERE FINANCIAL RELATIONSHIP EXISTS"; and*

*(B) by redesignating paragraph (4) as paragraph (7).*

*(2) In subsection (c)—*

*(A) by amending the heading to read as follows: "EXCEPTION FOR OWNERSHIP OR INVESTMENT INTEREST IN PUBLICLY TRADED SECURITIES AND MUTUAL FUNDS"; and*

*(B) in the matter preceding paragraph (1), by striking "subsection (a)(2)(A)" and inserting "subsection (a)(2)".*

*(3) In subsection (d)—*

*(A) by striking the matter preceding paragraph (1);*

*(B) in paragraph (3), by striking "paragraph (1)" and inserting "paragraph (4)"; and*

*(C) by redesignating paragraphs (1), (2), and (3) as paragraphs (4), (5), and (6), and by transferring and inserting such paragraphs after paragraph (3) of subsection (b).*

*(4) By striking subsection (e).*

*(5) In subsection (f)(2)—*

*(A) in the matter preceding paragraph (1), by striking "ownership, investment, and compensation" and inserting "ownership and investment";*

*(B) in paragraph (2), by striking "subsection (a)(2)(A)" and all that follows through "subsection (a)(2)(B)," and inserting "subsection (a)(2),"; and*

*(C) in paragraph (2), by striking "or who have such a compensation relationship with the entity".*

*(6) In subsection (h)—*

*(A) by striking paragraphs (1), (2), and (3);*

*(B) in paragraph (4)(A), by striking clauses (iv) and (vi);*

*(C) in paragraph (4)(B), by striking "RULES.—" and all that follows through "(ii) FACULTY" and inserting "RULES FOR FACULTY"; and*

*(D) by adding at the end of paragraph (4) the following new subparagraph:*

*"(C) MEMBER OF A GROUP.—A physician is a 'member' of a group if the physician is an*

*owner or a bona fide employee, or both, of the group.".*

***SEC. 8202. REVISION OF DESIGNATED HEALTH SERVICES SUBJECT TO OWNERSHIP REFERRAL PROHIBITION.***

*(a) IN GENERAL.—Section 1877(h)(6) (42 U.S.C. 1395nn(h)(6)) is amended by striking subparagraphs (B) through (K) and inserting the following:*

*"(B) Parenteral and enteral nutrients, equipment, and supplies.*

*"(C) Radiology services, including magnetic resonance imaging, computerized tomography, and ultrasound services.*

*"(D) Outpatient physical or occupational therapy services.".*

*(b) CONFORMING AMENDMENTS.—*

*(1) Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended in the matter preceding subparagraph (A) by striking "services" and all that follows through "supplies)—" and inserting "services—".*

*(2) Section 1877(h)(5)(C) (42 U.S.C. 1395nn(h)(5)(C)) is amended—*

*(A) by striking ", a request by a radiologist for diagnostic radiology services, and a request by a radiation oncologist for radiation therapy,"*

*and inserting "and a request by a radiologist for magnetic resonance imaging or for computerized tomography", and*

*(B) by striking "radiologist, or radiation oncologist" and inserting "or radiologist".*

***SEC. 8203. DELAY IN IMPLEMENTATION OF 1993 OWNERSHIP REFERRAL CHANGES UNTIL PROMULGATION OF REGULATIONS.***

*(a) IN GENERAL.—Section 13562(b) of OBRA–1993 (42 U.S.C. 1395nn note) is amended—*

*(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and*

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

*"(3) PROMULGATION OF REGULATIONS.—Notwithstanding paragraphs (1) and (2), the amendments made by this section shall not apply to any referrals made before the effective date of final regulations promulgated by the Secretary of Health and Human Services to carry out such amendments.".*

*(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of OBRA–1993.*

***SEC. 8204. EXCEPTIONS TO OWNERSHIP REFERRAL PROHIBITIONS.***

*(a) REVISIONS TO EXCEPTION FOR IN-OFFICE ANCILLARY SERVICES.—*

*(1) REPEAL OF SITE-OF-SERVICE REQUIREMENT.—Section 1877 (42 U.S.C. 1395nn) is amended—*

*(A) by amending subparagraph (A) of subsection (b)(2) to read as follows:*

*"(A) that are furnished personally by the referring physician, personally by a physician who is a member of the same group practice as the referring physician, or personally by individuals who are under the general supervision of the physician or of another physician in the group practice, and", and*

*(B) by adding at the end of subsection (h) the following new paragraph:*

*"(7) GENERAL SUPERVISION.—An individual is considered to be under the 'general supervision' of a physician if the physician (or group practice of which the physician is a member) is legally responsible for the services performed by the individual and for ensuring that the individual meets licensure and certification requirements, if any, applicable under other provisions of law, regardless of whether or not the*

*physician is physically present when the individual furnishes an item or service.".*

*(2) CLARIFICATION OF TREATMENT OF PHYSICIAN OWNERS OF GROUP PRACTICE.—Section 1877(b)(2)(B) (42 U.S.C. 1395nn(b)(2)(B)) is amended by striking "physician or such group practice" and inserting "physician, such group practice, or the physician owners of such group practice".*

*(3) CONFORMING AMENDMENT.—Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended by amending the heading to read as follows: "ANCILLARY SERVICES FURNISHED PERSONALLY OR THROUGH GROUP PRACTICE.—".*

*(b) CLARIFICATION OF EXCEPTION FOR SERVICES FURNISHED IN A RURAL AREA.—Paragraph (5) of section 1877(b) (42 U.S.C. 1395nn(b)), as transferred by section 8201(b)(3)(C), is amended by striking "substantially all" and inserting "not less than 75 percent".*

*(c) REVISION OF EXCEPTION FOR CERTAIN MANAGED CARE ARRANGEMENTS.—Section 1877(b)(3) (42 U.S.C. 1395nn(b)(3)) is amended—*

*(1) in the heading by inserting "MANAGED CARE ARRANGEMENTS" after "PREPAID PLANS";*

*(2) in the matter preceding subparagraph (A), by striking "organization—" and inserting "organi-*

*zation, directly or through contractual arrangements with other entities, to individuals enrolled with the organization—";*

*(3) in subparagraph (A), by inserting "or part C" after "section 1876";*

*(4) by striking "or" at the end of subparagraph (C);*

*(5) by striking the period at the end of subparagraph (D) and inserting a comma; and*

*(6) by adding at the end the following new subparagraphs:*

*"(E) with a contract with a State to provide services under the State plan under title XIX (in accordance with section 1903(m)) or a State MediGrant plan under title XXI; or*

*"(F) which is a MedicarePlus organization under part C or which provides or arranges for the provision of health care items or services pursuant to a written agreement between the organization and an individual or entity if the written agreement places the individual or entity at substantial financial risk for the cost or utilization of the items or services 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.".*

*(d) NEW EXCEPTION FOR SHARED FACILITY SERVICES.—*

*(1) IN GENERAL.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8201(b)(3)(C), is amended—*

*(A) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8); and*

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

*"(4) SHARED FACILITY SERVICES.—In the case of a designated health service consisting of a shared facility service of a shared facility—*

*"(A) that is furnished—*

*"(i) personally by the referring physician who is a shared facility physician or personally by an individual directly employed or under the general supervision of such a physician,*

*"(ii) by a shared facility in a building in which the referring physician furnishes substantially all of the services of the physi-*

*cian that are unrelated to the furnishing of shared facility services, and*

*"(iii) to a patient of a shared facility physician; and*

*"(B) that is billed by the referring physician or a group practice of which the physician is a member.".*

*(2) DEFINITIONS.—Section 1877(h) (42 U.S.C. 1395nn(h)), as amended by section 8201(b)(6), is amended by inserting before paragraph (4) the following new paragraph:*

*"(1) SHARED FACILITY RELATED DEFINITIONS.—*

*"(A) SHARED FACILITY SERVICE.—The term 'shared facility service' means, with respect to a shared facility, a designated health service furnished by the facility to patients of shared facility physicians.*

*"(B) SHARED FACILITY.—The term 'shared facility' means an entity that furnishes shared facility services under a shared facility arrangement.*

*"(C) SHARED FACILITY PHYSICIAN.—The term 'shared facility physician' means, with respect to a shared facility, a physician (or a*

*group practice of which the physician is a member) who has a financial relationship under a shared facility arrangement with the facility.*

*"(D) SHARED FACILITY ARRANGEMENT.—The term 'shared facility arrangement' means, with respect to the provision of shared facility services in a building, a financial arrangement—*

*"(i) which is only between physicians who are providing services (unrelated to shared facility services) in the same building,*

*"(ii) in which the overhead expenses of the facility are shared, in accordance with methods previously determined by the physicians in the arrangement, among the physicians in the arrangement, and*

*"(iii) which, in the case of a corporation, is wholly owned and controlled by shared facility physicians.".*

*(e) NEW EXCEPTION FOR SERVICES FURNISHED IN COMMUNITIES WITH NO ALTERNATIVE PROVIDERS.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8201(b)(3)(C) and subsection (d)(1), is amended—*

*(1) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9); and*

*(2) by inserting after paragraph (4) the following new paragraph:*

*"(5) NO ALTERNATIVE PROVIDERS IN AREA.—In the case of a designated health service furnished in any area with respect to which the Secretary determines that individuals residing in the area do not have reasonable access to such a designated health service for which subsection (a)(1) does not apply.".*

*(f) NEW EXCEPTION FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8201(b)(3)(C), subsection (d)(1), and subsection (e)(1), is amended—*

*(1) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10); and*

*(2) by inserting after paragraph (5) the following new paragraph:*

*"(6) SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—In the case of a designated health service furnished in an ambulatory surgical center described in section 1832(a)(2)(F)(i).".*

*(g) NEW EXCEPTION FOR SERVICES FURNISHED IN RENAL DIALYSIS FACILITIES.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8201(b)(3)(C), sub-*

*section (d)(1), subsection (e)(1), and subsection (f), is amended—*

*(1) by redesignating paragraphs (7) through (10) as paragraphs (8) through (11); and*

*(2) by inserting after paragraph (6) the following new paragraph:*

*"(7) SERVICES FURNISHED IN RENAL DIALYSIS FACILITIES.—In the case of a designated health service furnished in a renal dialysis facility under section 1881.".*

*(h) NEW EXCEPTION FOR SERVICES FURNISHED IN A HOSPICE.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8201(b)(3)(C), subsection (d)(1), subsection (e)(1), subsection (f), and subsection (g), is amended—*

*(1) by redesignating paragraphs (8) through (11) as paragraphs (9) through (12); and*

*(2) by inserting after paragraph (7) the following new paragraph:*

*"(8) SERVICES FURNISHED BY A HOSPICE PROGRAM.—In the case of a designated health service furnished by a hospice program under section 1861(dd)(2).".*

*(i) NEW EXCEPTION FOR SERVICES FURNISHED IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACIL-*

*ITY.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8201(b)(3)(C), subsection (d)(1), subsection (e)(1), subsection (f), subsection (g), and subsection (h), is amended—*

*(1) by redesignating paragraphs (9) through (12) as paragraphs (10) through (13); and*

*(2) by inserting after paragraph (8) the following new paragraph:*

*"(9) SERVICES FURNISHED IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY.—In the case of a designated health service furnished in a comprehensive outpatient rehabilitation facility (as defined in section 1861(cc)(2)).".*

*(j) DEFINITION OF REFERRAL.—Section 1877(h)(5)(A) (42 U.S.C. 1395nn(h)(5)(A)) is amended—*

*(1) by striking "an item or service" and inserting "a designated health service", and*

*(2) by striking "the item or service" and inserting "the designated health service".*

***SEC. 8205. EFFECTIVE DATE.***

*Except as provided in section 8203(b), the amendments made by this subtitle shall apply to referrals made on or after the date of the enactment of this Act, regardless of whether or not regulations are promulgated to carry out such amendments.*

## *Subtitle D—Modification in Payment Policies Regarding Graduate Medical Education*

***SEC. 8301. INDIRECT MEDICAL EDUCATION PAYMENTS.***

*(a) MULTIYEAR TRANSITION REGARDING PERCENTAGES; 6.7 FOR 1996 TO 5.0 FOR 2001 AND AFTERWARDS.—Section 1886(D)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) us amended to read as follows:*

*"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor is equal to c × (((1+r) to the nth power)−1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equal .405. For discharges occurring on or after—*

*"(I) May 1, 1986, and before October 1, 1995, 'c' is equal to 1.89;*

*"(II) October 1, 1995, and before October 1, 1996, 'c' is equal to 1.654;*

*"(III) October 1, 1996, and before October 1, 1998, 'c' is equal to 1.481;*

*"(IV) October 1, 1998, and before October 1, 1999, 'c' is equal to 1.383;*

*"(V) October 1, 1999, and before October 1, 2000, 'c' is equal to 1.309; and*

*"(VI) October 1, 2000, 'c' is equal to 1.235.".*

*(b) NO RESTANDARDIZATION OF PAYMENT AMOUNTS REQUIRED.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by striking "of 1985" and inserting "of 1985, but not taking into account the amendments made by section 8301(a) of Medicate Preservation Act of 1995".*

***SEC. 8302. DIRECT GRADUATE MEDICAL EDUCATION.***

*(a) WEIGHTING FACTORS FOR RESIDENTS.—*

*(1) IN GENERAL.—Section 1886(h)(4)(C)(iv) (42 U.S.C. 1395ww(h)(4)(C)(iv)) is amended by striking "50" and inserting "0.25".*

*(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to cost reporting periods beginning on or after October 1, 1997.*

*(b) LIMITATION ON AGGREGATE NUMBER OF FULL-TIME RESIDENTS.—*

*Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding at the end the following new subparagraph:*

*"(F) ADJUSTMENTS FOR CERTAIN FISCAL YEARS IN PAYMENTS FOR PROGRAMS IN ALLOPATHIC AND OSTEOPATHIC MEDICINE.—*

*"(i) IN GENERAL.—With respect to a cost reporting period, the Secretary shall in accordance with clause (ii) adjust the payments for approved medical residency training programs in the fields of allopathic medicine and osteopathic medicine if, in the fiscal year in which such cost reporting period begins, the number of full-time-equivalent residents determined under this paragraph with respect to all such programs exceeds the number of full-time-equivalent residents determined with respect to all such programs as of August 1, 1995.*

*"(ii) ADJUSTMENT DESCRIBED.—Adjustments under clause (i) shall be made with respect to cost reporting periods such that the total amount of payments under this subsection for the fiscal year involved does not exceed the amount that would have been paid under this subsection for such year if the number of full-time-equivalent residents determined under clause (i) for the year had not exceeded the number of full-time-equivalent residents with respect to all such programs as of August 1, 1995.*

*"(iii) HOLD HARMLESS.—The Secretary may provide that approved medical residency*

*training programs that reduced or did not expand the number of full-time-equivalent residents determined under this paragraph for a cost reporting period shall not be subject to the adjustment described in clause (i).*

*"(iv) EFFECTIVE DATE.—The adjustment described in clause (i) shall apply with respect to cost reporting periods beginning on or after October 1, 1995, and on or before September 30, 2002.".*

# Subtitle E—Provisions Relating to Part A

## CHAPTER 1—GENERAL PROVISIONS RELATING TO PART A

### SEC. 8401. PPS HOSPITAL PAYMENT UPDATE.

*Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended by striking subclauses (XI), (XII), and (XIII) and inserting the following new subclauses:*

*"(XI) for fiscal year 1996 for hospitals in all areas, the market basket percentage increase minus 2.5 percentage points,*

*"(XII) for fiscal years 1997 through 2002 for hospitals in all areas, the market basket percentage increase minus 2.0 percentage points, and*

*"(XIII) for fiscal year 2003 and each subsequent fiscal year for hospitals in all areas, the market basket percentage increase.".*

***SEC. 8402. PPS-EXEMPT HOSPITAL PAYMENTS.***

*(a) UPDATE.—*

*(1) IN GENERAL.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—*

*(A) in subclause (V)—*

*(i) by striking "1997" and inserting "1995", and*

*(ii) by striking "and" at the end,*

*(B) by redesignating subclause (VI) as subclause (VII); and*

*(C) by inserting after subclause (V), the following subclause:*

*"(VI) except as provided in clause (vi), for fiscal years 1996 through 2002, the market basket percentage increase minus the applicable reduction (as defined in clause (vii)(II)); and".*

*(2) SPECIAL RULES FOR CERTAIN HOSPITALS.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)))*

*is amended by adding at the end the following new clause:*

*"(vi) For purposes of clause (ii)(VI), the 'applicable percentage increase' for a hospital—*

*"(I) for a fiscal year for which the hospital's update adjustment percentage (as defined in clause (vii)(I)) is at least 10 percent, is the market basket percentage increase, and*

*"(II) for which 150 percent of the hospital's allowable operating costs of inpatient hospital services recognized under this title for the most recent cost reporting period for which information is available is less than the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, is 0 percent.".*

*(3) DEFINITIONS.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)), as amended by paragraph (2), is amended by adding at the end the following new clause:*

*"(vii) For purposes of clauses (ii)(VI) and (vi)—*

*"(I) a hospital's 'update adjustment percentage' for a fiscal year is the percentage by which the hospital's allowable operating costs of inpatient hospital services recognized under this title for the most recent cost reporting period for which information is avail-*

*able exceeds the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, and*

*"(II) the 'applicable reduction' with respect to a hospital for a fiscal year is 2.5 percentage points, reduced by 0.25 percentage point for each percentage point (if any) the hospital's update adjustment percentage for the fiscal year is less than 10 percentage points.".*

*(3) EFFECT OF PAYMENT REDUCTION ON EXCEPTIONS AND ADJUSTMENTS.—Section 1886(b)(4)(A)(ii) (42 U.S.C. 1395ww(b)(4)(A)(ii)) is amended by striking "paragraph (3)(B)(ii)(V)" and inserting "subclause (V) or (VI) of paragraph (3)(B)(ii)".*

*(b) TARGET AMOUNTS FOR REHABILITATION HOSPITALS AND LONG-TERM CARE HOSPITALS.—Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—*

*(1) in subparagraph (A), in the matter preceding clause (i), by striking "and (E)" and inserting "(E), (F), and (G)"; and*

*(2) by adding at the end the following new subparagraphs:*

*"(F) In the case of a rehabilitation hospital (or unit thereof) (as described in clause (ii) of subsection (d)(1)(B)),*

*for cost reporting periods beginning on or after October 1, 1995,—*

*"(i) in the case of a hospital which first receives payments under this section before October 1, 1995, the target amount determined under subparagraph (A) for such hospital or unit for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts determined under this paragraph for all such hospitals for cost reporting periods beginning during such fiscal year (determined without regard to this subparagraph); and*

*"(ii) in the case of a hospital which first receives payments under this section on or after October 1, 1995, such target amount may not be greater than 130 percent of the national mean of the target amounts for such hospitals (and units thereof) for cost reporting periods beginning during fiscal year 1991.*

*"(G) In the case of a hospital which has an average inpatient length of stay of greater than 25 days (as described in clause (iv) of subsection (d)(1)(B)), for cost reporting periods beginning on or after October 1, 1995—*

*"(i) in the case of a hospital which first receives payments under this section as a hospital that is not a subsection (d) hospital or a subsection (d) Puerto*

*Rico hospital before October 1, 1995, the target amount determined under subparagraph (A) for such hospital for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts determined under such subparagraph for all such hospitals for cost reporting periods beginning during such fiscal year (determined without regard to this subparagraph); and*

*"(ii) in the case of any other hospital which first receives payment under this section as a hospital described in clause (i) on or after October 1, 1995, such target amount may not be greater than 130 percent (or, if the Secretary determines it is appropriate, such alternative percentage based on case-mix and DRG category) of such national mean of the target amounts for such hospitals for cost reporting periods beginning during fiscal year 1991.".*

*(c) REBASING FOR CERTAIN LONG-TERM CARE HOSPITALS.—*

*(1) IN GENERAL.—Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)), as amended by subsection (b), is amended—*

*(A) in subparagraph (A) in the matter preceding clause (i), by striking "and (G)" and inserting "(G), and (H)";*

*(B) in subparagraph (B)(ii), by striking "(A) and (E)" and inserting "(A), (E), and (G)"; and*

*(C) by adding at the end the following new subparagraph:*

*"(H)(i) In the case of a qualified long-term care hospital (as defined in clause (ii)), the term 'target amount' means—*

*"(I) with respect to the first 12-month cost reporting period in which this subparagraph is applied to the hospital, the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital for the 12-month cost reporting period beginning during fiscal year 1994; or*

*"(II) with respect to a later cost reporting period, the target amount for the preceding cost reporting period, increased by the applicable percentage increase under subparagraph (B)(ii) for that later cost reporting period.*

*"(ii) In clause (i), a 'qualified long-term care hospital' means, with respect to a cost reporting period, a hospital*

*described in clause (iv) of subsection (d)(1)(B) during fiscal year 1995 for which the hospital's allowable operating costs of inpatient hospital services recognized under this title for each of the two most recent previous 12-month cost reporting periods exceeded 115 percent of the hospital's target amount determined under this paragraph for such cost reporting periods, if the hospital has a disproportionate patient percentage during such cost reporting period (as determined by the Secretary under subsection (d)(5)(F)(vi) as if the hospital were a subsection (d) hospital) of at least 70 percent.".*

*(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring during cost reporting periods beginning on or after October 1, 1995.*

*(d) TREATMENT OF CERTAIN LONG-TERM CARE HOSPITALS LOCATED WITHIN OTHER HOSPITALS.—*

*(1) IN GENERAL.—Section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) is amended in the matter following clause (v) by striking the period and inserting the following: ", or a hospital classified by the Secretary as a long-term care hospital on or before September 30, 1995, and located in the same building as, or on the same campus as, another hospital.".*

*(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring on or after October 1, 1995.*

*(e) CAPITAL PAYMENTS FOR PPS-EXEMPT HOSPITALS.—Section 1886(g) (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:*

*"(4) In determining the amount of the payments that may be made under this title with respect to all the capital-related costs of inpatient hospital services furnished during fiscal years 1996 through 2002 of a hospital which is not a subsection (d) hospital or a subsection (d) Puerto Rico hospital, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 10 percent.".*

***SEC. 8403. REDUCTIONS IN DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS.***

*(a) IN GENERAL.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended—*

*(1) in clause (ii), by striking "The amount" and inserting "Subject to clause (ix), the amount"; and*

*(2) by adding at the end the following new clause:*

*"(ix) In the case of discharges occurring on or after October 1, 1995, the additional payment amount otherwise determined under clause (ii) shall be reduced as follows:*

*"(I) For discharges occurring on or after October 1, 1995, and on or before September 30, 1996, by 5 percent.*

*"(II) For discharges occurring on or after October 1, 1996, and on or before September 30, 1997, by 10 percent.*

*"(III) For discharges occurring on or after October 1, 1997, and on or before September 30, 1998, by 17.5 percent.*

*"(IV) For discharges occurring on or after October 1, 1998, and on or before September 30, 1999, by 25 percent.*

*"(V) For discharges occurring on or after October 1, 1999, and on or before September 30, 2002, by 30 percent.".*

*(b) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNTS.—Section 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)) is amended by striking the period at the end and inserting the following: ", and the Secretary shall not take into account any reductions in the amount of such additional payments resulting from the amendments made by section 8403(a) of the Medicare Preservation Act of 1995.".*

*(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to discharges occurring on or after October 1, 1995.*

**SEC. 8404. CAPITAL PAYMENTS FOR PPS HOSPITALS.**

*(a) REDUCTION IN PAYMENTS.—*

*(1) CONTINUATION OF CURRENT REDUCTIONS.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended in the second sentence—*

*(A) by striking "through 1995" and inserting "through 2002"; and*

*(B) by inserting after "10 percent reduction" the following: "(or a 15 percent reduction in the case of payments during fiscal years 1996 through 2002)".*

*(2) REDUCTION IN BASE PAYMENT RATES.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following new sentence: "In addition to the reduction described in the preceding sentence, for discharges occurring after September 30, 1995, the Secretary shall reduce by 7.47 percent the unadjusted standard Federal capital payment rate (as described in 42 CFR 412.308(c), as in effect on the date of the enactment of the Medicare Preservation Act of 1995) and shall reduce by 8.27 percent the unadjusted hospital-specific rate (as de-*

*scribed in 42 CFR 412.328(e)(1), as in effect on such date of enactment).".*

*(b) HOSPITAL-SPECIFIC ADJUSTMENT FOR CAPITAL-RELATED TAX COSTS.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended—*

*(1) by redesignating subparagraph (C) as subparagraph (D), and*

*(2) by inserting after subparagraph (B) the following subparagraph:*

*"(C)(i) For discharges occurring after September 30, 1995, such system shall provide for an adjustment in an amount equal to the amount determined under clause (iv) for capital-related tax costs for each hospital that is eligible for such adjustment.*

*"(ii) Subject to clause (iii), a hospital is eligible for an adjustment under this subparagraph, with respect to discharges occurring in a fiscal year, if the hospital—*

*"(I) is a hospital that may otherwise receive payments under this subsection,*

*"(II) is not a public hospital, and*

*"(III) incurs capital-related tax costs for the fiscal year.*

*"(iii)(I) In the case of a hospital that first incurs capital-related tax costs in a fiscal year after fiscal year 1992 because of a change from nonproprietary to proprietary status or because the hospital commenced operation after such fiscal year, the first fiscal year for which the hospital shall be eligible for such adjustment is the second full fiscal year following the fiscal year in which the hospital first incurs such costs.*

*"(II) In the case of a hospital that first incurs capital-related tax costs in a fiscal year after fiscal year 1992 because of a change in State or local tax laws, the first fiscal year for which the hospital shall be eligible for such adjustment is the fourth full fiscal year following the fiscal year in which the hospital first incurs such costs.*

*"(iv) The per discharge adjustment under this clause shall be equal to the hospital-specific capital-related tax costs per discharge of a hospital for fiscal year 1992 (or, in the case of a hospital that first incurs capital-related tax costs for a fiscal year after fiscal year 1992, for the first full fiscal year for which such costs are incurred), updated to the fiscal year to which the*

*adjustment applies. Such per discharge adjustment shall be added to the Federal capital rate, after such rate has been adjusted as described in 42 CFR 412.312 (as in effect on the date of the enactment of the Medicare Preservation Act of 1995), and before such rate is multiplied by the applicable Federal rate percentage.*

*"(v) For purposes of this subparagraph, capital-related tax costs include—*

*"(I) the costs of taxes on land and depreciable assets owned by a hospital and used for patient care,*

*"(II) payments in lieu of such taxes (made by hospitals that are exempt from taxation), and*

*"(III) the costs of taxes paid by a hospital as lessee of land, buildings, or fixed equipment from a lessor that is unrelated to the hospital under the terms of a lease that requires the lessee to pay all expenses (including mortgage, interest, and amortization) and leaves the lessor with an amount free of all claims (sometimes referred to as a 'net net net' or 'triple net' lease).*

*In determining the adjustment required under clause (i), the Secretary shall not take into account any capital-related tax costs of a hospital to the extent that such costs are based on tax rates and assessments that exceed those for similar commercial properties.*

*"(vi) The system shall provide that the Federal capital rate for any fiscal year after September 30, 1995, shall be reduced by a percentage sufficient to ensure that the adjustments required to be paid under clause (i) for a fiscal year neither increase nor decrease the total amount that would have been paid under this system but for the payment of such adjustments for such fiscal year.".*

*(d) REVISION OF EXCEPTIONS PROCESS UNDER PROSPECTIVE PAYMENT SYSTEM FOR CERTAIN PROJECTS.—*

*(1) IN GENERAL.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)), as amended by subsection (c), is amended—*

*(A) by redesignating subparagraph (D) as subparagraph (E), and*

*(B) by inserting after subparagraph (C) the following subparagraph:*

*"(D) The exceptions under the system provided by the Secretary under subparagraph (B)(iii) shall include the provision of exception payments under the special exceptions process provided under 42 CFR 412.348(g) (as in effect on September 1, 1995), except that the Secretary shall revise such process as follows:*

*"(i) A hospital with at least 100 beds which is located in an urban area shall be eligible under such process without regard to its disproportionate patient percentage under subsection (d)(5)(F) or whether it qualifies for additional payment amounts under such subsection.*

*"(ii) The minimum payment level for qualifying hospitals shall be 85 percent.*

*"(iii) A hospital shall be considered to meet the requirement that it completes the project involved no later than the end of the hospital's last cost reporting period beginning after October 1, 2001, if—*

*"(I) the hospital has obtained a certificate of need for the project approved by the State or a local planning authority by September 1, 1995, and*

*"(II) by September 1, 1995, the hospital has expended on the project at least $750,000 or 10 percent of the estimated cost of the project.*

*"(iv) Offsetting amounts, as described in 42 CFR 412.348(g)(8)(ii), shall apply except that subparagraph (B) of such section shall be revised to require that the additional payment that would otherwise be payable for the cost reporting period shall be reduced by the amount (if any) by which the hospital's current year medicare capital payments (excluding, if applicable, 75 percent of the hospital's capital-related disproportionate share payments) exceeds its medicare capital costs for such year.".*

*(2) LIMIT TO ADDITIONAL PAYMENTS.—The amendment made by paragraph (1) shall not result in aggregate additional payments under the special exception process described in section 1886(b)(1)(D) for fiscal years 1996 through 2000 in excess of an amount equal to the sum of $50,000,000 per year more than would have been paid in such fiscal years if such amendment had not been enacted.*

*(3) CONFORMING AMENDMENT.—Section 1886(g)(1)(B)(iii) (42 U.S.C. 1395ww(g)(1)(B)(iii)) is amended by striking "may provide" and inserting "shall provide (in accordance with subparagraph (D)".*

***SEC. 8405. REDUCTION IN PAYMENTS TO HOSPITALS FOR ENROLLEES' BAD DEBTS.***

*(a) IN GENERAL.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:*

*"(T)(i) In determining such reasonable costs for hospitals, the amount of bad debts otherwise treated as allowable costs which are attributable to the deductibles and coinsurance amounts under this title shall be reduced by—*

*"(I) 75 percent for cost reporting periods beginning during fiscal year 1996,*

*"(II) 60 percent for cost reporting periods beginning during fiscal year 1997, and*

*"(III) 50 percent for subsequent cost reporting periods.*

*"(ii) Clause (i) shall not apply with respect to bad debt of a hospital described in section 1886(d)(1)(B)(iv) if the debt is attributable to uncollectable deductible and coinsurance payments owed by individuals enrolled in a State plan under title XIX or under the MediGrant program under title XXI.".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to hospital cost reporting periods beginning on or after October 1, 1995.*

***SEC. 8406. INCREASE IN UPDATE FOR CERTAIN HOSPITALS WITH A HIGH PROPORTION OF MEDICARE PATIENTS.***

*Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)), as amended by subsections (b) and (c)(1) of section 8402, is amended by adding at the end the following new subparagraph:*

*"(I)(i) For purposes of subsection (d), in the case of a medicare-dependent hospital described in clause (ii), the applicable percentage increase otherwise determined under subparagraph (B)(i) shall be increased by—*

*"(I) 0.5 percentage points for discharges occurring during cost reporting periods beginning during fiscal year 1996, and*

*"(II) 0.3 percentage points for discharges occurring during cost reporting periods beginning during fiscal year 1997.*

*"(ii) A hospital described in this clause with respect to a cost reporting period is a subsection (d) hospital meeting the following requirements:*

*"(I) Not less than 60 percent of the hospital's inpatient days during the most recent cost reporting period for which data is available were attributable to inpatients entitled to benefits under part A.*

*"(II) The hospital does not receive any additional payment amount under subsection (d)(5)(F)*

*(relating to payments for hospitals serving a disproportionate number of low-income patients) with respect to discharges occurring during the fiscal year.*

*"(III) The hospital does not receive any additional payment amount under subsection (d)(5)(B) (relating to payment for the indirect costs of medical education) or subsection (h) (relating to payment for direct medical education costs).*

*"(IV) In the case of a hospital located in a rural area, the hospital has more than 100 beds.".*

## *CHAPTER 2—PAYMENTS TO SKILLED NURSING FACILITIES*

### *Subchapter A—Prospective Payment System*

#### *SEC. 8410. PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES.*

*Title XVIII (42 U.S.C. 1395 et seq.) is amended by adding the following new section after section 1888:*

*"PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES*

*"SEC. 1889. (a) ESTABLISHMENT OF SYSTEM.—Notwithstanding any other provision of this title, the Secretary shall establish a prospective payment system under which fixed payments for episodes of care shall be made, instead of payments determined under section 1861(v), section 1888, or section 1888A, to skilled nursing facilities for all extended care services furnished during the benefit period*

*established under section 1812(a)(2). Such payments shall constitute payment for capital costs and all routine and non-routine service costs covered under this title that are furnished to individuals who are inpatients of skilled nursing facilities during such benefit period, except for physicians' services. The payment amounts shall vary depending on case-mix, patient acuity, and such other factors as the Secretary determines are appropriate. The prospective payment system shall apply for cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1997.*

*"(b) 90 PERCENT OF LEVELS OTHERWISE IN EFFECT.—The Secretary shall establish the prospective payment amounts under subsection (a) at levels such that, in the Secretary's estimation, the amount of total payments under this title shall not exceed 90 percent of the amount of payments that would have been made under this title for all routine and non-routine services and capital expenditures if this section had not been enacted.*

*"(c) ADJUSTMENT IN RATES TO TAKE INTO ACCOUNT BENEFICIARY COST-SHARING.—The Secretary shall reduce the prospective payment rates established under this section to take into account the beneficiary coinsurance amount required under section 1813(a)(3).".*

## *Subchapter B—Interim Payment System*

### *SEC. 8411. PAYMENTS FOR ROUTINE SERVICE COSTS.*

*(a) CLARIFICATION OF DEFINITION OF ROUTINE SERVICE COSTS.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:*

*"(e) For purposes of this section, the 'routine service costs' of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services subject to payment amounts under section 1888A.".*

*(b) CONFORMING AMENDMENT.—Section 1888 (42 U.S.C. 1395yy) is amended in the heading by inserting "AND CERTAIN ANCILLARY" after "SERVICE".*

### *SEC. 8412. COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES.*

*(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.) is amended by inserting after section 1888 the following new section:*

*"COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES*

*"SEC. 1888A. (a) DEFINITIONS.—For purposes of this section:*

*"(1) COVERED NON-ROUTINE SERVICES.—The term 'covered non-routine services' means post-hos-*

*pital extended care services consisting of any of the following:*

*"(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy, including supplies and support services directly related to such services and therapy.*

*"(B) Prescription drugs.*

*"(C) Complex medical equipment.*

*"(D) Intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment).*

*"(E) Radiation therapy.*

*"(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.*

*"(2) SNF MARKET BASKET PERCENTAGE INCREASE.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage equal to input price changes in routine service costs for the year under section 1888(a).*

*"(3) STAY.—The term 'stay' means, with respect to an individual who is a resident of a skilled nursing facility, a period of continuous days during*

*which the facility provides extended care services for which payment may be made under this title for the individual during the individual's spell of illness.*

*"(b) NEW PAYMENT METHOD FOR COVERED NON-ROUTINE SERVICES BEGINNING IN FISCAL YEAR 1996.—*

*"(1) IN GENERAL.—The payment method established under this section shall apply with respect to covered non-routine services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1995.*

*"(2) INTERIM PAYMENTS.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished to an individual during cost reporting periods (or portions of cost reporting periods) described in paragraph (1) in an amount equal to the reasonable cost of providing such services in accordance with section 1861(v). The Secretary may adjust such payments if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this paragraph for a cost reporting period would substantially exceed the cost reporting period amount determined under subsection (c)(2).*

*"(3) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—*

*"(A) CLARIFICATION RELATING TO PART A BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part A (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).*

*"(B) PART B BILLING.—In the case of a covered non-routine service other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is not entitled to coverage under section 1812(a)(2) for such service but is entitled to coverage under part B for such service, the skilled nursing facility shall*

*submit a claim for payment under this title for such service under part B (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise). This subparagraph shall not apply to physician's services furnished by a physician (as defined in section 1861(r)(1)) to a resident of a skilled nursing facility if such services are not covered non-routine services (as defined in section 1888A(a)(1)) or services for which routine service costs (as defined in section 1888(e)) are determined.*

*"(C) MAINTAINING RECORDS ON SERVICES FURNISHED TO RESIDENTS.—Each skilled nursing facility receiving payments for extended care services under this title shall document on the facility's cost report all covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A or B (including a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) during a fiscal*

*year (beginning with fiscal year 1996) (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).*

*"(c) NO PAYMENT IN EXCESS OF PRODUCT OF PER STAY AMOUNT AND NUMBER OF STAYS.—*

*"(1) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in excess of an amount equal to the cost reporting period amount determined under paragraph (2), the Secretary shall reduce the payments made to the facility with respect to such services for cost reporting periods beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirement of this subparagraph.*

*"(2) COST REPORTING PERIOD AMOUNT.—The cost reporting period amount determined under this subparagraph is an amount equal to the product of—*

*"(A) the per stay amount applicable to the facility under subsection (d) for the period; and*

*"(B) the number of stays beginning during the period for which payment was made to the facility for such services.*

*"(3) PROSPECTIVE REDUCTION IN PAYMENTS.—In addition to the process for reducing payments described in paragraph (1), the Secretary may reduce payments made to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period amount for the period determined under this paragraph.*

*"(d) DETERMINATION OF FACILITY PER STAY AMOUNT.—*

*"(1) AMOUNT FOR FISCAL YEAR 1996.—*

*"(A) IN GENERAL.—*

*"(i) ESTABLISHMENT.—Except as provided in subparagraph (B) and clause (ii), the Secretary shall establish a per stay amount for each nursing facility for the 12-month cost reporting period beginning during fiscal year 1996 that is the facility-spe-*

*cific stay amount for the facility (as determined under subsection (e)) for the last 12-month cost reporting period ending on or before December 31, 1994, increased (in a compounded manner) by the SNF market basket percentage increase (as defined in subsection (a)(2)) for each fiscal year through fiscal year 1996.*

*"(ii) ADJUSTMENT IF IMPLEMENTATION DELAYED.—If the amount under clause (i) is not established prior to the cost reporting period described in clause (i), the Secretary shall adjust such amount for stays after such amount is established in such a manner so as to recover any amounts in excess of the amounts which would have been paid for stays before such date if the amount had been in effect for such stays.*

*"(B) FACILITIES NOT HAVING 1994 COST REPORTING PERIOD.—In the case of a skilled nursing facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before December 31, 1994, the per stay*

*amount for the 12-month cost reporting period beginning during fiscal year 1996 shall be the average of all per stay amounts determined under subparagraph (A).*

*"(2) AMOUNT FOR FISCAL YEAR 1997 AND SUBSEQUENT FISCAL YEARS.—The per stay amount for a skilled nursing facility for a 12-month cost reporting period beginning during a fiscal year after 1996 is equal to the per stay amount established under this subsection for the 12-month cost reporting period beginning during the preceding fiscal year (without regard to any adjustment under paragraph (1)(A)(ii)), increased by the SNF market basket percentage increase for such subsequent fiscal year minus 2.0 percentage points.*

*"(e) DETERMINATION OF FACILITY-SPECIFIC STAY AMOUNTS.—The 'facility-specific stay amount' for a skilled nursing facility for a cost reporting period is—*

*"(1) the sum of—*

*"(A) the amount of payments made to the facility under part A during the period which are attributable to covered non-routine services furnished during a stay; and*

*"(B) the Secretary's best estimate of the amount of payments made under part B during*

*the period for covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary; divided by*

*"(2) the average number of days per stay for all residents of the skilled nursing facility receiving extended care services furnished during the benefit period established under section 1812(a)(2).*

*"(f) INTENSIVE NURSING OR THERAPY NEEDS.—*

*"(1) IN GENERAL.—In applying subsection (b) to covered non-routine services furnished during a stay beginning during a cost reporting period to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay amount for such resident shall be the per stay amount developed under paragraph (2) instead of the per stay amount determined under subsection (d)(1)(A).*

*"(2) PER STAY AMOUNT FOR INTENSIVE NEED RESIDENTS.—Upon the implementation of the pay-*

*ment method established under this section, the Secretary, after consultation with the Medicare Payment Review Commission and skilled nursing facility experts, shall develop and publish a per stay amount for residents of a skilled nursing facility who require intensive nursing or therapy services..*

*"(3) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).*

*"(g) EXCEPTIONS AND ADJUSTMENTS TO AMOUNTS.—*

*"(1) IN GENERAL.—The Secretary may make exceptions and adjustments to the cost reporting period amounts applicable to a skilled nursing facility under subsection (c)(2) for a cost reporting period, except that the total amount of any additional payments made under this section for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to this paragraph).*

*"(2) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).*

*"(h) SPECIAL TREATMENT FOR MEDICARE LOW VOLUME SKILLED NURSING FACILITIES.—The Secretary shall determine an appropriate manner in which to apply this section, taking into account the purposes of this section, to non-routine costs of a skilled nursing facility for which payment is made for routine service costs during a cost reporting period on the basis of prospective payments under section 1888(d).*

*"(i) SPECIAL RULE FOR X-RAY SERVICES.—Before furnishing a covered non-routine service consisting of an X-ray service for which payment may be made under part A or part B to a resident, a skilled nursing facility shall consider whether furnishing the service through a provider of portable X-ray service services would be appropriate, taking into account the cost effectiveness of the service and the convenience to the resident.*

*"(j) MAINTAINING SAVINGS FROM PAYMENT SYSTEM.—The prospective payment system established under*

*section 1889 shall reflect the payment methodology established under this section for covered non-routine services.".*

*(b) CONFORMING AMENDMENT.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "1813 and 1886" and inserting "1813, 1886, 1888, 1888A, and 1889".*

***SEC. 8413. PAYMENTS FOR ROUTINE SERVICE COSTS.***

*(a) MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES.—*

*(1) BASING UPDATES TO PER DIEM COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—*

*(A) IN GENERAL.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by adding at the end the following: "(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995).".*

*(B) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subparagraph (A) in making any adjustments pursuant to section 1888(c) of the Social Security Act.*

*(2) PAYMENTS TO LOW MEDICARE VOLUME SKILLED NURSING FACILITIES.—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995.*

*(b) BASING 1996 LIMITS ON NEW DEFINITION OF ROUTINE COSTS.—The Secretary of Health and Human Services shall take into account the new definition of routine service costs under section 1888(e) of the Social Security Act, as added by section 8411, in determining the routine per diem cost limits under section 1888(a) for fiscal year 1996 and each fiscal year thereafter.*

*(c) ESTABLISHMENT OF SCHEDULE FOR MAKING ADJUSTMENTS TO LIMITS.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended by striking the period at the end of the second sentence and inserting ", and may only make adjustments under this subsection with respect to a facility which applies for an adjustment during an annual application period established by the Secretary.".*

*(d) LIMITATION TO EXCEPTIONS PROCESS OF THE SECRETARY.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended—*

*(1) by striking "(c) The Secretary" and inserting "(c)(1) Subject to paragraph (2), the Secretary"; and*

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

*"(2) The Secretary may not make any adjustments under this subsection in the limits set forth in subsection (a) for a cost reporting period beginning during a fiscal year to the extent that the total amount of the additional payments made under this title as a result of such adjustments is greater than an amount equal to—*

*"(A) for cost reporting periods beginning during fiscal year 1996, the total amount of the additional payments made under this title as a result of adjustments under this subsection for cost reporting periods beginning during fiscal year 1994 increased (on a compounded basis) by the SNF market basket percentage increase (as defined in section 1888A(a)(2)) for each fiscal year; and*

*"(B) for cost reporting periods beginning during a subsequent fiscal year, the amount determined under this paragraph for the preceding fiscal year, increased by the SNF market basket percentage in-*

*crease (as defined in section 1888A(a)(2)) for each fiscal year.".*

*(e) MAINTAINING SAVINGS FROM PAYMENT SYSTEM.—The prospective payment system established under section 1889 of the Social Security Act, as added by section 8410, shall reflect the routine per diem cost limits under section 1888(a) of such Act.*

***SEC. 8414. REDUCTIONS IN PAYMENT FOR CAPITAL-RELATED COSTS.***

*(a) IN GENERAL.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 8405(a), is amended by adding at the end the following new subparagraph:*

*"(U) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of skilled nursing facilities, the Secretary shall reduce the amounts of such payments otherwise established under this title by 10 percent for payments attributable to portions of cost reporting periods occurring beginning in fiscal years 1996 through 2002.".*

*(b) MAINTAINING SAVINGS RESULTING FROM 10 PERCENT CAPITAL REDUCTION.—The prospective payment system established under section 1889 of the Social Security Act, as added by section 8410 of this Act, shall reflect the 10 percent reduction in payments for capital-related costs*

*of skilled nursing facilities as such reduction is in effect under section 1861(v)(1)(U) of the Social Security Act, as added by subsection (a).*

***SEC. 8415. TREATMENT OF ITEMS AND SERVICES PAID FOR UNDER PART B.***

*(a) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO FACILITY.—*

*(1) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—*

*(A) by striking "and (D)" and inserting "(D)"; and*

*(B) by striking the period at the end and inserting the following: ", and (E) in the case of an item or service (other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) furnished to an individual who (at the time the item or service is furnished) is a resident of a skilled nursing facility, payment shall be made to the facility (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise), except that this subparagraph shall not preclude a physician*

*(as defined in section 1861(r)(1)) from receiving payment for physician's services provided to a resident of a skilled nursing facility if such services are not covered non-routine services (as defined in section 1888A(a)(1)) or services for which routine service costs (as defined in section 1888(e)) are determined.".*

*(2) EXCLUSION FOR ITEMS AND SERVICES NOT BILLED BY FACILITY.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—*

*(A) by striking "or" at the end of paragraph (14);*

*(B) by striking the period at the end of paragraph (15) and inserting "; or"; and*

*(C) by inserting after paragraph (15) the following new paragraph:*

*"(16) where such expenses are for covered non-routine services (as defined in section 1888A(a)(1)) (other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) furnished to an individual who is a resident of a skilled nursing facility and for which the claim for payment under this title is not submitted by the facility.".*

*(3) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking "(2);" and inserting "(2) and section 1842(b)(6)(E);".*

*(b) REDUCTION IN PAYMENTS FOR ITEMS AND SERVICES FURNISHED BY OR UNDER ARRANGEMENTS WITH FACILITIES.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 8405(a) and section 8414(a), is amended by adding at the end the following new subparagraph:*

*"(V) In the case of an item or service furnished by a skilled nursing facility (or by others under arrangement with them made by a skilled nursing facility or under any other contracting or consulting arrangement or otherwise) for which payment is made under part B in an amount determined in accordance with section 1833(a)(2)(B), the Secretary shall reduce the reasonable cost for such item or service otherwise determined under clause (i)(I) of such section by 5.8 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1996 through 2002.".*

***SEC. 8416. MEDICAL REVIEW PROCESS.***

*In order to ensure that medicare beneficiaries are furnished appropriate extended care services, the Secretary of Health and Human Services shall establish and implement a thorough medical review process to examine the effects of*

*the amendments made by this subchapter on the quality of extended care services furnished to medicare beneficiaries. In developing such a medical review process, the Secretary shall place a particular emphasis on the quality of non-routine covered services for which payment is made under section 1888A of the Social Security Act.*

***SEC. 8417. REPORT BY MEDICARE PAYMENT REVIEW COMMISSION.***

*Not later than October 1, 1997, the Medicare Payment Review Commission shall submit to Congress a report on the system under which payment is made under the medicare program for extended care services furnished by skilled nursing facilities, and shall include in the report the following:*

*(1) An analysis of the effect of the methodology established under section 1888A of the Social Security Act (as added by section 8412) on the payments for, and the quality of, extended care services under the medicare program.*

*(2) An analysis of the advisability of determining the amount of payment for covered non-routine services of facilities (as described in such section) on the basis of the amounts paid for such services when furnished by suppliers under part B of the medicare program.*

*(3) An analysis of the desirability of maintaining separate routine cost-limits for hospital-based and freestanding facilities in the costs of extended care services recognized as reasonable under the medicare program.*

*(4) An analysis of the quality of services furnished by skilled nursing facilities.*

*(5) An analysis of the adequacy of the process and standards used to provide exceptions to the limits described in paragraph (3).*

*(6) An analysis of the effect of the prospective payment methodology established under section 1889 of the Social Security Act (as added by section 8410) on the payments for, and the quality of, extended care services under the medicare program, including an evaluation of the baseline used in establishing a system for payment for extended care services furnished by skilled nursing facilities.*

***SEC. 8418. EFFECTIVE DATE.***

*Except as otherwise provided in this subchapter, the amendments made by this subchapter shall apply to services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1995.*

## CHAPTER 3—OTHER PROVISIONS RELATING TO PART A

**SEC. 8421. PAYMENTS FOR HOSPICE SERVICES.**

*Section 1814(i)(1)(C)(ii) (42 U.S.C. 1395f(i)(1)(C)(ii)) is amended by striking subclauses (IV), (V), and (VI), and inserting the following subclauses:*

*"(IV) for fiscal years 1996 through 2002, the market basket percentage increase for the fiscal year minus 2.0 percentage points; and*

*"(V) for a subsequent fiscal year, the market basket percentage increase for the fiscal year.".*

**SEC. 8422. PERMANENT EXTENSION OF HEMOPHILIA PASS-THROUGH.**

*Effective as if included in the enactment of OBRA–1989, section 6011(d) of such Act (as amended by section 13505 of OBRA–1993) is amended by striking "and shall expire September 30, 1994".*

# Subtitle F—Provisions Relating to Part B

## CHAPTER 1—PAYMENT REFORMS

**SEC. 8501. PAYMENTS FOR PHYSICIANS' SERVICES.**

*(a) ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.—*

*(1) UPDATE.—*

*(A) IN GENERAL.—Section 1848(d)(3) (42 U.S.C. 1395w–4(d)(3)) is amended to read as follows:*

*"(3) UPDATE.—*

*"(A) IN GENERAL.—Unless Congress otherwise provides, subject to subparagraph (E), for purposes of this section the update for a year (beginning with 1997) is equal to the product of—*

*"(i) 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), and*

*"(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),*

*minus 1 and multiplied by 100.*

*"(B) UPDATE ADJUSTMENT FACTOR.—The 'update adjustment factor' for a year is equal to the quotient of—*

*"(i) the difference between (I) the sum of the allowed expenditures for physicians' services furnished during each of the years 1995 through the year involved and (II) the*

*sum of the amount of actual expenditures for physicians' services furnished during each of the years 1995 through the previous year; divided by*

*"(ii) the Secretary's estimate of allowed expenditures for physicians' services furnished during the year.*

*"(C) DETERMINATION OF ALLOWED EXPENDITURES.—For purposes of subparagraph (B), allowed expenditures for physicians' services shall be determined as follows (as estimated by the Secretary):*

*"(i) In the case of allowed expenditures for 1995, such expenditures shall be equal to actual expenditures for services furnished during the 12-month period ending with June 30, 1995.*

*"(ii) In the case of allowed expenditures for 1996 and each subsequent year, such expenditures shall be equal to allowed expenditures for the previous year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during the year.*

*"(D) DETERMINATION OF ACTUAL EXPENDITURES.—For purposes of subparagraph (B), the amount of actual expenditures for physicians' services furnished during a year shall be equal to the amount of expenditures for such services during the 12-month period ending with June of the previous year.*

*"(E) RESTRICTION ON VARIATION FROM MEDICARE ECONOMIC INDEX.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—*

*"(i) greater than 103 percent of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), minus 1 and multiplied by 100; or*

*"(ii) less than 93 percent of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), minus 1 and multiplied by 100.".*

*(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall apply to physicians' services furnished on or after January 1, 1997.*

*(2) CONFORMING AMENDMENTS.—(A) Section 1848(d)(2)(A) (42 U.S.C. 1395w–4(d)(2)(A)) is amended—*

*(i) in the matter preceding clause (i)—*

*(I) by striking "(or updates) in the conversion factor (or factors)" and inserting "in the conversion factor";*

*(II) by striking "(beginning with 1991)" and inserting "(beginning with 1996)"; and*

*(III) by striking the second sentence;*

*(ii) by amending clause (ii) to read as follows:*

*"(ii) such factors as enter into the calculation of the update adjustment factor as described in paragraph (3)(B); and";*

*(iii) by amending clause (iii) to read as follows:*

*"(iii) access to services.";*

*(iv) by striking clauses (iv), (v), and (vi); and*

*(v) by striking the last sentence.*

*(B) Section 1848(d)(2)(B) (42 U.S.C. 1395w–4(d)(2)(B)) is amended—*

*(i) by striking "and" at the end of clause (iii);*

*(ii) by striking the period at the end of clause (iv) and inserting "; and"; and*

*(iii) by adding at the end the following new clause:*

*"(v) changes in volume or intensity of services.".*

*(C) Section 1848(d)(2) (42 U.S.C. 1395w4–(d)(2)) is further amended—*

*(i) by striking subparagraphs (C), (D), and (E);*

*(ii) by redesignating subparagraph (F) as subparagraph (C); and*

*(iii) in subparagraph (C), as redesignated, by striking "(or updates) in the conversion factor (or factors)" and inserting "in the conversion factor".*

*(b) REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.—*

*(1) IN GENERAL.—Section 1848(f) (42 U.S.C. 1395w–4(f)) is amended by striking paragraphs (2) through (5) and inserting the following:*

*"(2) SPECIFICATION OF GROWTH RATE.—*

*"(A) FISCAL YEAR 1996.—The sustainable growth rate for all physicians' services for fiscal year 1996 shall be equal to the product of—*

*"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for 1996 (described in the fourth sentence of section 1842(b)(3)) (divided by 100),*

*"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from fiscal year 1995 to fiscal year 1996,*

*"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from fiscal year 1995 to fiscal year 1996, plus 2 percentage points, and*

*"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in*

*expenditures for all physicians' services in fiscal year 1996 (compared with fiscal year 1995) which will result from changes in law (including the Medicare Preservation Act of 1995), determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d),*

*minus 1 and multiplied by 100.*

*"(B) SUBSEQUENT FISCAL YEARS.—The sustainable growth rate for all physicians' services for fiscal year 1997 and each subsequent fiscal year shall be equal to the product of—*

*"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for the fiscal year involved (described in the fourth sentence of section 1842(b)(3)) (divided by 100),*

*"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan en-*

*rollees) from the previous fiscal year to the fiscal year involved,*

*"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, plus 2 percentage points, and*

*"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law (including changes made by the Secretary in response to section 1895), determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d)(3),*

*minus 1 and multiplied by 100.*

*"(3) DEFINITIONS.—In this subsection:*

*"(A) SERVICES INCLUDED IN PHYSICIANS' SERVICES.—The term 'physicians' services' in-*

*cludes other items and services (such as clinical diagnostic laboratory tests and radiology services), specified by the Secretary, that are commonly performed or furnished by a physician or in a physician's office, but does not include services furnished to a private plan enrollee.*

*"(B) PRIVATE PLAN ENROLLEE.—The term 'private plan enrollee' means, with respect to a fiscal year, an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through a MedicarePlus plan offered under part C or through enrollment with an eligible organization with a risk-sharing contract under section 1876.".*

*(2) CONFORMING AMENDMENTS.—Section 1848(f) (42 U.S.C. 1395w–4(f)) is amended—*

*(A) in the heading, by striking "VOLUME PERFORMANCE STANDARD RATES OF INCREASE" and inserting "SUSTAINABLE GROWTH RATE";*

*(B) in paragraph (1)—*

*(i) in the heading, by striking "VOLUME PERFORMANCE STANDARD RATES OF INCREASE" and inserting "SUSTAINABLE GROWTH RATE";*

*(ii) in subparagraph (A), in the matter preceding clause (i), by striking "performance standard rates of increase" and inserting "sustainable growth rate"; and*

*(iii) in subparagraph (A), by striking "HMO enrollees" each place such term appears and inserting "private plan enrollees";*

*(C) in subparagraph (B), by striking "performance standard rates of increase" and inserting "sustainable growth rate"; and*

*(D) in subparagraph (C)—*

*(i) in the heading, by striking "PERFORMANCE STANDARD RATES OF INCREASE" and inserting "SUSTAINABLE GROWTH RATE";*

*(ii) in the first sentence, by striking "with 1991), the performance standard rates of increase" and all that follows through the first period and inserting "with 1997), the sustainable growth rate for the fiscal year beginning in that year."; and*

*(iii) in the second sentence, by striking "January 1, 1990, the performance standard rate of increase under subparagraph*

*(D) for fiscal year 1990" and inserting "January 1, 1997, the sustainable growth rate for fiscal year 1997".*

*(c) ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1996.—*

*(1) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w–4(d)(1)) is amended—*

*(A) by redesignating subparagraph (C) as subparagraph (D); and*

*(B) by inserting after subparagraph (B) the following new subparagraph:*

*"(C) SPECIAL RULE FOR 1996.—For 1996, the conversion factor under this subsection shall be $35.42 for all physicians' services.".*

*(2) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4) is amended—*

*(A) by striking "(or factors)" each place it appears in subsection (d)(1)(A) and (d)(1)(D)(ii) (as redesignated by paragraph (1)(a));*

*(B) in subsection (d)(1)(A), by striking "or updates";*

*(C) in subsection (d)(1)(D)(ii) (as redesignated by paragraph (1)(a)), by striking "(or updates)"; and*

*(D) in subsection (i)(1)(C), by striking "conversion factors" and inserting "the conversion factor".*

***SEC. 8502. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.***

*(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—*

*(1) by striking "of 80 percent"; and*

*(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".*

*(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—*

*(1) by striking "of 80 percent"; and*

*(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after October 1, 1995.*

***SEC. 8503. EXTENSION OF REDUCTIONS IN PAYMENTS FOR COSTS OF HOSPITAL OUTPATIENT SERVICES.***

*(a) REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS.—Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking "through 1998" and inserting "through 2002".*

*(b) REDUCTION IN PAYMENTS FOR OTHER COSTS.—Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking "through 1998" and inserting "through 2002".*

***SEC. 8504. REDUCTION IN UPDATES TO PAYMENT AMOUNTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.***

*(a) CHANGE IN UPDATE.—Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is amended by striking "1994 and 1995" and inserting "1994 through 2002".*

*(b) LOWERING CAP ON PAYMENT AMOUNTS.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—*

*(1) in clause (vi), by striking "and" at the end;*

*(2) in clause (vii)—*

*(A) by inserting "and before January 1, 1997," after "1995,", and*

*(B) by striking the period at the end and inserting ", and"; and*

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

*"(viii) after December 31, 1996, is equal to 65 percent of such median.".*

***SEC. 8505. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT.***

*(a) REDUCTION IN PAYMENT AMOUNTS FOR ITEMS OF DURABLE MEDICAL EQUIPMENT.—*

*(1) FREEZE IN UPDATE FOR COVERED ITEMS.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—*

*(A) by striking "and" at the end of subparagraph (A);*

*(B) in subparagraph (B)—*

*(i) by striking "a subsequent year" and inserting "1993, 1994, and 1995", and*

*(ii) by striking the period at the end and inserting a semicolon; and*

*(C) by adding at the end the following:*

*"(C) for each of the years 1996 through 2002, 0 percentage points; and*

*"(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.".*

*(2) UPDATE FOR ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—*

*(A) by striking "and" at the end of clause (iii);*

*(B) by redesignating clause (iv) as clause (v); and*

*(C) by inserting after clause (iii) the following new clause:*

*"(iv) for each of the years 1996 through 2002, 1 percent, and".*

*(b) OXYGEN AND OXYGEN EQUIPMENT.—*

*(1) IN GENERAL.—Section 1834(a)(9)(C) (42 U.S.C. 1395m(a)(9)(C)) is amended—*

*(A) by striking "and" at the end of clause (iii);*

*(B) in clause (iv)—*

*(i) by striking "a subsequent year" and inserting "1993, 1994, and 1995", and*

*(ii) by striking the period at the end and inserting a semicolon; and*

*(C) by adding at the end the following new clauses:*

*"(v) in each of the years 1996 through 2002, is the national limited monthly pay-*

*ment rate computed under subparagraph (B) for the item for the year reduced by the applicable percentage described in subparagraph (D) (but in no case may the amount determined under this clause be less than 70 percent of such national limited payment rate); and*

*"(vi) in a subsequent year, is the national limited monthly payment rate computed under subparagraph (B) for the item for the year.".*

*(2) APPLICABLE PERCENTAGE DESCRIBED.—Section 1834(a)(9) (42 1395m(a)(9)) is amended by adding at the end the following new subparagraph:*

*"(D) APPLICABLE PERCENTAGE DESCRIBED.—In clause (v) of subparagraph (C), the 'applicable percentage' with respect to a year described in such clause is—*

*"(i) for 1996, 20 percent,*

*"(ii) for 1997, 21⅔ percent,*

*"(iii) for 1998, 23⅓ percent,*

*"(iv) for 1999, 25 percent,*

*"(v) for 2000, 26⅔ percent,*

*"(vi) for 2001, 28⅓ percent, and*

*"(vii) for 2002, 30 percent.".*

*(c) PAYMENT FREEZE FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT.—In determining the amount of payment under part B of title XVIII of the Social Security Act with respect to parenteral and enteral nutrients, supplies, and equipment during each of the years 1996 through 2002, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1993.*

***SEC. 8506. UPDATES FOR AMBULATORY SURGICAL SERVICES.***

*Section 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)) is amended—*

*(1) by striking "1996" and inserting "2003"; and*

*(2) by inserting before the first sentence the following new sentence: "Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), the Secretary shall not update amounts established under such subparagraphs for fiscal years 1996 through 2002."*

***SEC. 8507. PAYMENTS FOR AMBULANCE SERVICES.***

*Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 8405(a), section 8414(a), and section 8415(b),*

*is amended by adding at the end the following new subparagraph:*

*"(W) In determining the reasonable cost or charge of ambulance services for fiscal years 1996 through 2002, the Secretary shall not recognize any costs in excess of costs recognized as reasonable for fiscal year 1995.".*

***SEC. 8508. ENSURING PAYMENT FOR PHYSICIAN AND NURSE FOR JOINTLY FURNISHED ANESTHESIA SERVICES.***

*(a) PAYMENT FOR JOINTLY FURNISHED SINGLE CASE.—*

*(1) PAYMENT TO PHYSICIAN.—Section 1848(a)(4) (42 U.S.C. 1395w–4(a)(4)) is amended by adding at the end the following new subparagraph:*

*"(C) PAYMENT FOR SINGLE CASE.—Notwithstanding section 1862(a)(1)(A), with respect to physicians' services consisting of the furnishing of anesthesia services for a single case that are furnished jointly with a certified registered nurse anesthetist, if the carrier determines that the use of both the physician and the nurse anesthetist to furnish the anesthesia service was not medically necessary, the fee schedule amount for the physicians' services shall be equal to 50 per-*

*cent (or 55 percent, in the case of services furnished during 1996 or 1997) of the fee schedule amount applicable under this section for anesthesia services personally performed by the physician alone (without regard to this subparagraph). Nothing in this subparagraph may be construed to affect the application of any provision of law regarding balance billing.".*

*(2) PAYMENT TO CRNA.—Section 1833(l)(4)(B) (42 U.S.C. 1395l(l)(4)(B)) is amended by adding at the end the following new clause:*

*"(iv) Notwithstanding section 1862(a)(1)(A), in the case of services of a certified registered nurse anesthetist consisting of the furnishing of anesthesia services for a single case that are furnished jointly with a physician, if the carrier determines that the use of both the physician and the nurse anesthetist to furnish the anesthesia service was not medically necessary, the fee schedule amount for the services furnished by the certified registered nurse anesthetist shall be equal to 50 percent (or 40 percent, in the case of services furnished during 1996 or 1997) of the fee schedule amount applicable under section 1848 for anesthesia services personally performed by the physician alone (without regard to this clause).".*

*(b) EFFECTIVE DATE.—The amendments made by subsections (a) shall apply to services furnished on or after July 1, 1996.*

## *CHAPTER 2—PART B PREMIUM*

### *SEC. 8511. PROMOTING SOLVENCY OF PART A TRUST FUND THROUGH PART B PREMIUM.*

*(a) IN GENERAL.—Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—*

*(1) in subparagraph (A), by striking "1999" and inserting "2003", and*

*(2) by adding at the end the following new subparagraph:*

*"(C)(i) For each month beginning with January 1996 through December 2002, the amount of the monthly premium under this part shall be increased by an amount equal to 13 percent of the monthly actuarial rate for enrollees age 65 and over, as determined under subsection (a)(1) and applicable to such month.*

*"(ii) The Secretary shall transfer amounts received pursuant to clause (i) to the Federal Hospital Insurance Trust Fund.*

*"(iii) In applying section 1844(a), amounts attributable to clause (i) shall not be counted in determining the dollar amount of the premium per enrollee under paragraph (1)(A) or (1)(B).".*

*(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to premiums for months beginning with January 1996.*

***SEC. 8512. INCOME-RELATED REDUCTION IN MEDICARE SUBSIDY.***

*(a) IN GENERAL.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following:*

*"(h)(1) Notwithstanding the previous subsections of this section, in the case of an individual whose modified adjusted gross income for a taxable year ending with or within a calendar year (as initially determined by the Secretary in accordance with paragraph (3)) exceeds the threshold amount described in paragraph (5)(B), the Secretary shall increase the amount of the monthly premium for months in the calendar year by an amount equal to the difference between—*

*"(A) 200 percent of the monthly actuarial rate for enrollees age 65 and over as determined under subsection (a)(1) for that calendar year; and*

*"(B) the total of the monthly premiums paid by the individual under this section (determined without regard to subsection (b)) during such calendar year.*

*"(2) In the case of an individual described in paragraph (1) whose modified adjusted gross income exceeds the threshold amount by less than $50,000, the amount of the*

*increase in the monthly premium applicable under paragraph (1) shall be an amount which bears the same ratio to the amount of the increase described in paragraph (1) (determined without regard to this paragraph) as such excess bears to $50,000. In the case of a joint return filed under section 6013 of the Internal Revenue Code of 1986 by spouses both of whom are enrolled under this part, the previous sentence shall be applied by substituting '$60,000' for '$50,000'. The preceding provisions of this paragraph shall not apply to any individual whose threshold amount is zero.*

*"(3) The Secretary shall make an initial determination of the amount of an individual's modified adjusted gross income for a taxable year ending with or within a calendar year for purposes of this subsection as follows:*

*"(A) Not later than September 1 of the year preceding the year, the Secretary shall provide notice to each individual whom the Secretary finds (on the basis of the individual's actual modified adjusted gross income for the most recent taxable year for which such information is available or other information provided to the Secretary by the Secretary of the Treasury) will be subject to an increase under this subsection that the individual will be subject to such an increase, and shall include in such notice the Sec-*

*retary's estimate of the individual's modified adjusted gross income for the year.*

*"(B) If, during the 30-day period beginning on the date notice is provided to an individual under subparagraph (A), the individual provides the Secretary with information on the individual's anticipated modified adjusted gross income for the year, the amount initially determined by the Secretary under this paragraph with respect to the individual shall be based on the information provided by the individual.*

*"(C) If an individual does not provide the Secretary with information under subparagraph (B), the amount initially determined by the Secretary under this paragraph with respect to the individual shall be the amount included in the notice provided to the individual under subparagraph (A).*

*"(4)(A) If the Secretary determines (on the basis of final information provided by the Secretary of the Treasury) that the amount of an individual's actual modified adjusted gross income for a taxable year ending with or within a calendar year is less than or greater than the amount initially determined by the Secretary under paragraph (3), the Secretary shall increase or decrease the amount of the individual's monthly premium under this section (as the case may be) for months during the following*

*calendar year by an amount equal to 1/12 of the difference between—*

*"(i) the total amount of all monthly premiums paid by the individual under this section during the previous calendar year; and*

*"(ii) the total amount of all such premiums which would have been paid by the individual during the previous calendar year if the amount of the individual's modified adjusted gross income initially determined under paragraph (3) were equal to the actual amount of the individual's modified adjusted gross income determined under this paragraph.*

*"(B)(i) In the case of an individual for whom the amount initially determined by the Secretary under paragraph (3) is based on information provided by the individual under subparagraph (B) of such paragraph, if the Secretary determines under subparagraph (A) that the amount of the individual's actual modified adjusted gross income for a taxable year is greater than the amount initially determined under paragraph (3), the Secretary shall increase the amount otherwise determined for the year under subparagraph (A) by interest in an amount equal to the sum of the amounts determined under clause (ii) for each of the months described in clause (ii).*

*"(ii) Interest shall be computed for any month in an amount determined by applying the underpayment rate established under section 6621 of the Internal Revenue Code of 1986 (compounded daily) to any portion of the difference between the amount initially determined under paragraph (3) and the amount determined under subparagraph (A) for the period beginning on the first day of the month beginning after the individual provided information to the Secretary under subparagraph (B) of paragraph (3) and ending 30 days before the first month for which the individual's monthly premium is increased under this paragraph.*

*"(iii) Interest shall not be imposed under this subparagraph if the amount of the individual's modified adjusted gross income provided by the individual under subparagraph (B) of paragraph (3) was not less than the individual's modified adjusted gross income determined on the basis of information shown on the return of tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the taxable year involved.*

*"(C) In the case of an individual who is not enrolled under this part for any calendar year for which the individual's monthly premium under this section for months during the year would be increased pursuant to subparagraph (A) if the individual were enrolled under this part for the year, the Secretary may take such steps as the Secretary*

*considers appropriate to recover from the individual the total amount by which the individual's monthly premium for months during the year would have been increased under subparagraph (A) if the individual were enrolled under this part for the year.*

*"(D) In the case of a deceased individual for whom the amount of the monthly premium under this section for months in a year would have been decreased pursuant to subparagraph (A) if the individual were not deceased, the Secretary shall make a payment to the individual's surviving spouse (or, in the case of an individual who does not have a surviving spouse, to the individual's estate) in an amount equal to the difference between—*

*"(i) the total amount by which the individual's premium would have been decreased for all months during the year pursuant to subparagraph (A); and*

*"(ii) the amount (if any) by which the individual's premium was decreased for months during the year pursuant to subparagraph (A).*

*"(5) In this subsection, the following definitions apply:*

*"(A) The term 'modified adjusted gross income' means adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986)—*

*"(i) determined without regard to sections 135, 911, 931, and 933 of such Code, and*

*"(ii) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax under such Code.*

*"(B) The term 'threshold amount' means—*

*"(i) except as otherwise provided in this paragraph, $60,000,*

*"(ii) $90,000, in the case of a joint return (as defined in section 7701(a)(38) of such Code), and*

*"(iii) zero in the case of a taxpayer who—*

*"(I) is married at the close of the taxable year but does not file a joint return (as so defined) for such year, and*

*"(II) does not live apart from his spouse at all times during the taxable year.*

*"(6)(A) The Secretary shall transfer amounts received pursuant to this subsection to the Federal Hospital Insurance Trust Fund.*

*"(B) In applying section 1844(a), amounts attributable to clause (i) shall not be counted in determining the dollar amount of the premium per enrollee under paragraph (1)(A) or (1)(B).".*

*(b) CONFORMING AMENDMENTS.—(1) Section 1839 (42 U.S.C. 1395r) is amended—*

*(A) in subsection (a)(2), by inserting "or section 1839A" after "subsections (b) and (e)";*

*(B) in subsection (a)(3) of section 1839(a), by inserting "or section 1839A" after "subsection (e)";*

*(C) in subsection (b), inserting "(and as increased under section 1839A)" after "subsection (a) or (e)"; and*

*(D) in subsection (f), by striking "if an individual" and inserting the following: "if an individual (other than an individual subject to an increase in the monthly premium under this section pursuant to subsection (h))".*

*(2) Section 1840(c) (42 U.S.C. 1395r(c)) is amended by inserting "or an individual determines that the estimate of modified adjusted gross income used in determining whether the individual is subject to an increase in the monthly premium under section 1839 pursuant to subsection (h) of such section (or in determining the amount of such increase) is too low and results in a portion of the premium not being deducted," before "he may".*

*(c) REPORTING REQUIREMENTS FOR SECRETARY OF THE TREASURY.—*

*(1) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return in-*

*formation) is amended by adding at the end the following new paragraph:*

*"(15) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME-RELATED REDUCTION IN MEDICARE PART B PREMIUM.—*

*"(A) IN GENERAL.—The Secretary may, upon written request from the Secretary of Health and Human Services, disclose to officers and employees of the Health Care Financing Administration return information with respect to a taxpayer who is required to pay a monthly premium under section 1839 of the Social Security Act. Such return information shall be limited to—*

*"(i) taxpayer identity information with respect to such taxpayer,*

*"(ii) the filing status of such taxpayer,*

*"(iii) the adjusted gross income of such taxpayer,*

*"(iv) the amounts excluded from such taxpayer's gross income under sections 135 and 911,*

*"(v) the interest received or accrued during the taxable year which is exempt*

*from the tax imposed by chapter 1 to the extent such information is available, and*

*"(vi) the amounts excluded from such taxpayer's gross income by sections 931 and 933 to the extent such information is available.*

*"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Health Care Financing Administration only for the purposes of, and to the extent necessary in, establishing the appropriate monthly premium under section 1839 of the Social Security Act."*

*(2) CONFORMING AMENDMENT.—Paragraphs (3)(A) and (4) of section 6103(p) of such Code are each amended by striking "or (14)" each place it appears and inserting "(14), or (15)".*

*(d) EFFECTIVE DATE.—*

*(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to the monthly premium under section 1839 of the Social Security Act for months beginning with January 1997.*

*(2) INFORMATION FOR PRIOR YEARS.—The Secretary of Health and Human Services may request*

*information under section 6013(l)(15) of the Social Security Act (as added by subsection (c)) for taxable years beginning after December 31, 1993.*

# Subtitle G—Provisions Relating to Parts A and B

## CHAPTER 1—PAYMENTS FOR HOME HEALTH SERVICES

### SEC. 8601. PAYMENT FOR HOME HEALTH SERVICES.

*(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395x et seq.), as amended by section 8102, is amended by adding at the end the following new section:*

*"PAYMENT FOR HOME HEALTH SERVICES*

*"SEC. 1894. (a) IN GENERAL.—*

*"(1) PER VISIT PAYMENTS.—Subject to subsection (c), the Secretary shall make per visit payments beginning with fiscal year 1997 to a home health agency in accordance with this section for each type of home health service described in paragraph (2) furnished to an individual who at the time the service is furnished is under a plan of care by the home health agency under this title (without regard to whether or not the item or service was furnished by the agency or by others under arrangement with them made by the agency, under any other contracting or consulting arrangement, or otherwise).*

*"(2) TYPES OF SERVICES.—The types of home health services described in this paragraph are the following:*

*"(A) Part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse.*

*"(B) Physical therapy.*

*"(C) Occupational therapy.*

*"(D) Speech-language pathology services.*

*"(E) Medical social services under the direction of a physician.*

*"(F) To the extent permitted in regulations, part-time or intermittent services of a home health aide who has successfully completed a training program approved by the Secretary.*

*"(b) ESTABLISHMENT OF PER VISIT RATE FOR EACH TYPE OF SERVICES.—*

*"(1) IN GENERAL.—The Secretary shall, subject to paragraph (3), establish a per visit payment rate for a home health agency in an area (which shall be the same area used to determine the area wage index applicable to hospitals under section 1886(d)(3)(E)) for each type of home health service described in subsection (a)(2). Such rate shall be equal to the national per visit payment rate determined under paragraph*

*(2) for each such type, except that the labor-related portion of such rate shall be adjusted by the area wage index applicable under section 1886(d)(3)(E) for the area in which the agency is located (as determined without regard to any reclassification of the area under section 1886(d)(8)(B) or a decision of the Medicare Geographic Classification Review Board or the Secretary under section 1886(d)(10) for cost reporting periods beginning after October 1, 1995).*

*"(2) NATIONAL PER VISIT PAYMENT RATE.—The national per visit payment rate for each type of service described in subsection (a)(2)—*

*"(A) for fiscal year 1997, is an amount equal to the national average amount paid per visit under this title to home health agencies for such type of service during the most recent 12-month cost reporting period ending on or before June 30, 1994; and*

*"(B) for each subsequent fiscal year, is an amount equal to the national per visit payment rate in effect for the preceding fiscal year, increased by the home health market basket percentage increase for such subsequent fiscal year minus 2.0 percentage points.*

*"(3) REBASING OF RATES.—The Secretary shall adjust the national per visit payment rates under this subsection for cost reporting periods beginning on or after October 1, 1999, and every 5 years thereafter, to reflect the most recent available data.*

*"(4) HOME HEALTH MARKET BASKET PERCENTAGE INCREASE.—For purposes of this subsection, the term 'home health market basket percentage increase' means, with respect to a fiscal year, a percentage (estimated by the Secretary before the beginning of the fiscal year) determined and applied with respect to the types of home health services described in subsection (a)(2) in the same manner as the market basket percentage increase under section 1886(b)(3)(B)(iii) is determined and applied to inpatient hospital services for the fiscal year.*

*"(c) PER EPISODE LIMIT.—*

*"(1) AGGREGATE LIMIT.—*

*"(A) IN GENERAL.—Except as provided in paragraph (2), a home health agency may not receive aggregate per visit payments under subsection (a) for a fiscal year in excess of an amount equal to the sum of the following products determined for each case-mix category for which the agency receives payments:*

*"(i) The number of episodes of each such case-mix category during the fiscal year; multiplied by*

*"(ii) the per episode limit determined for such case-mix category for such fiscal year.*

*"(B) ESTABLISHMENT OF PER EPISODE LIMITS.—*

*"(i) IN GENERAL.—The per episode limit for a fiscal year for any case-mix category for the area in which a home health agency is located (which shall be the same area used to determine the area wage index applicable to hospitals under section 1886(d)(3)(E)) is equal to—*

*"(I) the mean number of visits for each type of home health service described in subsection (a)(2) furnished during an episode of such case-mix category in such area during fiscal year 1994, adjusted by the case-mix adjustment factor determined in clause (ii) for the fiscal year involved; multiplied by*

*"(II) the per visit payment rate established under subsection (b) for such type of home health service for the fiscal year for which the determination is being made.*

*"(ii) CASE-MIX ADJUSTMENT FACTOR.—For purposes of clause (i), the case-mix adjustment factor for a year for—*

*"(I) each of fiscal years 1997 through 2000 is the factor determined by the Secretary to assure that aggregate payments for home health services under this section during the year will not exceed the payment for such services during the previous year as a result of changes in the number and type of home health visits within case-mix categories over the previous year; and*

*"(II) each subsequent fiscal year, is the factor determined by the Secretary necessary to remove the effects of case-mix increases due to reporting improvements instead of real changes in patients' resource usage.*

*"(iii) REBASING OF PER EPISODE LIMITS.—Beginning with fiscal year 1999 and every 5 years thereafter, the Secretary shall revise the mean number of home health visits determined under clause (i)(I) for each type of home health service visit described in subsection (a)(2) furnished during an episode in a case-mix category to reflect the most recently available data on the number of visits.*

*"(iv) DETERMINATION OF AREA.—In the case of an area which the Secretary determines has an insufficient number of home health agencies to establish an appropriate per episode limit, the Secretary may establish an area other than the area used to determine the area wage under section 1886(d)(3)(E)) for purposes of establishing an appropriate per episode limit.*

*"(C) CASE-MIX CATEGORY.—For purposes of this paragraph, the term 'case-mix category' means each of the 18 case-mix categories established under the Home Health Agency Prospective Payment Demonstration Project conducted by the Health Care Financing Administration.*

*The Secretary may develop an alternate methodology for determining case-mix categories.*

*"(D) EPISODE.—*

*"(i) IN GENERAL.—For purposes of this paragraph, the term 'episode' means the continuous 120-day period that—*

*"(I) begins on the date of an individual's first visit for a type of home health service described in subsection (a)(2) for a case-mix category, and*

*"(II) is immediately preceded by a 60-day period in which the individual did not receive visits for a type of home health service described in subsection (a)(2).*

*"(ii) TREATMENT OF EPISODES SPANNING COST REPORTING PERIODS.—The Secretary shall provide for such rules as the Secretary considers appropriate regarding the treatment of episodes under this paragraph which begin during a cost reporting period and end in a subsequent cost reporting period.*

*"(E) EXEMPTIONS AND EXCEPTIONS.—The Secretary may provide for exemptions and excep-*

*tions to the limits established under this paragraph for a fiscal year as the Secretary deems appropriate, to the extent such exemptions and exceptions do not result in greater payments under this section than the exemptions and exceptions provided under section 1861(v)(1)(L)(ii) in fiscal year 1994, increased by the home health market basket percentage increase for the fiscal year involved (as defined in subsection (b)(4)).*

*"(2) RECONCILIATION OF AMOUNTS.—*

*"(A) PAYMENTS IN EXCESS OF LIMITS.—Subject to subparagraph (B), if a home health agency has received aggregate per visit payments under subsection (a) for a fiscal year in excess of the amount determined under paragraph (1) with respect to such home health agency for such fiscal year, the Secretary shall reduce payments under this section to the home health agency in the following fiscal year in such manner as the Secretary considers appropriate (including on an installment basis) to recapture the amount of such excess.*

*"(B) EXCEPTION FOR HOME HEALTH SERVICES FURNISHED OVER A PERIOD GREATER THAN 165 DAYS.—*

*"(i) IN GENERAL.—For purposes of subparagraph (A), the amount of aggregate per visit payments determined under subsection (a) shall not include payments for home health visits furnished to an individual on or after a continuous period of more than 165 days after an individual begins an episode described in subsection (c)(1)(D) (if such period is not interrupted by the beginning of a new episode).*

*"(ii) REQUIREMENT OF CERTIFICATION.—Clause (i) shall not apply if the agency has not obtained a physician's certification with respect to the individual requiring such visits that includes a statement that the individual requires such continued visits, the reason for the need for such visits, and a description of such services furnished during such visits.*

*"(C) SHARE OF SAVINGS.—*

*"(i) BONUS PAYMENTS.—If a home health agency has received aggregate per visit payments under subsection (a) for a fiscal year in an amount less than the amount determined under paragraph (1)*

*with respect to such home health agency for such fiscal year, the Secretary shall pay such home health agency a bonus payment equal to 50 percent of the difference between such amounts in the following fiscal year, except that the bonus payment may not exceed 5 percent of the aggregate per visit payments made to the agency for the year.*

*"(ii) INSTALLMENT BONUS PAYMENTS.—The Secretary may make installment payments during a fiscal year to a home health agency based on the estimated bonus payment that the agency would be eligible to receive with respect to such fiscal year.*

*"(d) MEDICAL REVIEW PROCESS.—The Secretary shall implement a medical review process (with a particular emphasis on fiscal years 1997 and 1998) for the system of payments described in this section that shall provide an assessment of the pattern of care furnished to individuals receiving home health services for which payments are made under this section to ensure that such individuals receive appropriate home health services. Such review process shall focus on low-cost episodes (as defined by the Secretary under section (e)(3)(C)) and cases described in subsection*

*(c)(2)(B) and shall require recertification by intermediaries at 60 and 165 days into an episode described in subsection (c)(1)(D).*

*"(e) ADJUSTMENT OF PAYMENTS TO AVOID CIRCUMVENTION OF LIMITS.—*

*"(1) IN GENERAL.—The Secretary shall provide for appropriate adjustments to payments to home health agencies under this section to ensure that agencies do not circumvent the purpose of this section by—*

*"(A) discharging patients to another home health agency or similar provider;*

*"(B) altering corporate structure or name to avoid being subject to this section or for the purpose of increasing payments under this title; or*

*"(C) undertaking other actions considered unnecessary for effective patient care and intended to achieve maximum payments under this title.*

*"(2) TRACKING OF PATIENTS THAT SWITCH HOME HEALTH AGENCIES DURING EPISODE.—*

*"(A) DEVELOPMENT OF SYSTEM.—The Secretary shall develop a system that tracks home health patients that receive home health services*

*described in subsection (a)(2) from more than 1 home health agency during an episode described in subsection (c)(1)(D).*

*"(B) ADJUSTMENT OF PAYMENTS.—The Secretary shall adjust payments under this section to each home health agency that furnishes an individual with a type of home health service described in subsection (a)(2) to ensure that aggregate payments on behalf of such individual during such episode do not exceed the amount that would be paid under this section if the individual received such services from a single home health agency.*

*"(3) LOW-COST CASES.—*

*"(A) IN GENERAL.—The Secretary shall develop and implement a system designed to adjust payments to a home health agency for a fiscal year to eliminate any increase in growth of the percentage distribution of low-cost episodes for which home health services are furnished by the agency over such percentage distribution determined for the agency under subparagraph (B).*

*"(B) DISTRIBUTION.—The Secretary shall profile each home health agency to determine the distribution of all episodes by length of stay for*

*each agency during the agency's first 12-month cost reporting period beginning during fiscal year 1994.*

*"(C) LOW-COST EPISODE.—For purposes of this paragraph, the Secretary shall define a low-cost episode in a manner that provides that a home health agency has an incentive to be cost efficient in delivering home health services and that the volume of such services does not increase as a result of factors other than patient needs.*

*"(f) SPECIAL RULE FOR CHRISTIAN SCIENCE PROVIDERS.—*

*"(1) PAYMENT PERMITTED FOR SERVICES.—Notwithstanding any other provision of this title, payment shall be made under this title for home health services furnished by Christian Science providers who meet applicable requirements of the First Church of Christ, Scientist, Boston, Massachusetts, and are certified for purposes of this title under criteria established by the Secretary, in accordance with a payment methodology established by the Secretary.*

*"(2) EFFECTIVE DATE.—Paragraph (1) shall apply to services furnished during cost reporting periods which begin after the earlier of—*

*"(A) the date on which the Secretary establishes the payment methodology and the certification criteria described in paragraph (1), or*

*"(B) July 1, 1996.*

*"(g) REPORT BY MEDICARE PAYMENT REVIEW COMMISSION.—During the first 3 years in which payments are made under this section, the Medicare Payment Review Commission shall annually submit a report to Congress on the effectiveness of the payment methodology established under this section that shall include recommendations regarding the following:*

*"(1) Case-mix and volume increases.*

*"(2) Quality monitoring of home health agency practices.*

*"(3) Whether a capitated payment for home care patients receiving care during a continuous period exceeding 165 days is warranted.*

*"(4) Whether public providers of service are adequately reimbursed.*

*"(5) On the adequacy of the exemptions and exceptions to the limits provided under subsection (c)(1)(E).*

*"(6) The appropriateness of the methods provided under this section to adjust the per episode limits and annual payment updates to reflect changes in*

*the mix of services, number of visits, and assignment to case categories to reflect changing patterns of home health care.*

*"(7) The geographic areas used to determine the per episode limits.".*

*(b) PAYMENT FOR PROSTHETICS AND ORTHOTICS UNDER PART A.—Section 1814(k) (42 U.S.C. 1395f(k)) is amended—*

*(1) by inserting "and prosthetics and orthotics" after "durable medical equipment"; and*

*(2) by inserting "and 1834(h), respectively" after "1834(a)(1)".*

*(c) CONFORMING AMENDMENTS.—*

*(1) PAYMENTS UNDER PART A.—Section 1814(b) (42 U.S.C. 1395f(b)), as amended by section 8412(b), is amended in the matter preceding paragraph (1) by striking "1888 and 1888A" and inserting "1888, 1888A, and 1894".*

*(2) TREATMENT OF ITEMS AND SERVICES PAID UNDER PART B.—*

*(A) PAYMENTS UNDER PART B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—*

*(i) by amending subparagraph (A) to read as follows:*

*"(A) with respect to home health services—*

*"(i) that are a type of home health service described in section 1894(a)(2), and which are furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, the amount determined under section 1894;*

*"(ii) that are not described in clause (i) (other than a covered osteoporosis drug) (as defined in section 1861(kk)), the lesser of—*

*"(I) the reasonable cost of such services, as determined under section 1861(v), or*

*"(II) the customary charges with respect to such services;".*

*(ii) by striking "and" at the end of subparagraph (E);*

*(iii) by adding "and" at the end of subparagraph (F); and*

*(iv) by adding at the end the following new subparagraph:*

*"(G) with respect to items and services described in section 1861(s)(10)(A), the lesser of—*

*"(i) the reasonable cost of such services, as determined under section 1861(v), or*

*"(ii) the customary charges with respect to such services,*

*or, if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this provision), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);".*

*(B) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO AGENCY.—*

*(i) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)), as amended by section 8415(a)(1), is amended—*

*(I) by striking "and (E)" and inserting "(E)"; and*

*(II) by striking the period at the end and inserting the following: ", and (F) in the case of types of home health services described in section 1894(a)(2) furnished to an individual who (at the*

*time the item or service is furnished) is under a plan of care of a home health agency, payment shall be made to the agency (without regard to whether or not the item or service was furnished by the agency, by others under arrangement with them made by the agency, or when any other contracting or consulting arrangement, or otherwise).".*

*(ii) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking "(2);" and inserting "(2) and section 1842(b)(6)(F);".*

*(C) EXCLUSIONS FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 8415(a)(2), is amended—*

*(i) by striking "or" at the end of paragraph (15);*

*(ii) by striking the period at the end of paragraph (16) and inserting "or"; and*

*(iii) by adding at the end the following new paragraph:*

*"(17) where such expenses are for home health services furnished to an individual who is under a*

*plan of care of the home health agency if the claim for payment for such services is not submitted by the agency.".*

*(3) SUNSET OF REASONABLE COST LIMITATIONS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clause:*

*"(iv) This subparagraph shall apply only to services furnished by home health agencies during cost reporting periods ending on or before September 30, 1996.".*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 1996.*

***SEC. 8602. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR HOME HEALTH SERVICES.***

*(a) BASING UPDATES TO PER VISIT COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by adding at the end the following sentence: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.".*

*(b) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subsection (a) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act.*

***SEC. 8603. EXTENSION OF WAIVER OF PRESUMPTION OF LACK OF KNOWLEDGE OF EXCLUSION FROM COVERAGE FOR HOME HEALTH AGENCIES.***

*Section 9305(g)(3) of OBRA–1986, as amended by section 426(d) of the Medicare Catastrophic Coverage Act of 1988 and section 4207(b)(3) of the OBRA–1990 (as renumbered by section 160(d)(4) of the Social Security Act Amendments of 1994), is amended by striking "December 31, 1995" and inserting "September 30, 1996.".*

***SEC. 8604. EXTENSION OF PERIOD OF HOME HEALTH AGENCY CERTIFICATION.***

*Section 1891(c)(2)(A) (42 U.S.C. 1395bbb(c)(2)(A)) is amended—*

*(1) by striking "15 months" and inserting "36 months"; and*

*(2) by striking the second sentence and inserting the following: "The Secretary shall establish a frequency for surveys of home health agencies within this 36-month interval commensurate with the need to assure the delivery of quality home health services.".*

## *PART 2—MEDICARE SECONDARY PAYER IMPROVEMENTS*

### *SEC. 8611. EXTENSION AND EXPANSION OF EXISTING REQUIREMENTS.*

*(a) DATA MATCH.—*

*(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).*

*(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).*

*(b) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—*

*(1) IN GENERAL.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—*

*(A) in clause (i), by striking "clause (iv)" and inserting "clause (iii)",*

*(B) by striking clause (iii), and*

*(C) by redesignating clause (iv) as clause (iii).*

*(2) CONFORMING AMENDMENTS.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" each place it appears and inserting "1862(b)(1)(B)(iii)".*

*(c) INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—*

*(1) in the last sentence by striking "October 1, 1998" and inserting "the date of the enactment of the Medicare Preservation Act of 1995"; and*

*(2) by adding at the end the following new sentence: "Effective for items and services furnished on or after the date of the enactment of the Medicare Preservation Act of 1995, (with respect to periods beginning on or after the date that is 18 months prior to such date), clauses (i) and (ii) shall be applied by substituting '30-month' for '12-month' each place it appears.".*

***SEC. 8612. IMPROVEMENTS IN RECOVERY OF PAYMENTS.***

*(a) PERMITTING RECOVERY AGAINST THIRD PARTY ADMINISTRATORS OF PRIMARY PLANS.—Section 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amended—*

*(1) by striking "under this subsection to pay" and inserting "(directly, as a third-party administrator, or otherwise) to make payment", and*

*(2) by adding at the end the following: "The United States may not recover from a third-party administrator under this clause in cases where the*

*third-party administrator would not be able to recover the amount at issue from the employer or group health plan for whom it provides administrative services due to the insolvency or bankruptcy of the employer or plan.".*

*(b) EXTENSION OF CLAIMS FILING PERIOD.—Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) is amended by adding at the end the following new clause:*

*"(v) CLAIMS-FILING PERIOD.—Notwithstanding any other time limits that may exist for filing a claim under an employer group health plan, the United States may seek to recover conditional payments in accordance with this subparagraph where the request for payment is submitted to the entity required or responsible under this subsection to pay with respect to the item or service (or any portion thereof) under a primary plan within the 3-year period beginning on the date on which the item or service was furnished.".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the date of the enactment of this Act.*

## *CHAPTER 3—OTHER ITEMS AND SERVICES UNDER PARTS A AND B*

### *SEC. 8621. MEDICARE COVERAGE OF CERTAIN ANTI-CANCER DRUG TREATMENTS.*

*(a) COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS.—Section 1861(s)(2)(Q) (42 U.S.C. 1395x(s)(2)(Q)) is amended—*

*(1) by striking "(Q)" and inserting "(Q)(i)"; and*

*(2) by striking the semicolon at the end and inserting ", and"; and*

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

*"(ii) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an anticancer nonsteroidal antiestrogen for the treatment of breast cancer, but only if the manufacturer of such drug has in effect a rebate agreement with the Secretary with respect to such drug which has substantially similar terms and conditions to the terms and conditions for such agreements under section 1927 (as such section is in effect on the date of the enactment of this clause);".*

*(b) UNIFORM COVERAGE OF ANTICANCER DRUGS IN ALL SETTINGS.—Section 1861(t)(2)(A) (42 U.S.C. 1395x(t)(2)(A)) is amended by inserting "(including a nonsteroidal antiestrogen regimen)" after "regimen".*

*(c) CONFORMING AMENDMENT.—Section 1834(j)(5)(F)(iv) (42 U.S.C. 1395m(j)(5)(F)(iv)) is amended by striking "prescribed for use" and all that follows through "1861(s)(2)(Q))" and inserting "described in section 1861(s)(2)(Q)".*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs furnished on or after January 1, 1996.*

***SEC. 8622. ADMINISTRATIVE PROVISIONS.***

*(a) INDIAN HEALTH SERVICE FACILITIES.—Nothing in this Act shall be construed to change the status under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) of—*

*(1) a Federally qualified health center (as defined in section 1861(aa)(4) of such Act) which is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act; or*

*(2) hospitals or skilled nursing facilities of the Indian Health Service, whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), that are eligible for*

*payments under title XVIII of the Social Security Act, in accordance with section 1880 of such Act (42 U.S.C. 1395qq).*

*(b) CONFORMING AMENDMENT TO CERTIFICATION OF CHRISTIAN SCIENCE PROVIDERS.—*

*(1) HOSPITALS.—Section 1861(e) (42 U.S.C. 1395x(e)) is amended in the sixth sentence by striking "the First Church of Christ, Scientist, Boston, Massachusetts," and inserting "the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.,".*

*(2) SKILLED NURSING FACILITIES.—Section 1861(y)(1) (42 U.S.C. 1395x(y)(1)) is amended by striking "the First Church of Christ, Scientist, Boston, Massachusetts," and inserting "the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.,".*

*(3) GENERAL PROVISIONS.—*

*(A) UNIFORM REPORTING SYSTEMS.—Section 1122(h) (42 U.S.C. 1320a–1(h)) is amended by striking "the First Church of Christ, Scientist, Boston, Massachusetts" and inserting "the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.".*

*(B) PEER REVIEW.—Section 1162 (42 U.S.C. 1320c–11) is amended by striking "the First Church of Christ, Scientist, Boston, Massachusetts" and inserting "the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.".*

*(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1997.*

## *CHAPTER 4—FAILSAFE*

### *SEC. 8631. FAILSAFE BUDGET MECHANISM.*

*(a) IN GENERAL.—Title XVIII, as amended by sections 8102(a) and 8601(a), is amended by adding at the end the following new section:*

*"FAILSAFE BUDGET MECHANISM*

*"SEC. 1895. (a) REQUIREMENT OF PAYMENT ADJUSTMENTS TO ACHIEVE MEDICARE BUDGET TARGETS.—*

*"(1) IN GENERAL.—If the Secretary determines under subsection (e)(3)(C) before a fiscal year (beginning with fiscal year 1998) that—*

*"(A) the fee-for-service expenditures (as defined in subsection (f) for all sectors of medicare services (as defined in subsection (b)) for the fiscal year, will exceed*

*"(B) the sum of the allotments specified under subsection (c)(2) for such fiscal year (tak-*

*ing into account any adjustment in the allotment under subsection (g) for that fiscal year) for all sectors,*

*then, notwithstanding any other provisions of this title, there shall be an adjustment (consistent with subsection (d)) in applicable payment rates or payments for items and services included in each excess spending sector in the fiscal year. In this section, the term 'aggregate excess spending' means, for a fiscal year, the amount by which the amount described in subparagraph (A) (for the fiscal year) exceeds the amount described in subparagraph (B) for such year.*

*"(2) EXCESS SPENDING SECTOR.—In this section, the term 'excess spending sector' means, for a fiscal year, a sector of medicare services for which the Secretary determines under subsection (e)(3)(C)—*

*"(A) the fee-for-service expenditures (as defined in subsection (f)) for all the fiscal year, will exceed*

*"(B) the allotment specified under subsection (c)(2) for such fiscal year (taking into account any adjustment in the allotment under subsection (g) for that fiscal year).*

*In this section, the term 'excess spending' means, for a fiscal year with respect to such a sector, the amount*

*by which the amount described in subparagraph (A) (for the fiscal year and sector) exceeds the amount described in subparagraph (B) for such year and sector.*

*"(b) SECTORS OF MEDICARE SERVICES DESCRIBED.—*

*"(1) IN GENERAL.—For purposes of this section, items and services included under each of the following subparagraphs shall be considered to be a separate 'sector' of medicare services:*

*"(A) Inpatient hospital services.*

*"(B) Home health services.*

*"(C) Extended care services (for inpatients of skilled nursing facilities).*

*"(D) Hospice care.*

*"(E) Physicians' services (including services and supplies described in section 1861(s)(2)(A)) and services of other health care professionals (including certified registered nurse anesthetists, nurse practitioners, physician assistants, and clinical psychologists) for which separate payment is made under this title.*

*"(F) Outpatient hospital services and ambulatory facility services.*

*"(G) Durable medical equipment and supplies, including prosthetic devices and orthotics.*

*"(H) Diagnostic tests (including clinical laboratory services and x-ray services).*

*"(I) Other items and services.*

*"(2) CLASSIFICATION OF ITEMS AND SERVICES.—The Secretary shall classify each type of items and services covered and paid for separately under this title into one of the sectors specified in paragraph (1). After publication of such classification under subsection (e)(1), the Secretary is not authorized to make substantive changes in such classification.*

*"(c) ALLOTMENT.—*

*"(1) ALLOTMENTS FOR EACH SECTOR.—For purposes of this section, subject to subsection (g)(1), the allotment for a sector of medicare services for a fiscal year is equal to the product of—*

*"(A) the total allotment for the fiscal year established under paragraph (2), and*

*"(B) the allotment proportion (specified under paragraph (3)) for the sector and fiscal year involved.*

*"(2) TOTAL ALLOTMENT.—*

*"(A) IN GENERAL.—For purposes of this section, the total allotment for a fiscal year is equal to—*

*"(i) the medicare benefit budget for the fiscal year (as specified under subparagraph (B)), reduced by*

*"(ii) the amount of payments the Secretary estimates will be made in the fiscal year under the MedicarePlus program under part C.*

*In making the estimate under clause (ii), the Secretary shall take into account estimated enrollment and demographic profile of individuals electing MedicarePlus products.*

*"(B) MEDICARE BENEFIT BUDGET.—For purposes of this subsection, subject to subparagraph (C), the 'medicare benefit budget'—*

*"(i) for fiscal year 1996 is $194.2 billion;*

*"(i) for fiscal year 1997 is $206.3 billion;*

*"(ii) for fiscal year 1998 is $217.8 billion;*

*"(iii) for fiscal year 1999 is $229.2 billion;*

*"(iv) for fiscal year 2000 is $247.2 billion;*

*"(v) for fiscal year 2001 is $266.4 billion;*

*"(vi) for fiscal year 2002 is $289.0 billion; and*

*"(vii) for a subsequent fiscal year is equal to the medicare benefit budget under this subparagraph for the preceding fiscal year multiplied by the product of (I) 1.05, and (II) 1 plus the annual percentage increase in the average number of medicare beneficiaries from the previous fiscal year to the fiscal year involved.*

*"(3) MEDICARE ALLOTMENT PROPORTIONS DEFINED.—*

*"(A) IN GENERAL.—For purposes of this section and with respect to a sector of medicare services for a fiscal year, the term 'medicare allotment proportion' means the ratio of—*

*"(i) the baseline-projected medicare expenditures (as determined under subparagraph (B)) for the sector for the fiscal year, to*

*"(ii) the sum of such baseline expenditures for all such sectors for the fiscal year.*

*"(B) BASELINE-PROJECTED MEDICARE EXPENDITURES.—In this paragraph, the 'baseline, projected medicare expenditures' for a sector of medicare services—*

*"(i) for fiscal year 1996 is equal to fee-for-service expenditures for such sector during fiscal year 1995, increased by the baseline annual growth rate for such sector of medicare services for fiscal year 1996 (as specified in table in subparagraph (C)); and*

*"(ii) for a subsequent fiscal year is equal to the baseline-projected medicare expenditures under this subparagraph for the sector for the previous fiscal year increased by the baseline annual growth rate for such sector for the fiscal year involved (as specified in such table).*

*"(C) BASELINE ANNUAL GROWTH RATES.—The following table specifies the baseline annual growth rates for each of the sectors for different fiscal years:*

*[In percent]*

| *"For the following sector—* | *Baseline annual growth rates for fiscal year—* | | | | | | |
|---|---|---|---|---|---|---|---|
| | *1996* | *1997* | *1998* | *1999* | *2000* | *2001* | *2002 and thereafter* |
| *(A) Inpatient hospital services* | *5.7* | *5.6* | *6.0* | *6.1* | *5.7* | *5.5* | *5.2* |
| *(B) Home health services* | *17.2* | *15.1* | *11.7* | *9.1* | *8.4* | *8.1* | *7.9* |
| *(C) Extended care services* | *19.7* | *12.3* | *9.3* | *8.7* | *8.6* | *8.4* | *8.0* |
| *(D) Hospice care* | *32.0* | *24.0* | *18.0* | *15.0* | *12.0* | *10.0* | *9.0* |
| *(E) Physicians' services* | *12.4* | *9.7* | *8.7* | *9.0* | *9.3* | *9.6* | *10.1* |
| *(F) Outpatient hospital services* | *14.7* | *13.9* | *14.5* | *15.0* | *14.1* | *13.9* | *14.0* |
| *(G) Durable medical equipment and supplies* | *16.1* | *15.5* | *13.7* | *12.4* | *13.2* | *13.9* | *14.5* |

*[In percent]*

| *"For the following sector—* | *Baseline annual growth rates for fiscal year—* | | | | | | |
|---|---|---|---|---|---|---|---|
| | *1996* | *1997* | *1998* | *1999* | *2000* | *2001* | *2002 and thereafter* |
| *(H) Diagnostic tests* | *13.1* | *11.3* | *11.0* | *11.4* | *11.4* | *11.5* | *11.9* |
| *(I) Other items and services* | *11.2* | *10.2* | *10.9* | *12.0* | *11.6* | *11.6* | *11.8* |

*"(d) MANNER OF PAYMENT ADJUSTMENT.—*

*"(1) PAYMENT REDUCTIONS.—*

*"(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary shall apply a payment reduction for each excess spending sector for a fiscal year in such a manner as to—*

*"(i) make a change in payment rates (to the maximum extent practicable) at the time payment rates are otherwise changed or subject to change for that fiscal year; and*

*"(ii) provide for the full appropriate adjustment so that the fee-for-service expenditures for the sector for the fiscal year will be reduced by 133⅓ percent of the amount of the sector reduction target for that sector.*

*"(B) SECTOR REDUCTION TARGET.—In paragraph (1), the 'sector reduction target' for an excess spending sector for a fiscal year is equal to the product of—*

*"(i) the amount of the excess spending for such sector and year (as defined in subsection (a)(2)); and*

*"(ii) the ratio of—*

*"(I) the aggregate excess spending for the year (as defined in subsection (a)(1)), to*

*"(II) the sum of the amounts of the excess spending for all excess spending sectors.*

*"(2) TAKING INTO ACCOUNT VOLUME AND CASH FLOW.—In providing for an adjustment in payments under this subsection for a sector for a fiscal year, the Secretary shall take into account (in a manner consistent with actuarial projections)—*

*"(A) the impact of such an adjustment on the volume or type of services provided in such sector (and other sectors), and*

*"(B) the fact that an adjustment may apply to items and services furnished in a fiscal year (payment for which may occur in a subsequent fiscal year),*

*in a manner that is consistent with assuring that total fee-for-services expenditures for each sector for*

*the fiscal year will not exceed the allotment under subsection (c)(1) for such sector for such year.*

*"(3) PROPORTIONALITY OF REDUCTIONS WITHIN A SECTOR.—In making adjustments under this subsection in payment for items and services included within a sector of medicare services for a fiscal year, the Secretary shall provide for such an adjustment that results (to the maximum extent feasible) in the same percentage reductions in aggregate Federal payments under parts A and B for the different classes of items and services included within the sector for the fiscal year.*

*"(4) APPLICATION TO PAYMENTS MADE BASED ON PROSPECTIVE PAYMENT RATES DETERMINED ON A FISCAL YEAR BASIS.—*

*"(A) IN GENERAL.—In applying subsection (a) with respect to items and services for which payment is made under part A or B on the basis of rates that are established on a prospective basis for (and in advance of) a fiscal year, the Secretary shall provide for the payment adjustment under such subsection through an appropriate reduction in such rates established for items and services furnished (or, in the case of payment for operating costs of inpatient hospital*

*services of subsection (d) hospitals and subsection (d) Puerto Rico hospitals (as defined in paragraphs (1)(B) and (9)(A) of section 1886(d)), discharges occurring) during such year.*

*"(B) DESCRIPTION OF APPLICATION TO SPECIFIC SERVICES.—The payment adjustment described in subparagraph (A) applies for a fiscal year to at least the following:*

*"(i) UPDATE FACTOR FOR PAYMENT FOR OPERATING COSTS OF INPATIENT HOSPITAL SERVICES OF PPS HOSPITALS.—To the computation of the applicable percentage increase specified in section 1886(d)(3)(B)(i) for discharges occurring in the fiscal year.*

*"(ii) HOME HEALTH SERVICES.—To the extent payment amounts for home health services are based on per visit payment rates under section 1894, to the computation of the increase in the national per visit payment rates established for the year under section 1894(b)(2)(B).*

*"(iii) HOSPICE CARE.—To the update of payment rates for hospice care under sec-*

*tion 1814(i) for services furnished during the fiscal year.*

*"(iv) UPDATE FACTOR FOR PAYMENT OF OPERATING COSTS OF INPATIENT HOSPITAL SERVICES OF PPS-EXEMPT HOSPITALS.—To the computation of the target amount under section 1886(b)(3) for discharges occurring during the fiscal year.*

*"(v) COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES.—To the computation of the facility per stay limits for the year under section 1888A(d) for covered non-routine services of a skilled nursing facility (as described in such section).*

*"(5) APPLICATION TO PAYMENTS MADE BASED ON PROSPECTIVE PAYMENT RATES DETERMINED ON A CALENDAR YEAR BASIS.—*

*"(A) IN GENERAL.—In applying subsection (a) for a fiscal year with respect to items and services for which payment is made under part A or B on the basis of rates that are established on a prospective basis for (and in advance of) a calendar year, the Secretary shall provide for the payment adjustment under such subsection through an appropriate reduction in such rates*

*established for items and services furnished at any time during such calendar year as follows:*

*"(i) For fiscal year 1997, the reduction shall be made for payment rates during calendar year 1997 in a manner so as to achieve the necessary payment reductions for such fiscal year for items and services furnished during the first 3 quarters of calendar year 1997.*

*"(ii) For a subsequent fiscal year, the reduction shall be made for payment rates during the calendar year in which the fiscal year ends in a manner so as to achieve the necessary payment reductions for such fiscal year for items and services furnished during the first 3 quarters of the calendar year, but also taking into account the payment reductions made in the first quarter of the fiscal year resulting from payment reductions made under this paragraph for the previous calendar year.*

*"(iii) Payment rate reductions effected under this subparagraph for a calendar year and applicable to the last 3 quarters of the fiscal year in which the calendar year*

*ends shall continue to apply during the first quarter of the succeeding fiscal year.*

*"(B) APPLICATION IN SPECIFIC CASES.—The payment adjustment described in subparagraph (A) applies for a fiscal year to at least the following:*

*"(i) UPDATE IN CONVERSION FACTOR FOR PHYSICIANS' SERVICES.—To the computation of the conversion factor under subsection (d) of section 1848 used in the fee schedule established under subsection (b) of such section for items and services furnished during the calendar year in which the fiscal year ends.*

*"(ii) PAYMENT RATES FOR OTHER HEALTH CARE PROFESSIONALS.—To the computation of payments for professional services, furnished during the calendar year in which the fiscal year ends, of certified registered nurse anesthetists under section 1833(l), nurse midwives, physician assistants, nurse practitioners and clinical nurse specialists under section 1833(r), clinical psychologists, clinical social workers, physical or occupational therapists, and any*

*other health professionals for which payment rates are based (in whole or in part) on payments for physicians' services.*

*"(iii) UPDATE IN LAB FEE SCHEDULE.—To the computation of the fee schedule amount under section 1833(h)(2) for clinical diagnostic laboratory services furnished during the calendar year in which the fiscal year ends.*

*"(iv) UPDATE IN REASONABLE CHARGES FOR VACCINES.—To the computation of the reasonable charge for vaccines described in section 1861(s)(10) for vaccines furnished during the calendar year in which the fiscal year ends.*

*"(v) DURABLE MEDICAL EQUIPMENT-RELATED ITEMS.—To the computation of the payment basis under section 1834(a)(1)(B) for covered items described in section 1834(a)(13), for services furnished during the calendar year in which the fiscal year ends.*

*"(vi) RADIOLOGIST SERVICES.—To the computation of conversion factors for radiologist services under section 1834(b), for*

*services furnished during the calendar year in which the fiscal year ends.*

*"(vii) SCREENING MAMMOGRAPHY.—To the computation of payment rates for screening mammography under section 1834(c)(1)(C)(ii), for screening mammography performed during the calendar year in which the fiscal year ends.*

*"(viii) PROSTHETICS AND ORTHOTICS..—To the computation of the amount to be recognized under section 1834(h) for payment for prosthetic devices and orthotics and prosthetics, for items furnished during the calendar year in which the fiscal year ends.*

*"(ix) SURGICAL DRESSINGS.—To the computation of the payment amount referred to in section 1834(i)(1)(B) for surgical dressings, for items furnished during the calendar year in which the fiscal year ends.*

*"(x) PARENTERAL AND ENTERAL NUTRITION.—To the computation of reasonable charge screens for payment for parenteral and enteral nutrition under section 1834(h),*

*for nutrients furnished during the calendar year in which the fiscal year ends.*

*"(xi) AMBULANCE SERVICES.—To the computation of limits on reasonable charges for ambulance services, for services furnished during the calendar year in which the fiscal year ends.*

*"(6) APPLICATION TO PAYMENTS MADE BASED ON COSTS DURING A COST REPORTING PERIOD.—*

*"(A) IN GENERAL.—In applying subsection (a) for a fiscal year with respect to items and services for which payment is made under part A or B on the basis of costs incurred for items and services in a cost reporting period, the Secretary shall provide for the payment adjustment under such subsection for a fiscal year through an appropriate proportional reduction in the payment for costs for such items and services incurred at any time during each cost reporting period any part of which occurs during the fiscal year involved, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs during the fiscal year involved.*

*"(B) APPLICATION IN SPECIFIC CASES.—The payment adjustment described in subparagraph (A) applies for a fiscal year to at least the following:*

*"(i) CAPITAL-RELATED COSTS OF HOSPITAL SERVICES.—To the computation of payment amounts for inpatient and outpatient hospital services under sections 1886(g) and 1861(v) for portions of cost reporting periods occurring during the fiscal year.*

*"(ii) OPERATING COSTS FOR PPS-EXEMPT HOSPITALS.—To the computation of payment amounts under section 1886(b) for operating costs of inpatient hospital services of PPS-exempt hospitals for portions of cost reporting periods occurring during the fiscal year.*

*"(iii) DIRECT GRADUATE MEDICAL EDUCATION.—To the computation of payment amounts under section 1886(h) for reasonable costs of direct graduate medical education costs for portions of cost reporting periods occurring during the fiscal year.*

*"(iv) INPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—To the computation of payment amounts under section 1814(j) for inpatient rural primary care hospital services for portions of cost reporting periods occurring during the fiscal year.*

*"(v) EXTENDED CARE SERVICES OF A SKILLED NURSING FACILITY.—To the computation of payment amounts under section 1861(v) for post-hospital extended care services of a skilled nursing facility (other than covered non-routine services subject to section 1888A) for portions of cost reporting periods occurring during the fiscal year.*

*"(vi) REASONABLE COST CONTRACTS.—To the computation of payment amounts under section 1833(a)(1)(A) for organizations for portions of cost reporting periods occurring during the fiscal year.*

*"(vii) HOME HEALTH SERVICES.—Subject to paragraph (4)(B)(ii), for payment amounts for home health services, for portions of cost reporting periods occurring during such fiscal year.*

*"(7) OTHER.—In applying subsection (a) for a fiscal year with respect to items and services for which payment is made under part A or B on a basis not described in a previous paragraph of this subsection, the Secretary shall provide for the payment adjustment under such subsection through an appropriate proportional reduction in the payments (or payment bases for items and services furnished) during the fiscal year.*

*"(8) ADJUSTMENT OF PAYMENT LIMITS.—The Secretary shall provide for such proportional adjustment in any limits on payment established under part A or B for items and services within a sector as may be appropriate based on (and in order to properly carry out) the adjustment to the amount of payment under this subsection in the sector.*

*"(9) REFERENCES TO PAYMENT RATES.—Except as the Secretary may provide, any reference in this title (other than this section) to a payment rate is deemed a reference to such a rate as adjusted under this subsection.*

*"(e) PUBLICATION OF DETERMINATIONS; JUDICIAL REVIEW.—*

*"(1) ONE-TIME PUBLICATION OF SECTORS AND GENERAL PAYMENT ADJUSTMENT METHODOLOGY.—*

*Not later than October 1, 1996, the Secretary shall publish in the Federal Register the classification of medicare items and services into the sectors of medicare services under subsection (b) and the general methodology to be used in applying payment adjustments to the different classes of items and services within the sectors.*

*"(2) INCLUSION OF INFORMATION IN PRESIDENT'S BUDGET.—*

*"(A) IN GENERAL.—With respect to fiscal years beginning with fiscal year 1999, the President shall include in the budget submitted under section 1105 of title 31, United States Code, information on—*

*"(i) the fee-for-service expenditures, within each sector, for the second previous fiscal year, and how such expenditures compare to the adjusted sector allotment for that sector for that fiscal year, and*

*"(ii) actual annual growth rates for fee-for-service expenditures in the different sectors in the second previous fiscal year.*

*"(B) RECOMMENDATION REGARDING GROWTH FACTORS.—The President may include in such budget for a fiscal year (beginning with*

*fiscal year 1998) recommendations regarding percentages that should be applied (for one or more fiscal years beginning with that fiscal year) instead of the baseline annual growth rates under subsection (c)(3)(C). Such recommendations shall take into account medically appropriate practice patterns.*

*"(3) DETERMINATIONS CONCERNING PAYMENT ADJUSTMENTS.—*

*"(A) RECOMMENDATIONS OF COMMISSION.—By not later than March 1 of each year (beginning with 1997), the Medicare Payment Review Commission shall submit to the Secretary and the Congress a report that analyzes the previous operation (if any) of this section and that includes recommendations concerning the manner in which this section should be applied for the following fiscal year:*

*"(B) PRELIMINARY NOTICE BY SECRETARY.—Not later than May 15 preceding the beginning of each fiscal year (beginning with fiscal year 1998), the Secretary shall publish in the FEDERAL REGISTER a notice containing the Secretary's preliminary determination, for each sec-*

*tor of medicare services, concerning the following:*

*"(i) the projected allotment under subsection (c) for such sector for the fiscal year.*

*"(ii) Whether there will be a payment adjustment for items and services included in such sector for the fiscal year under subsection (a).*

*"(iii) If there will be such an adjustment, the size of such adjustment and the methodology to be used in making such a payment adjustment for classes of items and services included in such sector.*

*"(iv) Beginning with fiscal year 1999, the fee-for-service expenditures for such sector for the second preceding fiscal year.*

*Such notice shall include an explanation of the basis for such determination. Determinations under this subparagraph and subparagraph (C) shall be based on the best data available at the time of such determinations.*

*"(C) FINAL DETERMINATION.—Not later than September 1 preceding the beginning of each fiscal year (beginning with fiscal year 1998), the Secretary shall publish in the Federal*

*Register a final determination, for each, sector of medicare services, concerning the matters described in subparagraph (B) and an explanation of the reasons for any differences between such determination and the preliminary determination for such fiscal year published under subparagraph (B).*

*"(4) LIMITATION ON ADMINISTRATIVE OR JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1878 or otherwise of—*

*"(A) the classification of items and services among the sectors of medicare services under subsection (b),*

*"(B) the determination of the amounts of allotments for the different sectors of medicare services under subsection (c),*

*"(C) the determination of the amount (or method of application) of any payment adjustment under subsection (d), or*

*"(D) any adjustment in an allotment effected under subsection (g).*

*"(f) FEE-FOR-SERVICE EXPENDITURES DEFINED.—In this section, the term "fee-for-service expenditures', for items and services within a sector of medicare services in a fiscal year, means amounts payable for such*

*items and services which are furnished during the fiscal year, and—*

*"(1) includes types of expenses otherwise reimbursable under parts A and B (including administrative costs incurred by organizations described in sections 1816 and 1842) with respect to such items and services, and*

*"(2) does not include amounts paid under part C.*

*"(g) LOOK-BACK ADJUSTMENT IN ALLOTMENTS TO REFLECT ACTUAL EXPENDITURES.—*

*"(1) DETERMINATIONS.—*

*"(A) IN GENERAL.—If the Secretary estimates under subsection (e)(3)(B) with respect to a particular fiscal year (beginning with fiscal year 1998) that—*

*"(i) the fee-for-service expenditures for all sectors of medicare services for the second preceding fiscal year, exceeded*

*"(ii) the sum of the adjusted allotments for all sectors for such year (as defined in paragraph (2)),*

*then the allotment for each final excess spending sector (as defined in subparagraph (B)(i)) for the particular fiscal year shall be re-*

*duced by the look-back sector reduction amount determined under subparagraph (B)(ii) for such sector and year.*

*"(B) FINAL EXCESS SPENDING SECTORS.—*

*"(i) IN GENERAL.—In this paragraph, the term final excess spending sector' means, for a fiscal year, a sector of medicare services for which the Secretary determines under subsection (e)(B) that—*

*"(I) the fee-for-service expenditures (as defined in subsection (f) for the fiscal year, exceeded*

*"(II) the adjusted allotment for such fiscal year.*

*For purposes of clause (ii), the term 'final excess spending' means, for a fiscal year with respect to such a sector, the amount by which the amount described in subclause (I) (for the fiscal year and sector) exceeds the amount described in subclause (II) for such year and sector.*

*"(ii) LOOK BACK SECTOR REDUCTION AMOUNT.—In subparagraph (A)(i), the 'look back sector reduction amount' for a final*

*excess spending sector for a fiscal year is equal to the product of—*

*"(I) the amount of the final excess spending for such sector and year (as defined in clause (i)); and*

*"(II) the ratio of—*

*"(a) the aggregate final excess spending for the year (described in subparagraph (A)(i)), to*

*"(b) the sum of the amounts of the final excess spending for all final excess spending sectors.*

*"(2) ADJUSTED ALLOTMENT.—The adjusted allotment under this paragraph for a sector for a fiscal year is—*

*"(A) the amount that would be computed as the allotment under subsection (c) for the sector for the fiscal year if the actual amount of payments made in the fiscal year under the MedicarePlus program under part C in the fiscal year were substituted for the amount described in subsection (c)(2)(A)(ii) for that fiscal year,*

*"(B) adjusted to take into account the amount of any adjustment under paragraph (1)*

*for that fiscal year (based on expenditures in the second preceding fiscal year).".*

*(b) REPORT OF TRUSTEES ON GROWTH RATE IN PART A EXPENDITURES.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:*

*"(k) Each annual report provided in subsection (b)(2) shall include information regarding the annual rate of growth in program expenditures that would be required to maintain the financial solvency of the Trust Fund and the extent to which the provisions of section 1895 restrain the rate of growth of expenditures under this part in order to achieve such solvency.".*

## Subtitle H—Rural Areas

### SEC. 8701. MEDICARE-DEPENDENT, SMALL, RURAL HOSPITAL PAYMENT EXTENSION.

*(a) SPECIAL TREATMENT EXTENDED.—*

*(1) PAYMENT METHODOLOGY.—Section 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amended—*

*(A) in clause (i), by striking "October 1, 1994," and inserting "October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,"; and*

*(B) in clause (ii)(II), by striking "October 1, 1994," and inserting "October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,".*

*(2) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—*

*(A) in the matter preceding clause (i), by striking "September 30, 1994," and inserting "September 30, 1994, and for cost reporting periods beginning on or after September 1, 1995, and before October 1, 2000,";*

*(B) in clause (ii), by striking "and" at the end;*

*(C) in clause (iii), by striking the period at the end and inserting ", and"; and*

*(D) by adding at the end the following new clause:*

*"(iv) with respect to discharges occurring during September 1995 through fiscal year 1999, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv).".*

*(3) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 13501(e)(2) of OBRA–93*

*(42 U.S.C. 1395ww note) is amended by striking "or fiscal year 1994" and inserting ", fiscal year 1994, fiscal year 1995, fiscal year 1996, fiscal year 1997, fiscal year 1998, or fiscal year 1999".*

*(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to discharges occurring on or after September 1, 1995.*

***SEC. 8702. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.***

*(a) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820 (42 U.S.C. 1395i–4) is amended to read as follows:*

*"MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM*

*"SEC. 1820. (a) ESTABLISHMENT.—Any State that submits an application in accordance with subsection (b) may establish a medicare rural hospital flexibility program described in subsection (c).*

*"(b) APPLICATION.—A State may establish a medicare rural hospital flexibility program described in subsection (c) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—*

*"(1) assurances that the State—*

*"(A) has developed, or is in the process of developing, a State rural health care plan that—*

*"(i) provides for the creation of one or more rural health networks (as defined in subsection (d)) in the State,*

*"(ii) promotes regionalization of rural health services in the State, and*

*"(iii) improves access to hospital and other health services for rural residents of the State;*

*"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);*

*"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and*

*"(3) such other information and assurances as the Secretary may require.*

*"(c) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED.—*

*"(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (b), may establish a medicare rural hospital flexibility program that provides that—*

*"(A) the State shall develop at least one rural health network (as defined in subsection (d)) in the State; and*

*"(B) at least one facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).*

*"(2) STATE DESIGNATION OF FACILITIES.—*

*"(A) IN GENERAL.—A State may designate one or more facilities as a critical access hospital in accordance with subparagraph (B).*

*"(B) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL.—A State may designate a facility as a critical access hospital if the facility—*

*"(i) is located in a county (or equivalent unit of local government) in a rural*

*area (as defined in section 1886(d)(2)(D)) that—*

*"(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection, or*

*"(II) is certified by the State as being a necessary provider of health care services to residents in the area;*

*"(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;*

*"(iii) provides not more than 6 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 72 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 72-hour restriction on a case-by-case basis;*

*"(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—*

*"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,*

*"(II) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off-site basis under arrangements as defined in section 1861(w)(1), and*

*"(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and*

*"(v) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa).*

*"(d) RURAL HEALTH NETWORK DEFINED.—*

*"(1) IN GENERAL.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization consisting of—*

*"(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital, and*

*"(B) at least 1 hospital that furnishes acute care services.*

*"(2) AGREEMENTS.—*

*"(A) IN GENERAL.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.*

*"(B) ITEMS DESCRIBED.—The items described in this subparagraph are the following:*

*"(i) Patient referral and transfer.*

*"(ii) The development and use of communications systems including (where feasible)—*

*"(I) telemetry systems, and*

*"(II) systems for electronic sharing of patient data.*

*"(iii) The provision of emergency and non-emergency transportation among the facility and the hospital.*

*"(C) CREDENTIALING AND QUALITY ASSURANCE.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least 1—*

*"(i) hospital that is a member of the network;*

*"(ii) peer review organization or equivalent entity; or*

*"(iii) other appropriate and qualified entity identified in the State rural health care plan.*

*"(e) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—*

*"(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (c);*

*"(2) is designated as a critical access hospital by the State in which it is located; and*

*"(3) meets such other criteria as the Secretary may require.*

*"(f) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a State from designating or the Secretary from certifying a facility as a critical access hospital solely because, at the time the facility applies to the State for designation as a critical access hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed 12 beds (minus the number of inpatient beds used for providing inpatient care in the facility pursuant to subsection (c)(2)(B)(iii)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of*

*a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a critical access hospital.*

*"(g) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.".*

*(b) PART A AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS.—*

*(1) DEFINITIONS.—Section 1861(mm) (42 U.S.C. 1395x(mm)) is amended to read as follows:*

*"CRITICAL ACCESS HOSPITAL; CRITICAL ACCESS HOSPITAL SERVICES*

*"(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(e).*

*"(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.".*

*(2) COVERAGE AND PAYMENT.—(A) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by striking "or inpatient rural primary care hospital*

*services" and inserting "or inpatient critical access hospital services".*

*(B) Sections 1813(a) and section 1813(b)(3)(A) (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient rural primary care hospital services" each place it appears, and inserting "inpatient critical access hospital services".*

*(C) Section 1813(b)(3)(B) (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services".*

*(D) Section 1814 (42 U.S.C. 1395f) is amended—*

*(i) in subsection (a)(8) by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and*

*(ii) in subsection (b), by striking "other than a rural primary care hospital providing inpatient rural primary care hospital services," and inserting "other than a critical access hospital providing inpatient critical access hospital services,"; and*

*(iii) by amending subsection (l) to read as follows:*

*"(l) PAYMENT FOR INPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".*

*(3) TREATMENT OF CRITICAL ACCESS HOSPITALS AS PROVIDERS OF SERVICES.—(A) Section 1861(u) (42 U.S.C. 1395x(u)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".*

*(B) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking "a rural primary care hospital" and inserting "a critical access hospital".*

*(4) CONFORMING AMENDMENTS.—(A) Section 1128A(b)(1) (42 U.S.C. 1320a–7a(b)(1)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".*

*(B) Section 1128B(c) (42 U.S.C. 1320a–7b(c)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".*

*(C) Section 1134 (42 U.S.C. 1320b–4) is amended by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".*

*(D) Section 1138(a)(1) (42 U.S.C. 1320b–8(a)(1)) is amended—*

*(i) in the matter preceding subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital"; and*

*(ii) in the matter preceding clause (i) of subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital".*

*(E) Section 1816(c)(2)(C) (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".*

*(F) Section 1833 (42 U.S.C. 1395l) is amended—*

*(i) in subsection (h)(5)(A)(iii), by striking "rural primary care hospital" and inserting "critical access hospital";*

*(ii) in subsection (i)(1)(A), by striking "rural primary care hospital" and inserting "critical access hospital";*

*(iii) in subsection (i)(3)(A), by striking "rural primary care hospital services" and inserting "critical access hospital services";*

*(iv) in subsection (l)(5)(A), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and*

*(v) in subsection (l)(5)(B), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".*

*(G) Section 1835(c) (42 U.S.C. 1395n(c)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".*

*(H) Section 1842(b)(6)(A)(ii) (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".*

*(I) Section 1861 (42 U.S.C. 1395x) is amended—*

*(i) in subsection (a)—*

*(I) in paragraph (1), by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services"; and*

*(II) in paragraph (2), by striking "rural primary care hospital" and inserting "critical access hospital";*

*(ii) in the last sentence of subsection (e), by striking "rural primary care hospital" and inserting "critical access hospital";*

*(iii) in subsection (v)(1)(S)(ii)(III), by striking "rural primary care hospital" and inserting "critical access hospital";*

*(iv) in subsection (w)(1), by striking "rural primary care hospital" and inserting "critical access hospital"; and*

*(v) in subsection (w)(2), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".*

*(J) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".*

*(K) Section 1866(a)(1) (42 U.S.C 1395cc(a)(1)) is amended—*

*(i) in subparagraph (F)(ii), by striking "rural primary care hospitals" and inserting "critical access hospitals";*

*(ii) in subparagraph (H), in the matter preceding clause (i), by striking "rural primary care hospitals" and "rural primary care hospital services" and inserting "critical access hospitals"*

*and "critical access hospital services", respectively;*

*(iii) in subparagraph (I), in the matter preceding clause (i), by striking "rural primary care hospital" and inserting "critical access hospital"; and*

*(iv) in subparagraph (N)—*

*(I) in the matter preceding clause (i), by striking "rural primary care hospitals" and inserting "critical access hospitals", and*

*(II) in clause (i), by striking "rural primary care hospital" and inserting "critical access hospital".*

*(L) Section 1866(a)(3) (42 U.S.C 1395cc(a)(3)) is amended—*

*(i) by striking "rural primary care hospital" each place it appears in subparagraphs (A) and (B) and inserting "critical access hospital"; and*

*(ii) in subparagraph (C)(ii)(II), by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".*

*(M) Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".*

*(c) PAYMENT CONTINUED TO DESIGNATED EACHS.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—*

*(1) in clause (iii)(III), by inserting "as in effect on September 30, 1995" before the period at the end; and*

*(2) in clause (v)—*

*(A) by inserting "as in effect on September 30, 1995" after "1820 (i)(1)"; and*

*(B) by striking "1820(g)" and inserting "1820(e)".*

*(d) PART B AMENDMENTS RELATING TO CRITICAL ACCESS HOSPITALS.—*

*(1) COVERAGE.—(A) Section 1861(mm) (42 U.S.C. 1395x(mm)) as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:*

*"(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.".*

*(B) Section 1832(a)(2)(H) (42 U.S.C. 1395k(a)(2)(H)) is amended by striking "rural pri-*

*mary care hospital services" and inserting "critical access hospital services".*

*(2) PAYMENT.—(A) Section 1833(a) (42 U.S.C. 1395l(a)) is amended in paragraph (6), by striking "outpatient rural primary care hospital services" and inserting "outpatient critical access hospital services".*

*(B) Section 1834(g) (42 U.S.C. 1395m(g)) is amended to read as follows:*

*"(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".*

*(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.*

***SEC. 8703. ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS.***

*(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:*

*"Rural Emergency Access Care Hospital; Rural Emergency Access Care Hospital Services*

*"(oo)(1) The term 'rural emergency access care hospital' means, for a fiscal year, a facility with respect to which the Secretary finds the following:*

*"(A) The facility is located in a rural area (as defined in section 1886(d)(2)(D)).*

*"(B) The facility was a hospital under this title at any time during the 5-year period that ends on the date of the enactment of this subsection.*

*"(C) The facility is in danger of closing due to low inpatient utilization rates and operating losses, and the closure of the facility would limit the access to emergency services of individuals residing in the facility's service area.*

*"(D) The facility has entered into (or plans to enter into) an agreement with a hospital with a participation agreement in effect under section 1866(a), and under such agreement the hospital shall accept patients transferred to the hospital from the facility and receive data from and transmit data to the facility.*

*"(E) There is a practitioner who is qualified to provide advanced cardiac life support services (as determined by the State in which the facility is located) on-site at the facility on a 24-hour basis.*

*"(F) A physician is available on-call to provide emergency medical services on a 24-hour basis.*

*"(G) The facility meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—*

*"(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on a 24-hour basis under subparagraphs (E) and (F); and*

*"(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, or radiological technologist on a part-time, off-site basis.*

*"(H) The facility meets the requirements applicable to clinics and facilities under subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of such paragraph (or, in the case of the requirements of subparagraph (E), (F), or (J) of such paragraph, would meet the requirements if any reference in such subparagraph to a 'nurse practitioner' or to 'nurse practitioners' were deemed to be a reference to a 'nurse practitioner or nurse' or to 'nurse practitioners*

*or nurses'); except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).*

*"(2) The term 'rural emergency access care hospital services' means the following services provided by a rural emergency access care hospital and furnished to an individual over a continuous period not to exceed 24 hours (except that such services may be furnished over a longer period in the case of an individual who is unable to leave the hospital because of inclement weather):*

*"(A) An appropriate medical screening examination (as described in section 1867(a)).*

*"(B) Necessary stabilizing examination and treatment services for an emergency medical condition and labor (as described in section 1867(b)).".*

*(b) REQUIRING RURAL EMERGENCY ACCESS CARE HOSPITALS TO MEET HOSPITAL ANTI-DUMPING REQUIREMENTS.—Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "1861(mm)(1))" and inserting "1861(mm)(1)) and a rural emergency access care hospital (as defined in section 1861(oo)(1))".*

*(c) COVERAGE AND PAYMENT FOR SERVICES.—*

*(1) COVERAGE.—Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended—*

*(A) by striking "and" at the end of subparagraph (I);*

*(B) by striking the period at the end of subparagraph (J) and inserting "; and"; and*

*(C) by adding at the end the following new subparagraph:*

*"(K) rural emergency access care hospital services (as defined in section 1861(oo)(2)).".*

*(2) PAYMENT BASED ON PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—*

*(A) IN GENERAL.—Section 1833(a)(6) (42 U.S.C. 1395l(a)(6)), as amended by section 8702(f)(2), is amended by striking "services," and inserting "services and rural emergency access care hospital services,".*

*(B) PAYMENT METHODOLOGY DESCRIBED.—Section 1834(g) (42 U.S.C. 1395m(g)), as amended by section 8702(f)(2)(B), is amended—*

*(i) in the heading, by striking "SERVICES" and inserting "SERVICES AND RURAL EMERGENCY ACCESS CARE HOSPITAL SERVICES"; and*

*(ii) by adding at the end the following new sentence: "The amount of payment for rural emergency access care hospital services provided during a year shall be determined using the applicable method provided under this subsection for determining payment for outpatient rural primary care hospital services during the year.".*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning on or after October 1, 1995.*

***SEC. 8704. CLASSIFICATION OF RURAL REFERRAL CENTERS.***

*(a) PROHIBITING DENIAL OF REQUEST FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.—*

*(1) IN GENERAL.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended—*

*(A) by redesignating clause (iii) as clause (iv); and*

*(B) by inserting after clause (ii) the following new clause:*

*"(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which is classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison*

*between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.".*

*(2) EFFECTIVE DATE.—Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board during the 30-day period beginning on the date of the enactment of this Act requesting a change in its classification for purposes of determining the area wage index applicable to the hospital under section 1886(d)(3)(D) of such Act for fiscal year 1997, if the hospital would be eligible for such a change in its classification under the standards described in section 1886(d)(10)(D) (as amended by paragraph (1)) but for its failure to meet the deadline for applications under section 1886(d)(10)(C)(ii).*

*(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1994 shall be classified as such a rural referral center for fiscal year 1996 and each subsequent fiscal year.*

***SEC. 8705. FLOOR ON AREA WAGE INDEX.***

*(a) IN GENERAL.—For purposes of section 1886(d)(3)(E) of the Social Security Act for discharges occurring on or after October 1, 1995, the area wage index applicable under such section to any hospital which is not located in a rural area (as defined in section 1886(d)(2)(D) of such Act) may not be less than the average of the area wage indices applicable under such section to hospitals located in rural areas in the State in which the hospital is located.*

*(b) IMPLEMENTATION.—The Secretary of Health and Human Services shall adjust the area wage indices referred to in subsection (a) for hospitals not described in such subsection in a manner which assures that the aggregate payments made under section 1886(d) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services are not greater or less than those which would have been made in the year if this section did not apply.*

***SEC. 8706. ADDITIONAL PAYMENTS FOR PHYSICIANS' SERVICES FURNISHED IN SHORTAGE AREAS.***

*(a) INCREASE IN AMOUNT OF ADDITIONAL PAYMENT.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking "10 percent" and inserting "20 percent".*

*(b) RESTRICTION TO PRIMARY CARE SERVICES.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by inserting*

*after "physicians' services" the following: "consisting of primary care services (as defined in section 1842(i)(4))".*

*(c) EXTENSION OF PAYMENT FOR FORMER SHORTAGE AREAS.—*

*(1) IN GENERAL.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking "area," and inserting "area (or, in the case of an area for which the designation as a health professional shortage area under such section is withdrawn, in the case of physicians' services furnished to such an individual during the 3-year period beginning on the effective date of the withdrawal of such designation),".*

*(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to physicians' services furnished in an area for which the designation as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act is withdrawn on or after January 1, 1996.*

*(d) REQUIRING CARRIERS TO REPORT ON SERVICES PROVIDED.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—*

*(1) by striking "and" at the end of subparagraph (I); and*

*(2) by inserting after subparagraph (I) the following new subparagraph:*

*"(J) will provide information to the Secretary (on such periodic basis as the Secretary may require) on the types of providers to whom the carrier makes additional payments for certain physicians' services pursuant to section 1833(m), together with a description of the services furnished by such providers; and".*

*(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (d) shall apply to physicians' services furnished on or after October 1, 1995.*

***SEC. 8707. PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS FOR SERVICES FURNISHED IN OUTPATIENT OR HOME SETTINGS.***

*(a) COVERAGE IN OUTPATIENT OR HOME SETTINGS FOR PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS.—Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended—*

*(1) in clause (i)—*

*(A) by striking "or" at the end of subclause (II); and*

*(B) by inserting "or (IV) in an outpatient or home setting as defined by the Secretary" following "shortage area,"; and*

*(2) in clause (ii)—*

*(A) by striking "in a skilled" and inserting "in (I) a skilled"; and*

*(B) by inserting ", or (II) in an outpatient or home setting (as defined by the Secretary)," after "(as defined in section 1919(a))".*

*(b) PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—*

*(1) IN GENERAL.—Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended—*

*(A) by inserting "services described in section 1861(s)(2)(K)(ii)(II) (relating to nurse practitioner services furnished in outpatient or home settings), and services described in section 1861(s)(2)(K)(i)(IV) (relating to physician assistant services furnished in an outpatient or home setting" after "rural area),"; and*

*(B) by striking "or clinical nurse specialist" and inserting "clinical nurse specialist, or physician assistant".*

*(2) CONFORMING AMENDMENT.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended by striking "clauses (i), (ii), or (iv)" and inserting "subclauses (I), (II), or (III) of clause (i), clause (ii)(I), or clause (iv)".*

*(c) PAYMENT UNDER THE FEE SCHEDULE TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—*

*(1) PHYSICIAN ASSISTANTS.—Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by adding at the end the following new subparagraph:*

*"(C) With respect to services described in clauses (i)(IV), (ii)(II), and (iv) of section 1861(s)(2)(K) (relating to physician assistants and nurse practitioners furnishing services in outpatient or home settings)—*

*"(i) payment under this part may only be made on an assignment-related basis; and*

*"(ii) the amounts paid under this part shall be equal to 80 percent of (I) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848 for the same service provided by a physician who is not a specialist; or (II) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery.".*

*(2) CONFORMING AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking "(i), (ii)," and inserting "subclauses (I), (II), or (III) of clause (i), or subclause (I) of clause (ii)".*

*(3) TECHNICAL AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is*

*amended in the matter preceding clause (i) by striking "a physician assistants" and inserting "physician assistants".*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.*

***SEC. 8708. EXPANDING ACCESS TO NURSE AIDE TRAINING IN UNDERSERVED AREAS.***

*(a) IN GENERAL.—Section 1819(f)(2)(B)(iii)(I) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)) is amended in the matter preceding item (a), by striking "by or in a nursing facility" and inserting "by a nursing facility (or in such a facility, unless the State determines that there is no other such program offered within a reasonable distance, provides notice of the approval to the State long term care ombudsman, and assures, through an oversight effort, that an adequate environment exists for such a program)".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to nurse aide training and competency evaluation programs under section 1819 of the Social Security Act which are offered on or after October 1, 1995.*

# *TITLE IX—TRANSPORTATION AND RELATED PROVISIONS*

***SEC. 9001. MINIMUM ALLOCATION FOR HIGHWAY PROGRAMS.***

*(a) TECHNICAL CORRECTION.—With respect to fiscal year 1996—*

*(1) the Secretary of Transportation shall determine, in accordance with the policies established by the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914)—*

*(A) which of the States will no longer require an apportionment under section 157(a)(4) of title 23, United States Code; and*

*(B) which of the States will require decreased funding under such section 157(a)(4);*

*as a result of the termination of the Interstate construction program; and*

*(2) as a result of the reduced number of States that may require an apportionment under such section 157(a)(4), and the decrease in the amount of funds some States will require under such section 157(a)(4), the maximum amount available for apportionment under such section 157(a)(4) shall be reduced from the amount apportioned under such section 157(a)(4) for fiscal year 1995 by 60.4 percent.*

*(b) EFFECT ON CERTAIN CALCULATIONS.—The correction made by subsection (a) shall be made after the reduction required under section 1003(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1921) and shall not be taken into account in making the calculations under sections 1003(c), 1013(c), and 1015 of such Act (105 Stat. 1921, 1940, and 1943).*

***SEC. 9002. EXTENSION OF HIGHER VESSEL TONNAGE DUTIES.***

*(a) EXTENSION OF DUTIES.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 U.S.C. App. 121), is amended by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998," each place it appears and inserting "for fiscal years through fiscal year 2002,".*

*(b) CONFORMING AMENDMENT.—The Act entitled "An Act concerning tonnage duties on vessels entering otherwise than by sea", approved March 8, 1910 (36 Stat. 234; 46 U.S.C. App. 132), is amended by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, and 1998," and inserting "for fiscal years through fiscal year 2002,".*

***SEC. 9003. FEMA RADIOLOGICAL EMERGENCY PREPAREDNESS FEES.***

*(a) IN GENERAL.—The Director of the Federal Emergency Management Agency may assess and collect fees ap-*

*plicable to persons subject to radiological emergency preparedness regulations issued by the Director.*

*(b) REQUIREMENTS.—The assessment and collection of fees by the Director under subsection (a) shall be fair and equitable and shall reflect the full amount of costs to the Agency of providing radiological emergency planning, preparedness, response, and associated services. Such fees shall be assessed by the Director in a manner that reflects the use of resources of the Agency for classes of regulated persons and the administrative costs of collecting such fees.*

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

*(d) DEPOSIT OF FEES IN TREASURY.—Fees received pursuant to subsection (a) shall be deposited in the general fund of the Treasury as offsetting receipts.*

*(e) EXPIRATION OF AUTHORITY.—The authority of the Director to assess and collect fees under subsection (a) shall expire on September 30, 2002.*

# TITLE X—VETERANS AND RELATED PROVISIONS

**SEC. 10001. SHORT TITLE; TABLE OF CONTENTS.**

*(a) SHORT TITLE.—This title may be cited as the "Veterans Reconciliation Act of 1995".*

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

*Sec. 10001. Short title; table of contents.*

*Subtitle A—Extension of Temporary Authorities*

*Sec. 10011. Authority to require that certain veterans make copayments in exchange for receiving health-care benefits.*
*Sec. 10012. Medical care cost recovery authority.*
*Sec. 10013. Income verification authority.*
*Sec. 10014. Limitation on pension for certain recipients of medicaid-covered nursing home care.*
*Sec. 10015. Home loan fees.*
*Sec. 10016. Procedures applicable to liquidation sales on defaulted home loans guaranteed by the Department of Veterans Affairs.*
*Sec. 10017. Enhanced loan asset sale authority.*

*Subtitle B—Other Matters*

*Sec. 10021. Revision to prescription drug copayment.*
*Sec. 10022. Rounding down of cost-of-living adjustments in compensation and DIC rates.*
*Sec. 10023. Revised standard for liability for injuries resulting from Department of Veterans Affairs treatment.*
*Sec. 10024. Withholding of payments and benefits.*

## Subtitle A—Extension of Temporary Authorities

**SEC. 10011. AUTHORITY TO REQUIRE THAT CERTAIN VETERANS MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS.**

*(a) HOSPITAL AND MEDICAL CARE.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C. 1710 note) is amended by striking out "September*

*30, 1998" and inserting in lieu thereof "September 30, 2002".*

*(b) OUTPATIENT MEDICATIONS.—Section 1722A(c) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".*

**SEC. 10012. MEDICAL CARE COST RECOVERY AUTHORITY.**

*Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out "before October 1, 1998," and inserting "before October 1, 2002,".*

**SEC. 10013. INCOME VERIFICATION AUTHORITY.**

*Section 5317(g) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".*

**SEC. 10014. LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.**

*Section 5503(f)(7) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".*

**SEC. 10015. HOME LOAN FEES.**

*Section 3729(a) of title 38, United States Code, is amended—*

*(1) in paragraph (4), by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002"; and*

*(2) in paragraph (5)(C), by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002".*

***SEC. 10016. PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.***

*Section 3732(c)(11) of title 38, United States Code, is amended by striking out "October 1, 1998" and inserting "October 1, 2002".*

***SEC. 10017. ENHANCED LOAN ASSET SALE AUTHORITY.***

*Section 3720(h)(2) of title 38, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "September 30, 2002".*

## *Subtitle B—Other Matters*

***SEC. 10021. REVISION TO PRESCRIPTION DRUG COPAYMENT.***

*(a) INCREASE IN AMOUNT OF COPAYMENT.—Section 1722A(a) of title 38, United States Code, is amended—*

*(1) in paragraph (1), by striking out "$2" and inserting in lieu thereof "$4";*

*(2) by striking out paragraph (2); and*

*(3) by redesignating paragraph (3) as paragraph (2) and in that paragraph—*

*(A) striking out "or" at the end of subparagraph (A);*

*(B) striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and*

*(C) adding at the end the following new subparagraph:*

*"(C) to a veteran who is a former prisoner of war.".*

*(b) RECOVERY OF INDEBTEDNESS.—(1) Section 5302 of such title is amended by adding at the end the following new subsection:*

*"(f) The Secretary may not waive under this section the recovery of any payment or the collection of any indebtedness owed under section 1722A of this title.".*

*(2) The amendment made by paragraph (1) shall apply with respect to amounts that become due to the United States under section 1722A of title 38, United States Code, on or after the date of the enactment of this Act.*

***SEC. 10022. ROUNDING DOWN OF COST-OF-LIVING ADJUSTMENTS IN COMPENSATION AND DIC RATES.***

*(a) FISCAL YEAR 1996 COLA.—(1) Effective as of December 1, 1995, the Secretary of Veterans Affairs shall re-*

*compute any increase in an adjustment that is otherwise provided by law to be effective during fiscal year 1996 in the rates of disability compensation and dependency and indemnity compensation paid by the Secretary as such rates were in effect on November 30, 1995. The recomputation shall provide for the same percentage increase as provided under such law, but with amounts so recomputed (if not a whole dollar amount) rounded down to the next lower whole dollar amount (rather than to the nearest whole dollar amount) and with each old-law DIC rate increased by the amount by which the new-law DIC rate is increased (rather than by a uniform percentage).*

*(2) For purposes of paragraph (1):*

*(A) The term "old-law DIC rate" means a dollar amount in effect under section 1311(a)(3) of title 38, United States Code.*

*(B) The term "new-law DIC rate" means the dollar amount in effect under section 1311(a)(1) of title 38, United States Code.*

*(b) OUT-YEAR COMPENSATION COLAS.—(1) Chapter 11 of title 38, United States Code, is amended by inserting after section 1102 the following new section:*

***"§ 1103. Cost-of-living adjustments***

*"(a) In the computation of cost-of-living adjustments for fiscal years 1997 through 2002 in the rates of, and dol-*

*lar limitations applicable to, compensation payable under this chapter, such adjustments shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower whole dollar amount.*

*"(b) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).".*

*(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1102 the following new item:*

*"1103. Cost-of-living adjustments.".*

*(c) OUT-YEAR DIC COLAS.—(1) Chapter 13 of title 38, United States Code, is amended by inserting after section 1302 the following new section:*

***"§ 1303. Cost-of-living adjustments***

*"(a) In the computation of cost-of-living adjustments for fiscal years 1997 through 2002 in the rates of dependency and indemnity compensation payable under this chapter, such adjustments (except as provided in subsection (b)) shall be made by a uniform percentage that is no more than*

*the percentage equal to the social security increase for that fiscal year, with all increased monthly rates (other than increased rates equal to a whole dollar amount) rounded down to the next lower whole dollar amount.*

*"(b)(1) Cost-of-living adjustments for each of fiscal years 1997 through 2002 in old-law DIC rates shall be in a whole dollar amount that is no greater than the amount by which the new-law DIC rate is increased for that fiscal year as determined under subsection (a).*

*"(2) For purposes of paragraph (1):*

*"(A) The term 'old-law DIC rates' means the dollar amounts in effect under section 1311(a)(3) of this title.*

*"(B) The term 'new-law DIC rate' means the dollar amount in effect under section 1311(a)(1) of this title.*

*"(c) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).".*

*(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1302 the following new item:*

*"1303. Cost-of-living adjustments.".*

***SEC. 10023. REVISED STANDARD FOR LIABILITY FOR INJURIES RESULTING FROM DEPARTMENT OF VETERANS AFFAIRS TREATMENT.***

*(a) REVISED STANDARD.—Section 1151 of title 38, United States Code, is amended—*

*(1) by designating the second sentence as subsection (c);*

*(2) by striking out the first sentence and inserting in lieu thereof the following:*

*"(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability of a veteran or the qualifying death of a veteran in the same manner as if such disability or death were service-connected.*

*"(b)(1) For purposes of this section, a disability or death is a qualifying additional disability or a qualifying death only if the disability or death—*

*"(A) was caused by Department health care and was a proximate result of—*

*"(i) negligence on the part of the Department in furnishing the Department health care; or*

*"(ii) an event not reasonably foreseeable; or*

*"(B) was incurred as a proximate result of the provision of training and rehabilitation services by*

*the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title.*

*"(2) For purposes of this section, the term 'Department health care' means hospital care, medical or surgical treatment, or an examination that is furnished under any law administered by the Secretary to a veteran by a Department employee or in a facility over which the Secretary has direct jurisdiction.*

*"(3) A disability or death of a veteran which is the result of the veteran's willful misconduct is not a qualifying disability or death for purposes of this section."; and*

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

*"(d) Effective with respect to injuries, aggravations of injuries, and deaths occurring after September 30, 2002, a disability or death is a qualifying additional disability or a qualifying death for purposes of this section (notwithstanding the provisions of subsection (b)(1)) if the disability or death—*

*"(1) was the result of Department health care; or*

*"(2) was the result of the pursuit of a course of vocational rehabilitation under chapter 31 of this title.".*

*(b) CONFORMING AMENDMENTS.—Subsection (c) of such section, as designated by subsection (a)(1), is amended—*

*(1) by striking out ", aggravation," both places it appears; and*

*(2) by striking out "sentence" and inserting in lieu thereof "subsection".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any administrative or judicial determination of eligibility for benefits under section 1151 of title 38, United States Code, based on a claim that is received by the Secretary on or after October 1, 1995, including any such determination based on an original application or an application seeking to reopen, revise, reconsider, or otherwise readjudicate any claim for benefits under section 1151 of that title or any predecessor provision of law.*

***SEC. 10024. WITHHOLDING OF PAYMENTS AND BENEFITS.***

*(a) NOTICE REQUIRED IN LIEU OF CONSENT OR COURT ORDER.—Section 3726 of title 38, United States Code, is amended by striking out "unless" and all that follows and inserting in lieu thereof the following: "unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title. If the Secretary*

*does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title. If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.".*

*(b) CONFORMING AMENDMENT.—Section 5302(b) of such title is amended by inserting "with return receipt requested" after "certified mail".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of the enactment of this Act.*

# TITLE XI—REVENUE PROVISIONS

## SEC. 11000. SHORT TITLES; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

*(a) REVENUE RECONCILIATION ACT.—This title may be cited as the "Revenue Reconciliation Act of 1995".*

*(b) CONTRACT WITH AMERICA.—Subtitles A, B, C, and D of this title may be cited as the "Contract With America Tax Relief Act of 1995".*

*(c) 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.*

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


*TITLE XI—REVENUE PROVISIONS*

*Sec. 11000. Short titles; amendment of 1986 Code; table of contents.*

*Subtitle A—Family Tax Relief*

*Sec. 11001. Child tax credit.*
*Sec. 11002. Reduction in marriage penalty.*
*Sec. 11003. Credit for adoption expenses.*
*Sec. 11004. Deduction for interest on education loans.*
*Sec. 11005. Deduction for taxpayers with certain persons requiring custodial care in their households.*

*Subtitle B—Savings and Investment Incentives*

*CHAPTER 1—RETIREMENT SAVINGS INCENTIVES*

*SUBCHAPTER A—INDIVIDUAL RETIREMENT PLANS*

*PART I—RESTORATION OF IRA DEDUCTION*

*Sec. 11011. Restoration of IRA deduction.*
*Sec. 11012. Inflation adjustment for deductible amount.*
*Sec. 11013. Homemakers eligible for full IRA deduction.*

*PART II—NONDEDUCTIBLE TAX-FREE IRAS*

*Sec. 11015. Establishment of American Dream IRA.*

*SUBCHAPTER B—PENALTY-FREE DISTRIBUTIONS*

*Sec. 11016. Distributions from certain plans may be used without penalty to purchase first homes or to pay higher education or financially devastating medical expenses.*

*SUBCHAPTER C—SIMPLE SAVINGS PLANS*

*Sec. 11018. Establishment of savings incentive match plans for employees of small employers.*
*Sec. 11019. Extension of simple plan to 401(k) arrangements.*

*CHAPTER 2—CAPITAL GAINS REFORM*

*SUBCHAPTER A—TAXPAYERS OTHER THAN CORPORATIONS*

*Sec. 11021. Capital gains deduction.*
*Sec. 11022. Indexing of certain assets acquired after December 31, 2000, for purposes of determining gain.*
*Sec. 11023. Modifications to exclusion of gain on certain small business stock.*

*SUBCHAPTER B—CORPORATE CAPITAL GAINS*

*Sec. 11025. Reduction of alternative capital gain tax for corporations.*

*SUBCHAPTER C—CAPITAL LOSS DEDUCTION ALLOWED WITH RESPECT TO SALE OR EXCHANGE OF PRINCIPAL RESIDENCE*

*Sec. 11026. Capital loss deduction allowed with respect to sale or exchange of principal residence.*

*CHAPTER 3—CORPORATE ALTERNATIVE MINIMUM TAX REFORM*

*Sec. 11031. Modification of depreciation rules under minimum tax.*
*Sec. 11032. Long-term unused credits allowed against minimum tax.*

*CHAPTER 4—COST RECOVERY PROVISIONS*

*Sec. 11035. Treatment of abandonment of lessor improvements at termination of lease.*
*Sec. 11036. Increase in expense treatment for small businesses.*

*Subtitle C—Health Related Provisions*

*CHAPTER 1—LONG-TERM CARE PROVISIONS*

*SUBCHAPTER A—LONG-TERM CARE SERVICES AND CONTRACTS*

*PART I—GENERAL PROVISIONS*

*Sec. 11041. Treatment of long-term care insurance.*
*Sec. 11042. Qualified long-term care services treated as medical care.*
*Sec. 11043. Certain exchanges of life insurance contracts for qualified long-term care insurance contracts not taxable.*
*Sec. 11044. Exception from penalty tax for amounts withdrawn from certain retirement plans for qualified long-term care insurance.*
*Sec. 11045. Reporting requirements.*

*PART II—CONSUMER PROTECTION PROVISIONS*

*Sec. 11051. Policy requirements.*

*Sec. 11052. Requirements for issuers of long-term care insurance policies.*
*Sec. 11053. Coordination with State requirements.*
*Sec. 11054. Effective dates.*

*SUBCHAPTER B—TREATMENT OF ACCELERATED DEATH BENEFITS*

*Sec. 11061. Treatment of accelerated death benefits by recipient.*
*Sec. 11062. Tax treatment of companies issuing qualified accelerated death benefit riders.*

*CHAPTER 2—MEDICAL SAVINGS ACCOUNTS*

*Sec. 11066. Medical savings accounts.*

*CHAPTER 3—INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS*

*Sec. 11068. Increase in deduction for health insurance costs of self-employed individuals.*

*Subtitle D—Estate and Gift Provisions*

*Sec. 11071. Cost-of-living adjustments relating to estate and gift tax provisions.*
*Sec. 11072. Family-owned business exclusion.*
*Sec. 11073. Treatment of land subject to a qualified conservation easement.*
*Sec. 11074. Expansion of exception from generation-skipping transfer tax for transfers to individuals with deceased parents.*
*Sec. 11075. Extension of treatment of certain rents under section 2032A to lineal descendants.*

*Subtitle E—Extension of Expiring Provisions*

*CHAPTER 1—TEMPORARY EXTENSIONS*

*Sec. 11111. Work opportunity tax credit.*
*Sec. 11112. Employer-provided educational assistance programs.*
*Sec. 11113. Research credit.*
*Sec. 11114. Orphan drug tax credit.*
*Sec. 11115. Contributions of stock to private foundations.*
*Sec. 11116. Delay of tax on fuel used in commercial aviation.*
*Sec. 11117. Extension of airport and airway trust fund excise taxes.*
*Sec. 11118. Extension of Internal Revenue Service user fees.*

*CHAPTER 2—SUNSET OF LOW-INCOME HOUSING CREDIT*

*Sec. 11121. Sunset of low-income housing credit.*

*CHAPTER 3—EXTENSIONS OF SUPERFUND AND OIL SPILL LIABILITY TAXES*

*Sec. 11131. Extension of Hazardous Substance Superfund taxes.*
*Sec. 11132. Extension of oil spill liability tax.*

*CHAPTER 4—EXTENSIONS RELATING TO FUEL TAXES*

*Sec. 11141. Ethanol blender refunds.*
*Sec. 11142. Extension of binding contract date for biomass and coal facilities.*
*Sec. 11143. Exemption from diesel fuel dyeing requirements with respect to certain States.*

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*Sec. 11901. Increase in public debt limit.*

# *Subtitle A—Family Tax Relief*

***SEC. 11001. CHILD TAX CREDIT.***

*(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:*

***"SEC. 23. CHILD TAX CREDIT.***

*"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500 multiplied by the number of qualifying children of the taxpayer.*

*"(b) LIMITATION.—*

*"(1) IN GENERAL.—The amount of the credit which would (but for this subsection) be allowed by subsection (a) shall be reduced (but not below zero) by $25 for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income exceeds the threshold amount.*

*"(2) THRESHOLD AMOUNT.—For purposes of paragraph (1), the term 'threshold amount' means—*

*"(A) $110,000 in the case of a joint return,*

*"(B) $75,000 in the case of an individual who is not married, and*

*"(C) $55,000 in the case of a married individual filing a separate return.*

*For purposes of this paragraph, marital status shall be determined under section 7703.*

*"(c) QUALIFYING CHILD.—For purposes of this section—*

*"(1) IN GENERAL.—The term 'qualifying child' means any individual if—*

*"(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for such taxable year,*

*"(B) such individual has not attained the age of 18 as of the close of the calendar year in which the taxable year of the taxpayer begins, and*

*"(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B) (determined without regard to clause (ii) thereof).*

*"(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any in-*

*dividual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.*

*"(d) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.".*

*(b) NOTICE OF CREDIT.—The Secretary of the Treasury shall transmit to all individual taxpayers by a separate mailing made on or before February 1, 1996, a notice which states only the following: "The Balanced Budget Act of 1995 was recently passed by the Congress. The Act's child tax credit allows taxpayers to reduce their taxes by $500 per child. The credit is effective October 1, 1995. You may wish to check with your employer about changing your tax withholding to take immediate advantage of the credit to which you are entitled for the current tax year. In addition, the Internal Revenue Service will be sending you a form in June of this year which you may use to claim the credit to which you are entitled for the period from October 1 through December 31, 1995 ($125 per child for 1995). In order to obtain your 1995 credit, you should file this form by August 15, 1996. Your refund will be sent to you sometime after October 1, 1996."*

*(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:*

*"Sec. 23. Child tax credit.".*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

*(e) PAYMENT OF 1995 CHILD CREDIT AMOUNT.—*

*(1) IN GENERAL.—The Secretary shall take such actions as are necessary to ensure that the 1995 child credit amount is paid to taxpayers entitled to payment of such credit amount.*

*(2) PAYMENTS GENERALLY DURING OCTOBER 1996.—In the case of taxpayers submitting the form referred to in paragraph (4) before August 16, 1996, the Secretary shall take such actions as are necessary to ensure that payments required by paragraph (1) are mailed after September 30, 1996, and before October 16, 1996.*

*(3) 1995 CHILD CREDIT AMOUNT.—For purposes of paragraph (1), the 1995 child credit amount is an amount equal to 25 percent of the amount of the credit which would be allowed to the taxpayer under section 23 of the Internal Revenue Code of 1986 (as*

*added by this section) if such section were in effect for the taxpayer's taxable year beginning in 1995.*

*(4) ENTITLEMENT TO CREDIT.—A taxpayer shall be entitled to a 1995 child credit amount if (and only if) the taxpayer submits to the Secretary a form which the Secretary shall prescribe for purposes of determining such amount. The Secretary shall mail such form to taxpayers on or before June 1, 1996.*

*(5) PAYMENT TREATED AS OVERPAYMENT.—The 1995 child credit amount shall be treated for purposes of subtitle F of such Code as a payment of tax for the taxpayer's taxable year beginning in 1995 which was made on August 15, 1996, or, if later, the date the form referred to in paragraph (4) is filed, and shall be refunded or credited in the same manner as if it were an overpayment of tax for such taxable year. No interest shall be paid under section 6611 of such Code on amounts paid under paragraph (1) before October 16, 1996.*

*(6) SECRETARY.—For purposes of this subsection, the term "Secretary" means the Secretary of the Treasury or his delegate.*

***SEC. 11002. REDUCTION IN MARRIAGE PENALTY.***

*(a) INCREASE IN BASIC STANDARD DEDUCTION FOR MARRIED INDIVIDUALS.—Section 63(c) (relating to standard deduction) is amended—*

*(1) by striking "$5,000" in paragraph (2)(A) and inserting "the applicable dollar amount",*

*(2) by striking "$2,500" in paragraph (2)(D) and inserting "½ of the applicable dollar amount", and*

*(3) by inserting after paragraph (6) the following new paragraph:*

*"(7) APPLICABLE DOLLAR AMOUNT.—For purposes of paragraph (2), the applicable dollar amount for any taxable year shall be the product of the dollar amount in effect under paragraph (2)(C) for such year multiplied by the applicable factor determined under the following table:*

| ***"For taxable years beginning in calendar year—*** | ***The applicable factor is—*** |
|---|---|
| *1996* | *1.68* |
| *1997* | *1.71* |
| *1998* | *1.72* |
| *1999* | *1.73* |
| *2000* | *1.75* |
| *2001* | *1.77* |
| *2002* | *1.78* |
| *2003* | *1.88* |
| *2004* | *1.91* |
| *2005 and thereafter* | *2.00.* |

*If the amount determined under the preceding sentence is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50."*

*(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

***SEC. 11003. CREDIT FOR ADOPTION EXPENSES.***

*(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 11001, is amended by inserting after section 23 the following new section:*

***"SEC. 24. ADOPTION EXPENSES.***

*"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.*

*"(b) LIMITATIONS.—*

*"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.*

*"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—*

*"(A) the amount (if any) by which the taxpayer's adjusted gross income (determined without regard to sections 911, 931, and 933) exceeds $75,000, bears to*

*"(B) $40,000.*

*"(3) DENIAL OF DOUBLE BENEFIT.—*

*"(A) IN GENERAL.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.*

*"(B) GRANTS.—No credit shall be allowed under subsection (a) for any expense to the extent that funds for such expense are received under any Federal, State, or local program. The preceding sentence shall not apply to expenses for the adoption of a child with special needs.*

*"(C) REIMBURSEMENT.—No credit shall be allowed under subsection (a) for any expense to the extent that such expense is reimbursed and the reimbursement is excluded from gross income under section 138.*

*"(c) CARRYFORWARDS OF UNUSED CREDIT.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under*

*this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year. No credit may be carried forward under this subsection to any taxable year following the fifth taxable year after the taxable year in which the credit arose. For purposes of the preceding sentence, credits shall be treated as used on a first-in first-out basis.*

*"(d) DEFINITIONS.—For purposes of this section—*

*"(1) QUALIFIED ADOPTION EXPENSES.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses—*

*"(A) which are directly related to, and the principal purpose of which is for, the legal adoption of an eligible child by the taxpayer, and*

*"(B) which are not incurred in violation of State or Federal law or in carrying out any surrogate parenting arrangement.*

*Such term shall not include expenses for a foreign adoption unless the child is actually adopted.*

*"(2) EXPENSES FOR ADOPTION OF SPOUSE'S CHILD NOT ELIGIBLE.—The term 'qualified adoption expenses' shall not include any expenses in connection*

*with the adoption by an individual of a child who is the child of such individual's spouse.*

*"(3) ELIGIBLE CHILD.—The term 'eligible child' means any individual—*

*"(A) who has not attained age 18 as of the time of the adoption, or*

*"(B) who is physically or mentally incapable of caring for himself.*

*"(4) CHILD WITH SPECIAL NEEDS.—The term 'child with special needs' means any child if—*

*"(A) a State has determined that the child cannot or should not be returned to the home of his parents, and*

*"(B) such State has determined that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance.*

*"(e) MARRIED COUPLES MUST FILE JOINT RETURNS.—Rules similar to the rules of paragraphs (2), (3),*

*and (4) of section 21(e) shall apply for purposes of this section.".*

*(b) EXCLUSION OF AMOUNTS RECEIVED UNDER EMPLOYER'S ADOPTION ASSISTANCE PROGRAMS.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income), as amended by title VIII, is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:*

***"SEC. 138. ADOPTION ASSISTANCE PROGRAMS.***

*"(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.*

*"(b) LIMITATIONS.—*

*"(1) DOLLAR LIMITATION.—The aggregate amount excludable from gross income under subsection (a) for all taxable years with respect to the adoption of any single child by the taxpayer shall not exceed $5,000.*

*"(2) INCOME LIMITATION.—The amount excludable from gross income under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount*

*so excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—*

*"(A) the amount (if any) by which the taxpayer's adjusted gross income (determined without regard to this section and sections 911, 931, and 933) exceeds $75,000, bears to*

*"(B) $40,000.*

*"(c) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, an adoption assistance program is a plan of an employer—*

*"(1) under which the employer provides employees with adoption assistance, and*

*"(2) which meets requirements similar to the requirements of paragraphs (2), (3), and (5) of section 127(b).*

*An adoption reimbursement program operated under section 1052 of title 10, United States Code (relating to armed forces) or section 514 of title 14, United States Code (relating to members of the Coast Guard) shall be treated as an adoption assistance program for purposes of this section.*

*"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 24(d).".*

*(c) CONFORMING AMENDMENTS.—*

*(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 11001, is amended by inserting after the item relating to section 23 the following new item:*

*"Sec. 24. Adoption expenses.".*

*(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 138 and inserting the following:*

*"Sec. 138. Adoption assistance programs.*
*"Sec. 139. Cross reference to other Acts.".*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

***SEC. 11004. DEDUCTION FOR INTEREST ON EDUCATION LOANS.***

*(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. INTEREST ON EDUCATION LOANS.***

*"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the interest paid by the tax-*

*payer during the taxable year on any qualified education loan.*

*"(b) MAXIMUM DEDUCTION.—*

*"(1) IN GENERAL.—Except as provided in paragraph (2), the deduction allowed by subsection (a) for the taxable year shall not exceed $2,500.*

*"(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—*

*"(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds $45,000 ($65,000 in the case of a joint return), the amount which would (but for this paragraph) be allowable as a deduction under this section shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would be so allowable as such excess bears to $20,000.*

*"(B) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined—*

*"(i) without regard to this section and sections 135, 911, 931, and 933, and*

*"(ii) after application of sections 86, 219, and 469.*

*For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.*

*"(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 1996, the $45,000 and $65,000 amounts referred to in subparagraph (A) shall be increased by an amount equal to—*

*"(i) such dollar amount, multiplied by*

*"(ii) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting '1995' for '1992'.*

*"(D) ROUNDING.—If any amount as adjusted under subparagraph (C) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.*

*"(c) DEPENDENTS NOT ELIGIBLE FOR DEDUCTION.—No deduction shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.*

*"(d) LIMIT ON PERIOD DEDUCTION ALLOWED.—A deduction shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.*

*"(e) DEFINITIONS.—For purposes of this section—*

*"(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' means any indebtedness incurred to pay qualified higher education expenses—*

*"(A) which are incurred on behalf of the taxpayer or the taxpayer's spouse,*

*"(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and*

*"(C) which are attributable to education furnished during a period during which the recipient was at least a half-time student.*

*Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.*

*"(2) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the day before the date of the enactment of this Act) of the taxpayer or the taxpayer's spouse at an eligible educational institution, reduced by the sum of—*

*"(A) the amount excluded from gross income under section 135 by reason of such expenses, and*

*"(B) the amount of the reduction described in section 135(d)(1).*

*For purposes of the preceding sentence, the term 'eligible educational institution' has the same meaning given such term by section 135(c)(3), except that such term shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers postgraduate training.*

*"(3) HALF-TIME STUDENT.—The term 'half-time student' means any individual who would be a student as defined in section 151(c)(4) if 'half-time' were*

*substituted for 'full-time' each place it appears in such section.*

*"(4) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.*

*"(f) SPECIAL RULES.—*

*"(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.*

*"(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the deduction shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.*

*"(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.".*

*(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:*

*"(16) INTEREST ON EDUCATION LOANS.—The deduction allowed by section 220."*

*(c) REPORTING REQUIREMENT.—*

*(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information con-*

*cerning transactions with other persons) is amended by inserting after section 6050P the following new section:*

***"SEC. 6050Q. RETURNS RELATING TO EDUCATION LOAN INTEREST RECEIVED IN TRADE OR BUSINESS FROM INDIVIDUALS.***

*"(a) EDUCATION LOAN INTEREST OF $600 OR MORE.—Any person—*

*"(1) who is engaged in a trade or business, and*

*"(2) who, in the course of such trade or business, receives from any individual interest aggregating $600 or more for any calendar year on 1 or more qualified education loans,*

*shall make the return described in subsection (b) with respect to each individual from whom such interest was received at such time as the Secretary may by regulations prescribe.*

*"(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—*

*"(1) is in such form as the Secretary may prescribe,*

*"(2) contains—*

*"(A) the name, address, and TIN of the individual from whom the interest described in subsection (a)(2) was received,*

*"(B) the amount of such interest received for the calendar year, and*

*"(C) such other information as the Secretary may prescribe.*

*"(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of subsection (a)—*

*"(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).*

*"(2) SPECIAL RULES.—In the case of a governmental unit or any agency or instrumentality thereof—*

*"(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and*

*"(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of making such return.*

*"(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—*

*"(1) the name and address of the person required to make such return, and*

*"(2) the aggregate amount of interest described in subsection (a)(2) received by the person required to make such return from the individual to whom the statement is required to be furnished.*

*The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.*

*"(e) QUALIFIED EDUCATION LOAN DEFINED.—For purposes of this section, except as provided in regulations prescribed by the Secretary, the term 'qualified education loan' has the meaning given such term by section 220(e)(1).*

*"(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of another person, only the person first receiving such interest shall be required to make the return under subsection (a).".*

*(2) ASSESSABLE PENALTIES.—Section 6724(d) (relating to definitions) is amended—*

*(A) by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, in paragraph (1)(B) and by inserting after clause*

*(viii) of such paragraph the following new clause:*

*"(ix) section 6050Q (relating to returns relating to education loan interest received in trade or business from individuals),", and*

*(B) by redesignating subparagraphs (Q) through (T) as subparagraphs (R) through (U), respectively, in paragraph (2) and by inserting after subparagraph (P) of such paragraph the following new subparagraph:*

*"(Q) section 6050Q (relating to returns relating to education loan interest received in trade or business from individuals),".*

*(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:*

*"Sec. 220. Interest on education loans.*
*"Sec. 221. Cross reference.".*

*(e) EFFECTIVE DATE.—The amendments made by this section shall apply to any qualified education loan (as defined in section 220(e)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after the date of the enactment of this Act, but only with respect to any loan interest payment due after December 31, 1995.*

***SEC. 11005. DEDUCTION FOR TAXPAYERS WITH CERTAIN PERSONS REQUIRING CUSTODIAL CARE IN THEIR HOUSEHOLDS.***

*(a) IN GENERAL.—Part VII of subchapter B of chapter 1 is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:*

***"SEC. 221. TAXPAYERS WITH CERTAIN PERSONS REQUIRING CUSTODIAL CARE IN THEIR HOUSEHOLDS.***

*"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual who maintains a household which includes as a member one or more qualified persons, there shall be allowed as a deduction for the taxable year an amount equal to $1,000 for each such person.*

*"(b) QUALIFIED PERSON.—For purposes of this section, the term 'qualified person' means any individual—*

*"(1) who is a father or mother of the taxpayer, his spouse, or his former spouse or who is an ancestor of such a father or mother,*

*"(2) who is physically or mentally incapable of caring for himself,*

*"(3) who has as his principal place of abode for more than half of the taxable year the home of the taxpayer,*

*"(4) over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer, and*

*"(5) whose name and TIN are included on the taxpayer's return for the taxable year.*

*For purposes of paragraph (1), a stepfather or stepmother shall be treated as a father or mother.*

*"(c) SPECIAL RULES.—For purposes of this section, rules similar to the rules of paragraphs (1), (2), (3), and (4) of section 21(e) shall apply."*

*(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (16) the following new paragraph:*

*"(17) TAXPAYERS WITH CERTAIN PERSONS REQUIRING CUSTODIAL CARE IN THEIR HOUSEHOLDS.—The deduction allowed by section 221."*

*(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:*

*"Sec. 221. Taxpayers with certain persons requiring custodial care in their households.*
*"Sec. 222. Cross reference."*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

# Subtitle B—Savings and Investment Incentives

## CHAPTER 1—RETIREMENT SAVINGS INCENTIVES

### Subchapter A—Individual Retirement Plans

#### PART I—RESTORATION OF IRA DEDUCTION

**SEC. 11011. RESTORATION OF IRA DEDUCTION.**

*(a) INCREASE IN INCOME LIMITS FOR ACTIVE PARTICIPANTS.—*

*(1) IN GENERAL.—Subparagraph (B) of section 219(g)(3) (relating to applicable dollar amount) is amended to read as follows:*

*"(B) APPLICABLE DOLLAR AMOUNT.—The term 'applicable dollar amount' means the following:*

*"(i) In the case of a taxpayer filing a joint return:*

| "For taxable years beginning in: | The applicable dollar amount is: |
|---|---|
| 1996 | $45,000 |
| 1997 | $50,000 |
| 1998 | $55,000 |
| 1999 | $60,000 |
| 2000 | $65,000 |
| 2001 | $70,000 |
| 2002 | $75,000 |
| 2003 | $80,000 |
| 2004 | $85,000 |
| 2005 | $90,000 |
| 2006 | $95,000 |
| 2007 and thereafter | $100,000. |

*"(ii) In the case of any other taxpayer (other than a married individual filing a separate return):*

| **"For taxable years beginning in:** | **The applicable dollar amount is:** |
|---|---|
| *1996* | *$30,000* |
| *1997* | *$35,000* |
| *1998* | *$40,000* |
| *1999* | *$45,000* |
| *2000* | *$50,000* |
| *2001* | *$55,000* |
| *2002* | *$60,000* |
| *2003* | *$65,000* |
| *2004* | *$70,000* |
| *2005* | *$75,000* |
| *2006* | *$80,000* |
| *2007 and thereafter* | *$85,000.* |

*"(iii) In the case of a married individual filing a separate return, zero."*

*(2) INCREASE IN PHASEOUT RANGE FOR JOINT RETURNS.—*

*(A) IN GENERAL.—Clause (ii) of section 219(g)(2)(A) is amended by inserting "(the phaseout amount in the case of a joint return)" after "$10,000".*

*(B) PHASEOUT AMOUNT.—Paragraph (3) of section 219(g) is amended—*

*(i) by adding at the end the following new subparagraph:*

*"(C) PHASEOUT AMOUNT.—The phaseout amount is:*

| **"For taxable years beginning in:** | **The applicable dollar amount is:** |
|---|---|
| *1996* | *$12,500* |
| *1997* | *$15,000* |

| *"For taxable years beginning in:* | *The applicable dollar amount is:* |
|---|---|
| *1998* | *$17,500* |
| *1999 and thereafter* | *$20,000.",* |

*and*

*(ii) by inserting "; PHASEOUT AMOUNT" after "AMOUNT" in the heading.*

*(3) COST-OF-LIVING ADJUSTMENTS.—Section 219(h), as added by section 11012(a), is amended—*

*(A) by adding at the end the following new paragraph:*

*"(2) PHASE-OUT RANGES.—In the case of any taxable year beginning in a calendar year after 2007, the $100,000 and $85,000 amounts in clauses (i) and (ii) of subsection (g)(3)(B) shall each be increased by an amount equal to the product of such dollar amount and the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, except that subparagraph (B) thereof shall be applied by substituting '2006' for '1992'. If any amount to which either such amount is increased is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.", and*

*(B) by striking "In the case" and inserting:*

*"(1) DEDUCTIBLE AMOUNT.—In the case".*

*(b) INDIVIDUAL NOT DISQUALIFIED BY SPOUSE'S PARTICIPATION.—Paragraph (1) of section 219(g) (relating to*

*limitation on deduction for active participants in certain pension plans) is amended by striking "or the individual's spouse".*

*(c) REPORTING REQUIREMENTS.—Section 408(i) is amended by striking "under regulations" and "in such regulations" each place such terms appear.*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

***SEC. 11012. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT.***

*(a) IN GENERAL.—Section 219 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:*

*"(h) COST-OF-LIVING ADJUSTMENTS.—In the case of any taxable year beginning in a calendar year after 1996, the $2,000 amount under subsection (b)(1)(A) shall be increased by an amount equal to the product of $2,000 and the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'. If the amount to which $2,000 would be increased under the preceding sentence is not a multiple of $500, such amount shall be rounded to the next lower multiple of $500."*

*(b) CONFORMING AMENDMENTS.—*

*(1) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".*

*(2) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".*

*(3) Section 408(j) is amended by striking "$2,000".*

***SEC. 11013. HOMEMAKERS ELIGIBLE FOR FULL IRA DEDUCTION.***

*(a) SPOUSAL IRA COMPUTED ON BASIS OF COMPENSATION OF BOTH SPOUSES.—Subsection (c) of section 219 (relating to special rules for certain married individuals) is amended to read as follows:*

*"(c) SPECIAL RULES FOR CERTAIN MARRIED INDIVIDUALS.—*

*"(1) IN GENERAL.—In the case of an individual to whom this paragraph applies for the taxable year, the limitation of paragraph (1) of subsection (b) shall be equal to the lesser of—*

*"(A) the dollar amount in effect under subsection (b)(1)(A) for the taxable year, or*

*"(B) the sum of—*

*"(i) the compensation includible in such individual's gross income for the taxable year, plus*

*"(ii) the compensation includible in the gross income of such individual's spouse for the taxable year reduced by—*

*"(I) the amount allowed as a deduction under subsection (a) to such spouse for such taxable year, and*

*"(II) the amount of any contribution on behalf of such spouse to an AD IRA under section 408A for such taxable year.*

*"(2) INDIVIDUALS TO WHOM PARAGRAPH (1) APPLIES.—Paragraph (1) shall apply to any individual if—*

*"(A) such individual files a joint return for the taxable year, and*

*"(B) the amount of compensation (if any) includible in such individual's gross income for the taxable year is less than the compensation includible in the gross income of such individual's spouse for the taxable year."*

*(b) CONFORMING AMENDMENTS.—*

*(1) Paragraph (2) of section 219(f) (relating to other definitions and special rules) is amended by striking "subsections (b) and (c)" and inserting "subsection (b)".*

*(2) Section 408(d)(5) is amended by striking "$2,250" and inserting "the dollar amount in effect under section 219(b)(1)(A)".*

*(3) Section 219(g)(1) is amended by striking "(c)(2)" and inserting "(c)(1)(A)".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

## *PART II—NONDEDUCTIBLE TAX-FREE IRAS*

### *SEC. 11015. ESTABLISHMENT OF AMERICAN DREAM IRA.*

*(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:*

### *"SEC. 408A. AMERICAN DREAM IRA.*

*"(a) GENERAL RULE.—Except as provided in this section, an American Dream IRA shall be treated for purposes of this title in the same manner as an individual retirement plan.*

*"(b) AMERICAN DREAM IRA.—For purposes of this title, the term 'American Dream IRA' or 'AD IRA' means*

*an individual retirement plan (as defined in section 7701(a)(37)) which is designated at the time of the establishment of the plan as an American Dream IRA. Such designation shall be made in such manner as the Secretary may prescribe.*

*"(c) TREATMENT OF CONTRIBUTIONS.—*

*"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an AD IRA.*

*"(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all AD IRAs maintained for the benefit of an individual shall not exceed the excess (if any) of—*

*"(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year (computed without regard to subsection (g) of such section), over*

*"(B) the amount so allowed.*

*"(3) CONTRIBUTIONS PERMITTED AFTER AGE 70½.—Contributions to an AD IRA may be made even after the individual for whom the account is maintained has attained age 70½.*

*"(4) MANDATORY DISTRIBUTION RULES NOT TO APPLY, ETC.—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), subsections (a)(6) and (b)(3) of section 408 (relating to required distributions) and section 4974 (relating to excise tax on certain accumulations in qualified retirement plans) shall not apply to any AD IRA.*

*"(B) POST-DEATH DISTRIBUTIONS.—Rules similar to the rules of section 401(a)(9) (other than subparagraph (A) thereof) shall apply for purposes of this section.*

*"(5) RULES RELATING TO ROLLOVER CONTRIBUTIONS.—*

*"(A) IN GENERAL.—No rollover contribution may be made to an AD IRA unless it is a qualified rollover contribution.*

*"(B) COORDINATION WITH LIMIT.—A qualified rollover contribution shall not be taken into account for purposes of paragraph (2).*

*"(6) TIME WHEN CONTRIBUTIONS MADE.—For purposes of this section, the rule of section 219(f)(3) shall apply.*

*"(d) DISTRIBUTION RULES.—For purposes of this title—*

*"(1) GENERAL RULES.—*

*"(A) EXCLUSIONS FROM GROSS INCOME.—Any qualified distribution from an AD IRA shall not be includible in gross income.*

*"(B) NONQUALIFIED DISTRIBUTIONS.—In applying section 72 to any distribution from an AD IRA which is not a qualified distribution, such distribution shall be treated as made from contributions to the AD IRA to the extent that such distribution, when added to all previous distributions from the AD IRA, does not exceed the aggregate amount of contributions to the AD IRA. For purposes of the preceding sentence, all AD IRAs maintained for the benefit of an individual shall be treated as 1 account.*

*"(C) EXCEPTION FROM PENALTY TAX.—Section 72(t) shall not apply to—*

*"(i) any qualified distribution from an AD IRA, and*

*"(ii) any qualified special purpose distribution (whether or not a qualified distribution) from an AD IRA.*

*"(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—*

*"(A) IN GENERAL.—The term 'qualified distribution' means any payment or distribution—*

*"(i) made on or after the date on which the individual attains age 59½,*

*"(ii) made to a beneficiary (or to the estate of the individual) on or after the death of the individual,*

*"(iii) attributable to the individual's being disabled (within the meaning of section 72(m)(7)), or*

*"(iv) which is a qualified special purpose distribution.*

*"(B) DISTRIBUTIONS WITHIN 5 YEARS.—No payment or distribution shall be treated as a qualified distribution if—*

*"(i) it is made within the 5-taxable year period beginning with the 1st taxable year for which the individual made a contribution to an AD IRA (or such individual's spouse made a contribution to an AD IRA) established for such individual, or*

*"(ii) in the case of a payment or distribution properly allocable (as determined in the manner prescribed by the Secretary) to a qualified rollover contribution (or income allocable thereto), it is made within the 5-taxable year period beginning with the*

*taxable year in which the rollover contribution was made.*

*Clause (ii) shall not apply to a qualified rollover contribution from an AD IRA.*

*"(3) ROLLOVERS.—*

*"(A) IN GENERAL.—Paragraph (1) shall not apply to any distribution which is transferred in a qualified rollover contribution to an AD IRA.*

*"(B) INCOME INCLUSION FOR ROLLOVERS FROM NON-AD IRAS.—In the case of any qualified rollover contribution from an individual retirement plan (other than an AD IRA) to an AD IRA established for the benefit of the payee or distributee, as the case may be—*

*"(i) sections 72(t) and 408(d)(3) shall not apply, and*

*"(ii) in any case where such contribution is made before January 1, 1998, any amount required to be included in gross income by reason of this paragraph shall be so included ratably over the 4-taxable year period beginning with the taxable year in which the payment or distribution is made.*

*"(C) ADDITIONAL REPORTING REQUIREMENTS.—The Secretary shall require that trustees of AD IRAs, trustees of individual retirement plans, or both, whichever is appropriate, shall include such additional information in reports required under section 408(i) as is necessary to ensure that amounts required to be included in gross income under subparagraph (B) are so included.*

*"(4) QUALIFIED SPECIAL PURPOSE DISTRIBUTION.—For purposes of this section, the term 'qualified special purpose distribution' means any distribution to which subparagraph (B), (D), or (E) of section 72(t)(2) applies.*

*"(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section—*

*"(1) IN GENERAL.—The term 'qualified rollover contribution' means a rollover contribution to an AD IRA from another such account, or from an individual retirement plan, but only if such rollover contribution meets the requirements of section 408(d)(3). For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan to an AD IRA.*

*"(2) CONVERSIONS.—The conversion of an individual retirement plan to an AD IRA shall be treated as if it were a qualified rollover contribution."*

*(b) REPEAL OF NONDEDUCTIBLE CONTRIBUTIONS.—*

*(1) Subsection (f) of section 219 is amended by striking paragraph (7).*

*(2) Paragraph (5) of section 408(d) is amended by striking the last sentence.*

*(3) Section 408(o) is amended by adding at the end the following new paragraph:*

*"(5) TERMINATION.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 1995."*

*(4) Subsection (b) of section 4973 is amended by striking the last sentence.*

*(c) EXCESS DISTRIBUTIONS TAX NOT TO APPLY.—Subparagraph (B) of section 4980A(e)(1) is amended by inserting "other than an AD IRA (as defined in section 408A(b))" after "retirement plan".*

*(d) EXCESS CONTRIBUTIONS.—Section 4973(b) is amended to read as follows:*

*"(b) EXCESS CONTRIBUTIONS.—For purposes of this section—*

*"(1) IN GENERAL.—In the case of individual retirement accounts or individual retirement annuities, the term 'excess contributions' means the sum of—*

*"(A) the amount determined under paragraph (2) for the taxable year, plus*

*"(B) the carryover amount determined under paragraph (3) for the taxable year.*

*"(2) CURRENT YEAR.—The amount determined under this paragraph for any taxable year is an amount equal to the sum of—*

*"(A) the excess (if any) of—*

*"(i) the amount contributed for the taxable year to the accounts or for the annuities or bonds (other than AD IRAs), over*

*"(ii) the amount allowable as a deduction under section 219 for the taxable year, plus*

*"(B) the excess (if any) of—*

*"(i) the amount described in clause (i) (taking into account contributions to AD IRAs) contributed for the taxable year, over*

*"(ii) the amount allowable as a deduction under section 219 for the taxable year (computed without regard to section 219(g)).*

*"(3) CARRYOVER AMOUNT.—The carryover amount determined under this paragraph for any taxable year is the amount determined under paragraph (2) for the preceding taxable year, reduced by the sum of—*

*"(A) the distributions out of the account for the taxable year which were included in the gross income of the payee under section 408(d)(1),*

*"(B) the distributions out of the account for the taxable year to which section 408(d)(5) applies, and*

*"(C) the excess (if any) of the amount determined under paragraph (2)(B)(ii) over the amount determined under paragraph (2)(B)(i).*

*"(4) SPECIAL RULES.—For purposes of this subsection—*

*"(A) ROLLOVER CONTRIBUTIONS.—Rollover distributions described in sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3), and 408A(e) shall not be taken into account.*

*"(B) CONTRIBUTIONS RETURNED BEFORE DUE DATE.—Any contribution which is distributed from an individual retirement plan in a distribution to which section 408(d)(4) applies shall not be taken into account.*

*"(C) EXCESS CONTRIBUTIONS TREATED AS CONTRIBUTIONS.—In applying paragraph (3)(C), the determination as to amounts contributed for a taxable year shall be made without regard to section 219(f)(6)."*

*(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:*

*"Sec. 408A. American Dream IRA."*

*(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

## Subchapter B—Penalty-Free Distributions

### SEC. 11016. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES OR TO PAY HIGHER EDUCATION OR FINANCIALLY DEVASTATING MEDICAL EXPENSES.

*(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:*

*"(D) DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR FIRST-TIME HOMEBUYERS OR EDU-*

*CATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan—*

*"(i) which are qualified first-time homebuyer distributions (as defined in paragraph (6)), or*

*"(ii) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year.*

*(b) FINANCIALLY DEVASTATING MEDICAL EXPENSES.—*

*(1) IN GENERAL.—Section 72(t)(3)(A) is amended by striking "(B),".*

*(2) CERTAIN LINEAL DESCENDANTS AND ANCESTORS TREATED AS DEPENDENTS.—Subparagraph (B) of section 72(t)(2) is amended by striking "medical care" and all that follows and inserting "medical care determined—*

*"(i) without regard to whether the employee itemizes deductions for such taxable year, and*

*"(ii) in the case of an individual retirement plan, by treating such employee's dependents as including—*

*"(I) all children and grandchildren of the employee or such employee's spouse, and*

*"(II) all ancestors of the employee or such employee's spouse."*

*(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking "or (C)" and inserting ", (C), (D), or (E)".*

*(c) DEFINITIONS.—Section 72(t) is amended by adding at the end the following new paragraphs:*

*"(6) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(D)(i)—*

*"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual, the spouse of such individual, or any child, grandchild, or ancestor of such individual or the individual's spouse.*

*"(B) LIFETIME DOLLAR LIMITATION.—The aggregate amount of payments or distributions received by an individual which may be treated as qualified first-time homebuyer distributions for any taxable year shall not exceed the excess (if any) of—*

*"(i) $10,000, over*

*"(ii) the aggregate amounts treated as qualified first-time homebuyer distributions with respect to such individual for all prior taxable years.*

*"(C) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.*

*"(D) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—*

*"(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if—*

*"(I) such individual (and if married, such individual's spouse) had no*

*present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and*

*"(II) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A).*

*"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.*

*"(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—*

*"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or*

*"(II) on which construction or reconstruction of such a principal residence is commenced.*

*"(E) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—*

*"(i) section 408(d)(3)(B) shall not be applied to such contribution, and*

*"(ii) such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.*

*"(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(ii)—*

*"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—*

*"(i) the taxpayer,*

*"(ii) the taxpayer's spouse, or*

*"(iii) any child (as defined in section 151(c)(3)), grandchild, or ancestor of the taxpayer or the taxpayer's spouse,*

*at an eligible educational institution (as defined in section 135(c)(3)).*

*"(B) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."*

*(d) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t) is amended by adding at the end the following new subparagraph:*

*"(E) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—A distribution from an individual retirement plan to an individual after separation from employment, if—*

*"(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and*

*"(ii) such distributions are made during any taxable year during which such un-*

*employment compensation is paid or the succeeding taxable year.*

*To the extent provided in regulations, a self-employed individual shall be treated as meeting the requirements of clause (i) if, under Federal or State law, the individual would have received unemployment compensation but for the fact the individual was self-employed.''.*

*(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

## *Subchapter C—Simple Savings Plans*

### *SEC. 11018. ESTABLISHMENT OF SAVINGS INCENTIVE MATCH PLANS FOR EMPLOYEES OF SMALL EMPLOYERS.*

*(a) IN GENERAL.—Section 408 (relating to individual retirement accounts) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:*

*''(p) SIMPLE RETIREMENT ACCOUNTS.—*

*''(1) IN GENERAL.—For purposes of this title, the term 'simple retirement account' means an individual retirement plan (as defined in section 7701(a)(37))—*

*''(A) with respect to which the requirements of paragraphs (3), (4), and (5) are met; and*

*"(B) with respect to which the only contributions allowed are contributions under a qualified salary reduction arrangement.*

*"(2) QUALIFIED SALARY REDUCTION ARRANGEMENT.—*

*"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified salary reduction arrangement' means a written arrangement of an eligible employer under which—*

*"(i) an employee eligible to participate in the arrangement may elect to have the employer make payments—*

*"(I) as elective employer contributions to a simple retirement account on behalf of the employee, or*

*"(II) to the employee directly in cash,*

*"(ii) the amount which an employee may elect under clause (i) for any year is required to be expressed as a percentage of compensation and may not exceed a total of $6,000 for any year,*

*"(iii) the employer is required to make a matching contribution to the simple retirement account for any year in an*

*amount equal to so much of the amount the employee elects under clause (i)(I) as does not exceed the applicable percentage of compensation for the year, and*

*"(iv) no contributions may be made other than contributions described in clause (i) or (iii).*

*"(B) DEFINITIONS.—For purposes of this subsection—*

*"(i) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an employer who employs 100 or fewer employees on any day during the year.*

*"(ii) APPLICABLE PERCENTAGE.—*

*"(I) IN GENERAL.—The term 'applicable percentage' means 3 percent.*

*"(II) ELECTION OF LOWER PERCENTAGE.—An employer may elect to apply a lower percentage (not less than 1 percent) for any year for all employees eligible to participate in the plan for such year if the employer notifies the employees of such lower percentage within a reasonable period of time before the 60-day election period for such*

*year under paragraph (5)(C). An employer may not elect a lower percentage under this subclause for any year if that election would result in the applicable percentage being lower than 3 percent in more than 2 of the years in the 5-year period ending with such year.*

*"(III) SPECIAL RULE FOR YEARS ARRANGEMENT NOT IN EFFECT.—If any year in the 5-year period described in subclause (II) is a year prior to the first year for which any qualified salary reduction arrangement is in effect with respect to the employer (or any predecessor), the employer shall be treated as if the level of the employer matching contribution was at 3 percent of compensation for such prior year.*

*"(C) ARRANGEMENT MAY BE ONLY PLAN OF EMPLOYER.—*

*"(i) IN GENERAL.—An arrangement shall not be treated as a qualified salary reduction arrangement for any year if the*

*employer (or any predecessor employer) maintained a qualified plan with respect to which contributions were made, or benefits were accrued, for service in any year in the period beginning with the year such arrangement became effective and ending with the year for which the determination is being made.*

*"(ii) QUALIFIED PLAN.—For purposes of this subparagraph, the term 'qualified plan' means a plan, contract, pension, or trust described in subparagraph (A) or (B) of section 219(g)(5).*

*"(D) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $6,000 amount under subparagraph (A)(ii) at the same time and in the same manner as under section 415(d), except that the base period taken into account shall be the calendar quarter ending September 30, 1995, and any increase under this subparagraph which is not a multiple of $500 shall be rounded to the next lower multiple of $500.*

*"(3) VESTING REQUIREMENTS.—The requirements of this paragraph are met with respect to a simple retirement account if the employee's rights to*

*any contribution to the simple retirement account are nonforfeitable. For purposes of this paragraph, rules similar to the rules of subsection (k)(4) shall apply.*

*"(4) PARTICIPATION REQUIREMENTS.—*

*"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any simple retirement account for a year only if, under the qualified salary reduction arrangement, all employees of the employer who—*

*"(i) received at least $5,000 in compensation from the employer during any 2 preceding years, and*

*"(ii) are reasonably expected to receive at least $5,000 in compensation during the year,*

*are eligible to make the election under paragraph (2)(A)(i).*

*"(B) EXCLUDABLE EMPLOYEES.—An employer may elect to exclude from the requirement under subparagraph (A) employees described in section 410(b)(3).*

*"(5) ADMINISTRATIVE REQUIREMENTS.—The requirements of this paragraph are met with respect to any simplified retirement account if, under the qualified salary reduction arrangement—*

*"(A) an employer must—*

*"(i) make the elective employer contributions under paragraph (2)(A)(i) not later than the close of the 30-day period following the last day of the month with respect to which the contributions are to be made, and*

*"(ii) make the matching contributions under paragraph (2)(A)(iii) not later than the date described in section 404(m)(2)(B),*

*"(B) an employee may elect to terminate participation in such arrangement at any time during the year, except that if an employee so terminates, the arrangement may provide that the employee may not elect to resume participation until the beginning of the next year, and*

*"(C) each employee eligible to participate may elect, during the 60-day period before the beginning of any year, to participate in the arrangement, or to modify the amounts subject to such arrangement, for such year.*

*"(6) DEFINITIONS.—For purposes of this subsection—*

*"(A) COMPENSATION.—*

*"(i) IN GENERAL.—The term 'compensation' means amounts described in paragraphs (3) and (8) of section 6051(a).*

*"(ii) SELF-EMPLOYED.—In the case of an employee described in subparagraph (B), the term 'compensation' means net earnings from self-employment determined under section 1402(a) without regard to any contribution under this subsection.*

*"(B) EMPLOYEE.—The term 'employee' includes an employee as defined in section 401(c)(1).*

*"(C) YEAR.—The term 'year' means the calendar year."*

*(b) TAX TREATMENT OF SIMPLE RETIREMENT ACCOUNTS.—*

*(1) DEDUCTIBILITY OF CONTRIBUTIONS BY EMPLOYEES.—*

*(A) Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end the following new paragraph:*

*"(4) SPECIAL RULE FOR SIMPLE RETIREMENT ACCOUNTS.—This section shall not apply with respect to any amount contributed to a simple retirement account established under section 408(p)."*

*(B) Section 219(g)(5)(A) (defining active participant) is amended by striking "or" at the end of clause (iv) and by adding at the end the following new clause:*

*"(vi) any simple retirement account (within the meaning of section 408(p)), or".*

*(2) DEDUCTIBILITY OF EMPLOYER CONTRIBUTIONS.—Section 404 (relating to deductions for contributions of an employer to pension, etc. plans) is amended by adding at the end the following new subsection:*

*"(m) SPECIAL RULES FOR SIMPLE RETIREMENT ACCOUNTS.—*

*"(1) IN GENERAL.—Employer contributions to a simple retirement account shall be treated as if they are made to a plan subject to the requirements of this section.*

*"(2) TIMING.—*

*"(A) DEDUCTION.—Contributions described in paragraph (1) shall be deductible in the taxable year of the employer with or within which the calendar year for which the contributions were made ends.*

*"(B) CONTRIBUTIONS AFTER END OF YEAR.—For purposes of this subsection, contribu-*

*tions shall be treated as made for a taxable year if they are made on account of the taxable year and are made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof).''*

*(3) CONTRIBUTIONS AND DISTRIBUTIONS.—*

*(A) Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end the following new subsection:*

*''(k) TREATMENT OF SIMPLE RETIREMENT ACCOUNTS.—Rules similar to the rules of paragraphs (1) and (3) of subsection (h) shall apply to contributions and distributions with respect to a simple retirement account under section 408(p).''*

*(B) Section 408(d)(3) is amended by adding at the end the following new subparagraph:*

*''(G) SIMPLE RETIREMENT ACCOUNTS.—This paragraph shall not apply to any amount paid or distributed out of a simple retirement account (as defined in section 408(p)) unless—*

*''(i) it is paid into another simple retirement account, or*

*''(ii) in the case of any payment or distribution to which section 72(t)(8) does*

*not apply, it is paid into an individual retirement plan.''*

*(C) Clause (i) of section 457(c)(2)(B) is amended by striking ''section 402(h)(1)(B)'' and inserting ''section 402(h)(1)(B) or (k)''.*

*(4) PENALTIES.—*

*(A) EARLY WITHDRAWALS.—Section 72(t) (relating to additional tax in early distributions), as amended by this Act, is amended by adding at the end the following new paragraph:*

*''(8) SPECIAL RULES FOR SIMPLE RETIREMENT ACCOUNTS.—In the case of any amount received from a simple retirement account (within the meaning of section 408(p)) during the 2-year period beginning on the date such individual first participated in any qualified salary reduction arrangement maintained by the individual's employer under section 408(p)(2), paragraph (1) shall be applied by substituting '25 percent' for '10 percent'.''*

*(B) FAILURE TO REPORT.—Section 6693 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:*

*''(c) PENALTIES RELATING TO SIMPLE RETIREMENT ACCOUNTS.—*

*"(1) EMPLOYER PENALTIES.—An employer who fails to provide 1 or more notices required by section 408(l)(2)(C) shall pay a penalty of $50 for each day on which such failures continue.*

*"(2) TRUSTEE PENALTIES.—A trustee who fails—*

*"(A) to provide 1 or more statements required by the last sentence of section 408(i) shall pay a penalty of $50 for each day on which such failures continue, or*

*"(B) to provide 1 or more summary descriptions required by section 408(l)(2)(B) shall pay a penalty of $50 for each day on which such failures continue.*

*"(3) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this subsection with respect to any failure which the taxpayer shows was due to reasonable cause."*

*(5) REPORTING REQUIREMENTS.—*

*(A)(i) Section 408(l) is amended by adding at the end the following new paragraph:*

*"(2) SIMPLE RETIREMENT ACCOUNTS.—*

*"(A) NO EMPLOYER REPORTS.—Except as provided in this paragraph, no report shall be required under this section by an employer*

*maintaining a qualified salary reduction arrangement under subsection (p).*

*"(B) SUMMARY DESCRIPTION.—The trustee of any simple retirement account established pursuant to a qualified salary reduction arrangement under subsection (p) shall provide to the employer maintaining the arrangement, each year a description containing the following information:*

*"(i) The name and address of the employer and the trustee.*

*"(ii) The requirements for eligibility for participation.*

*"(iii) The benefits provided with respect to the arrangement.*

*"(iv) The time and method of making elections with respect to the arrangement.*

*"(v) The procedures for, and effects of, withdrawals (including rollovers) from the arrangement.*

*"(C) EMPLOYEE NOTIFICATION.—The employer shall notify each employee immediately before the period for which an election described in subsection (p)(5)(C) may be made of the employee's opportunity to make such election. Such*

*notice shall include a copy of the description described in subparagraph (B).''*

*(ii) Section 408(l) is amended by striking ''An employer'' and inserting—*

*''(1) IN GENERAL.—An employer''.*

*(5) REPORTING REQUIREMENTS.—Section 408(i) is amended by adding at the end the following new flush sentence:*

*''In the case of a simple retirement account under subsection (p), only one report under this subsection shall be required to be submitted each calendar year to the Secretary (at the time provided under paragraph (2)) but, in addition to the report under this subsection, there shall be furnished, within 30 days after each calendar year, to the individual on whose behalf the account is maintained a statement with respect to the account balance as of the close of, and the account activity during, such calendar year.''*

*(6) EXEMPTION FROM TOP-HEAVY PLAN RULES.—Section 416(g)(4) (relating to special rules for top-heavy plans) is amended by adding at the end the following new subparagraph:*

*''(G) SIMPLE RETIREMENT ACCOUNTS.—The term 'top-heavy plan' shall not include a simple retirement account under section 408(p).''*

*(7) CONFORMING AMENDMENTS.—*

*(A) Section 280G(b)(6) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or" and by adding after subparagraph (C) the following new subparagraph:*

*"(D) a simple retirement account described in section 408(p)."*

*(B) Section 402(g)(3) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding after subparagraph (C) the following new subparagraph:*

*"(D) any elective employer contribution under section 408(p)(2)(A)(i)."*

*(C) Subsections (b), (c), (m)(4)(B), and (n)(3)(B) of section 414 are each amended by inserting "408(p)," after "408(k),".*

*(D) Section 4972(d)(1)(A) 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 after clause (iii) the following new clause:*

*"(iv) any simple retirement account (within the meaning of section 408(p))."*

*(c) REPEAL OF SIMPLIFIED EMPLOYEE PENSIONS.—Section 408(k) is amended by adding at the end the following new paragraph:*

*"(10) TERMINATION.—This subsection shall not apply to any years beginning after December 31, 1995. This paragraph shall not apply to a simplified employee pension established before January 1, 1996."*

*(d) MODIFICATIONS OF ERISA.—*

*(1) REPORTING REQUIREMENTS.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:*

*"(g) SIMPLE RETIREMENT ACCOUNTS.—*

*"(1) NO EMPLOYER REPORTS.—Except as provided in this subsection, no report shall be required under this section by an employer maintaining a qualified salary reduction arrangement under section 408(p) of the Internal Revenue Code of 1986.*

*"(2) SUMMARY DESCRIPTION.—The trustee of any simple retirement account established pursuant to a qualified salary reduction arrangement under*

*section 408(p) of such Code shall provide to the employer maintaining the arrangement each year a description containing the following information:*

*"(A) The name and address of the employer and the trustee.*

*"(B) The requirements for eligibility for participation.*

*"(C) The benefits provided with respect to the arrangement.*

*"(D) The time and method of making elections with respect to the arrangement.*

*"(E) The procedures for, and effects of, withdrawals (including rollovers) from the arrangement.*

*"(3) EMPLOYEE NOTIFICATION.—The employer shall notify each employee immediately before the period for which an election described in section 408 (p)(5)(C) of such Code may be made of the employee's opportunity to make such election. Such notice shall include a copy of the description described in paragraph (2)."*

*(2) FIDUCIARY DUTIES.—Section 404 (c) of such Act (29 U.S.C. 1104(c)) is amended by inserting "(1)" after "(c)", by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,*

*and by adding at the end the following new paragraph:*

*"(2) In the case of a simple retirement account established pursuant to a qualified salary reduction arrangement under section 408(p) of the Internal Revenue Code of 1986, a participant or beneficiary shall, for purposes of paragraph (1), be treated as exercising control over the assets in the account upon the earliest of—*

*"(A) an affirmative election with respect to the initial investment of any contribution,*

*"(B) a rollover to any other simple retirement account or individual retirement plan, or*

*"(C) one year after the simple retirement account is established.*

*No reports, other than those required under section 101(g), shall be required with respect to a simple retirement account established pursuant to such a qualified salary reduction arrangement."*

*(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

***SEC. 11019. EXTENSION OF SIMPLE PLAN TO 401(k) ARRANGEMENTS.***

*(a) ALTERNATIVE METHOD OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end the following new paragraph:*

*"(11) ADOPTION OF SIMPLE PLAN TO MEET NONDISCRIMINATION TESTS.—*

*"(A) IN GENERAL.—A cash or deferred arrangement maintained by an eligible employer shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement meets—*

*"(i) the contribution requirements of subparagraph (B),*

*"(ii) the exclusive benefit requirements of subparagraph (C), and*

*"(iii) the vesting requirements of section 408(p)(3).*

*"(B) CONTRIBUTION REQUIREMENTS.—The requirements of this subparagraph are met if, under the arrangement—*

*"(i) an employee may elect to have the employer make elective contributions for the year on behalf of the employee to a trust under the plan in an amount which is ex-*

*pressed as a percentage of compensation of the employee but which in no event exceeds $6,000,*

*"(ii) the employer is required to make a matching contribution to the trust for the year in an amount equal to so much of the amount the employee elects under clause (i) as does not exceed 3 percent of compensation for the year, and*

*"(iii) no other contributions may be made other than contributions described in clause (i) or (ii).*

*"(C) EXCLUSIVE BENEFIT.—The requirements of this subparagraph are met for any year to which this paragraph applies if no contributions were made, or benefits were accrued, for services during such year under any qualified plan of the employer on behalf of any employee eligible to participate in the cash or deferred arrangement, other than contributions described in subparagraph (B).*

*"(D) DEFINITIONS AND SPECIAL RULE.—*

*"(i) DEFINITIONS.—For purposes of this paragraph, any term used in this paragraph which is also used in section 408(p)*

*shall have the meaning given such term by such section.*

*"(ii) COORDINATION WITH TOP-HEAVY RULES.—A plan meeting the requirements of this paragraph for any year shall not be treated as a top-heavy plan under section 416 for such year."*

*(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:*

*"(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—*

*"(A) meets the contribution requirements of subparagraph (B) of subsection (k)(11),*

*"(B) meets the exclusive benefit requirements of subsection (k)(11)(C), and*

*"(C) meets the vesting requirements of section 408(p)(3)."*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1995.*

## CHAPTER 2—CAPITAL GAINS REFORM

### Subchapter A—Taxpayers Other Than Corporations

**SEC. 11021. CAPITAL GAINS DEDUCTION.**

*(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by redesignating section 1202 as section 1203 and by inserting after section 1201 the following new section:*

**"SEC. 1202. CAPITAL GAINS DEDUCTION.**

*"(a) GENERAL RULE.—If for any taxable year a taxpayer other than a corporation has a net capital gain, 50 percent of such gain shall be a deduction from gross income.*

*"(b) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.*

*"(c) COORDINATION WITH TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—For*

*purposes of this section, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).*

*"(d) SPECIAL RULE FOR COLLECTIBLES.—*

*"(1) IN GENERAL.—The rate of tax imposed by section 1 on the excess of—*

*"(A) the net capital gain for the taxable year determined as if section 1222(12) had not applied to any collectible which is sold or exchanged during the taxable year and the basis of which was not adjusted under section 1022(a), over*

*"(B) the net capital gain for the taxable year,*

*shall not exceed 28 percent.*

*"(2) ELECTION.—A taxpayer may elect to treat any collectible specified in such election as not being an indexed asset for purposes of section 1022. Any such election, and any specification therein, once made, shall be irrevocable.*

*"(e) TRANSITIONAL RULE.—*

*"(1) IN GENERAL.—In the case of a taxable year which includes January 1, 1995—*

*"(A) the amount taken into account as the net capital gain under subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year on or after January 1, 1995, and*

*"(B) the amount of the net capital gain taken into account in applying section 1(h) for such year shall be reduced by the amount taken into account under subparagraph (A) for such year.*

*"(2) SPECIAL RULES FOR PASS-THRU ENTITIES.—*

*"(A) IN GENERAL.—In applying paragraph (1) with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.*

*"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—*

*"(i) a regulated investment company,*

*"(ii) a real estate investment trust,*

*"(iii) an S corporation,*

*"(iv) a partnership,*

*"(v) an estate or trust, and*

*"(vi) a common trust fund.".*

*(b) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62, as amended by sections 11004 and 11005, is amended by inserting after paragraph (17) the following new paragraph:*

*"(18) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202.".*

*(c) TREATMENT OF COLLECTIBLES.—*

*(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:*

*"(12) SPECIAL RULE FOR COLLECTIBLES.—*

*"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.*

*"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unre-*

*alized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.*

*"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof).".*

*(2) CHARITABLE DEDUCTION NOT AFFECTED.—*

*(A) Paragraph (1) of section 170(e) is amended by adding at the end the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles).".*

*(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".*

*(d) TECHNICAL AND CONFORMING CHANGES.—*

*(1) Section 1 is amended by striking subsection (h).*

*(2) Paragraph (1) of section 170(e) is amended by striking "the amount of gain" in the material following subparagraph (B)(ii) and inserting "50 percent (80 percent in the case of a corporation) of the amount of gain".*

*(3) Subparagraph (B) of section 172(d)(2) is amended to read as follows:*

*"(B) the deduction under section 1202 shall not be allowed.".*

*(4) The last sentence of section 453A(c)(3) is amended by striking all that follows "long-term capital gain," and inserting "the maximum rate on net capital gain under section 1201 or the deduction under section 1202 (whichever is appropriate) shall be taken into account.".*

*(5) Paragraph (4) of section 642(c) is amended to read as follows:*

*"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to capital gains deduction). In the case of a trust, the de-*

*duction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).".*

*(6) The last sentence of section 643(a)(3) is amended to read as follows: "The deduction under section 1202 (relating to capital gains deduction) shall not be taken into account.".*

*(7) Subparagraph (C) of section 643(a)(6) is amended by inserting "(i)" before "there shall" and by inserting before the period ", and (ii) the deduction under section 1202 (relating to capital gains deduction) shall not be taken into account".*

*(8)(A) Paragraph (2) of section 904(b) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (A), and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:*

*"(B) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.".*

*(B) Subparagraph (A) of section 904(b)(2), as so redesignated, is amended—*

*(i) by striking all that precedes clause (i) and inserting the following:*

*"(A) CORPORATIONS.—In the case of a corporation—", and*

*(ii) by striking in clause (i) "in lieu of applying subparagraph (A),".*

*(C) Paragraph (3) of section 904(b) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraph:*

*"(D) RATE DIFFERENTIAL PORTION.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b).".*

*(D) Clause (v) of section 593(b)(2)(D) is amended—*

*(i) by striking "if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year,", and*

*(ii) by striking "section 904(b)(3)(E)" and inserting "section 904(b)(3)(D)".*

*(9) The last sentence of section 1044(d) is amended by striking "1202" and inserting "1203".*

*(10)(A) Paragraph (2) of section 1211(b) is amended to read as follows:*

*"(2) the sum of—*

*"(A) the excess of the net short-term capital loss over the net long-term capital gain, and*

*"(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain.".*

*(B) So much of paragraph (2) of section 1212(b) as precedes subparagraph (B) thereof is amended to read as follows:*

*"(2) SPECIAL RULES.—*

*"(A) ADJUSTMENTS.—*

*"(i) For purposes of determining the excess referred to in paragraph (1)(A), there shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—*

*"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or*

*"(II) the adjusted taxable income for such taxable year.*

*"(ii) For purposes of determining the excess referred to in paragraph (1)(B), there shall be treated as short-term capital gain in the taxable year an amount equal to the sum of—*

*"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b) or the adjusted taxable income for such taxable year, whichever is the least, plus*

*"(II) the excess of the amount described in subclause (I) over the net short-term capital loss (determined without regard to this subsection) for such year.".*

*(C) Subsection (b) of section 1212 is amended by adding at the end the following new paragraph:*

*"(3) TRANSITIONAL RULE.—In the case of any amount which, under this subsection and section 1211(b) (as in effect for taxable years beginning before January 1, 1996), is treated as a capital loss in the first taxable year beginning after December 31, 1995, paragraph (2) and section 1211(b) (as so in effect)*

*shall apply (and paragraph (2) and section 1211(b) as in effect for taxable years beginning after December 31, 1995, shall not apply) to the extent such amount exceeds the total of any capital gain net income (determined without regard to this subsection) for taxable years beginning after December 31, 1995.".*

*(11) Paragraph (1) of section 1402(i) is amended by inserting ", and the deduction provided by section 1202 shall not apply" before the period at the end thereof.*

*(12) Subsection (e) of section 1445 is amended—*

*(A) in paragraph (1) by striking "35 percent (or, to the extent provided in regulations, 28 percent)" and inserting "28 percent (or, to the extent provided in regulations, 19.8 percent)", and*

*(B) in paragraph (2) by striking "35 percent" and inserting "28 percent".*

*(13)(A) The second sentence of section 7518(g)(6)(A) is amended—*

*(i) by striking "during a taxable year to which section 1(h) or 1201(a) applies", and*

*(ii) by striking "28 percent (34 percent" and inserting "19.8 percent (28 percent".*

*(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended—*

*(i) by striking "during a taxable year to which section 1(h) or 1201(a) of such Code applies", and*

*(ii) by striking "28 percent (34 percent" and inserting "19.8 percent (28 percent".*

*(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by striking the item relating to section 1202 and by inserting after the item relating to section 1201 the following new items:*

*"Sec. 1202. Capital gains deduction.*
*"Sec. 1203. Small business stock eligible for preferential rates.".*

*(f) EFFECTIVE DATE.—*

*(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after December 31, 1994.*

*(2) COLLECTIBLES.—The amendments made by subsection (c) shall apply to sales and exchanges after December 31, 1994.*

*(3) REPEAL OF SECTION 1(h).—The amendment made by subsection (d)(1) shall apply to taxable years beginning after January 1, 1995.*

*(4) CONTRIBUTIONS.—The amendment made by subsection (d)(2) shall apply to contributions after December 31, 1994.*

*(5) USE OF LONG-TERM LOSSES.—The amendments made by subsection (d)(10) shall apply to taxable years beginning after December 31, 1995.*

*(6) WITHHOLDING.—The amendment made by subsection (d)(12) shall apply only to amounts paid after the date of the enactment of this Act.*

***SEC. 11022. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER DECEMBER 31, 2000, FOR PURPOSES OF DETERMINING GAIN.***

*(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:*

***"SEC. 1022. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER DECEMBER 31, 2000, FOR PURPOSES OF DETERMINING GAIN.***

*"(a) GENERAL RULE.—*

*"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Solely for purposes of determining gain on the sale or other disposition by a taxpayer (other than a corporation) of an indexed asset which has been held for more than 3 years, the indexed basis of the asset shall be substituted for its adjusted basis.*

*"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deductions for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.*

*"(b) INDEXED ASSET.—*

*"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—*

*"(A) common stock in a C corporation (other than a foreign corporation), and*

*"(B) tangible property,*

*which is a capital asset or property used in the trade or business (as defined in section 1231(b)).*

*"(2) STOCK IN CERTAIN FOREIGN CORPORATIONS INCLUDED.—For purposes of this section—*

*"(A) IN GENERAL.—The term 'indexed asset' includes common stock in a foreign corporation which is regularly traded on an established securities market.*

*"(B) EXCEPTION.—Subparagraph (A) shall not apply to—*

*"(i) stock of a foreign investment company (within the meaning of section 1246(b)),*

*"(ii) stock in a passive foreign investment company (as defined in section 1296),*

*"(iii) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2), and*

*"(iv) stock in a foreign personal holding company (as defined in section 552).*

*"(C) TREATMENT OF AMERICAN DEPOSITORY RECEIPTS.—An American depository receipt for common stock in a foreign corporation shall be treated as common stock in such corporation.*

*"(c) INDEXED BASIS.—For purposes of this section—*

*"(1) GENERAL RULE.—The indexed basis for any asset is—*

*"(A) the adjusted basis of the asset, increased by*

*"(B) the applicable inflation adjustment.*

*"(2) APPLICABLE INFLATION ADJUSTMENT.—The applicable inflation adjustment for any asset is an amount equal to—*

*"(A) the adjusted basis of the asset, multiplied by*

*"(B) the percentage (if any) by which—*

*"(i) the gross domestic product deflator for the last calendar quarter ending before the asset is disposed of, exceeds*

*"(ii) the gross domestic product deflator for the last calendar quarter ending before the asset was acquired by the taxpayer.*

*The percentage under subparagraph (B) shall be rounded to the nearest 1/10 of 1 percentage point.*

*"(3) GROSS DOMESTIC PRODUCT DEFLATOR.—The gross domestic product deflator for any calendar quarter is the implicit price deflator for the gross domestic product for such quarter (as shown in the last revision thereof released by the Secretary of Commerce before the close of the following calendar quarter).*

*"(d) SUSPENSION OF HOLDING PERIOD WHERE DIMINISHED RISK OF LOSS; TREATMENT OF SHORT SALES.—*

*"(1) IN GENERAL.—If the taxpayer (or a related person) enters into any transaction which substantially reduces the risk of loss from holding any asset, such asset shall not be treated as an indexed asset for the period of such reduced risk.*

*"(2) SHORT SALES.—*

*"(A) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period*

*in excess of 3 years, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) increased by the applicable inflation adjustment. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date of acquisition and the closing date for the sale shall be treated as the date of disposition.*

*"(B) SHORT SALE PERIOD.—For purposes of subparagraph (A), the short sale period begins on the day that the property is sold and ends on the closing date for the sale.*

*"(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—*

*"(1) ADJUSTMENTS AT ENTITY LEVEL.—*

*"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).*

*"(B) EXCEPTION FOR CORPORATE SHAREHOLDERS.—Under regulations—*

*"(i) in the case of a distribution by a qualified investment entity (directly or indirectly) to a corporation—*

*"(I) the determination of whether such distribution is a dividend shall be made without regard to this section, and*

*"(II) the amount treated as gain by reason of the receipt of any capital gain dividend shall be increased by the percentage by which the entity's net capital gain for the taxable year (determined without regard to this section) exceeds the entity's net capital gain for such year determined with regard to this section, and*

*"(ii) there shall be other appropriate adjustments (including deemed distributions) so as to ensure that the benefits of this section are not allowed (directly or indirectly) to corporate shareholders of qualified investment entities.*

*For purposes of the preceding sentence, any amount includible in gross income under section 852(b)(3)(D) shall be treated as a capital gain*

*dividend and an S corporation shall not be treated as a corporation.*

*"(C) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).*

*"(D) EXCEPTION FOR CERTAIN TAXES IMPOSED AT ENTITY LEVEL.—*

*"(i) TAX ON FAILURE TO DISTRIBUTE ENTIRE GAIN.—If any amount is subject to tax under section 852(b)(3)(A) for any taxable year, the amount on which tax is imposed under such section shall be increased by the percentage determined under subparagraph (B)(i)(II). A similar rule shall apply in the case of any amount subject to tax under paragraph (2) or (3) of section 857(b) to the extent attributable to the excess of the net capital gain over the deduction for dividends paid determined with reference to capital gain dividends only. The first sentence of this clause shall not apply to so much of the amount subject to tax under section 852(b)(3)(A) as is designated by the company under section 852(b)(3)(D).*

*"(ii) OTHER TAXES.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).*

*"(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—*

*"(A) REGULATED INVESTMENT COMPANIES.—Stock in a regulated investment company (within the meaning of section 851) shall be an indexed asset for any calendar quarter in the same ratio as—*

*"(i) the average of the fair market values of the indexed assets held by such company at the close of each month during such quarter, bears to*

*"(ii) the average of the fair market values of all assets held by such company at the close of each such month.*

*"(B) REAL ESTATE INVESTMENT TRUSTS.—Stock in a real estate investment trust (within the meaning of section 856) shall be an indexed asset for any calendar quarter in the same ratio as—*

*"(i) the fair market value of the indexed assets held by such trust at the close of such quarter, bears to*

*"(ii) the fair market value of all assets held by such trust at the close of such quarter.*

*"(C) RATIO OF 80 PERCENT OR MORE.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 80 percent or more, such ratio for such quarter shall be 100 percent.*

*"(D) RATIO OF 20 PERCENT OR LESS.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 20 percent or less, such ratio for such quarter shall be zero.*

*"(E) LOOK-THRU OF PARTNERSHIPS.—For purposes of this paragraph, a qualified investment entity which holds a partnership interest shall be treated (in lieu of holding a partnership interest) as holding its proportionate share of the assets held by the partnership.*

*"(3) TREATMENT OF RETURN OF CAPITAL DISTRIBUTIONS.—Except as otherwise provided by the Secretary, a distribution with respect to stock in a*

*qualified investment entity which is not a dividend and which results in a reduction in the adjusted basis of such stock shall be treated as allocable to stock acquired by the taxpayer in the order in which such stock was acquired.*

*"(4) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—*

*"(A) a regulated investment company (within the meaning of section 851), and*

*"(B) a real estate investment trust (within the meaning of section 856).*

*"(f) OTHER PASS-THRU ENTITIES.—*

*"(1) PARTNERSHIPS.—*

*"(A) IN GENERAL.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.*

*"(B) SPECIAL RULE IN THE CASE OF SECTION 754 ELECTIONS.—In the case of a transfer of an interest in a partnership with respect to which the election provided in section 754 is in effect—*

*"(i) the adjustment under section 743(b)(1) shall, with respect to the trans-*

*feror partner, be treated as a sale of the partnership assets for purposes of applying this section, and*

*"(ii) with respect to the transferee partner, the partnership's holding period for purposes of this section in such assets shall be treated as beginning on the date of such adjustment.*

*"(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders. This section shall not apply for purposes of determining the amount of any tax imposed by section 1374 or 1375.*

*"(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants.*

*"(4) INDEXING ADJUSTMENT DISREGARDED IN DETERMINING LOSS ON SALE OF INTEREST IN ENTITY.—Notwithstanding the preceding provisions of this subsection, for purposes of determining the amount of any loss on a sale or exchange of an interest in a partnership, S corporation, or common trust fund, the adjustment made under subsection (a) shall*

*not be taken into account in determining the adjusted basis of such interest.*

*"(g) DISPOSITIONS BETWEEN RELATED PERSONS.—*

*"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.*

*"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—*

*"(A) persons bearing a relationship set forth in section 267(b), and*

*"(B) persons treated as single employer under subsection (b) or (c) of section 414.*

*"(h) TRANSFERS TO INCREASE INDEXING ADJUSTMENT.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.*

*"(i) SPECIAL RULES.—For purposes of this section—*

*"(1) TREATMENT OF IMPROVEMENTS, ETC.—If there is an addition to the adjusted basis of any tangible property or of any stock in a corporation during*

*the taxable year by reason of an improvement to such property or a contribution to capital of such corporation—*

*"(A) such addition shall never be taken into account under subsection (c)(1)(A) if the aggregate amount thereof during the taxable year with respect to such property or stock is less than $1,000, and*

*"(B) such addition shall be treated as a separate asset acquired at the close of such taxable year if the aggregate amount thereof during the taxable year with respect to such property or stock is $1,000 or more.*

*A rule similar to the rule of the preceding sentence shall apply to any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.*

*"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation adjustment shall be appropriately reduced for periods during which the asset was not an indexed asset.*

*"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation*

*which is not a dividend shall be treated as a disposition.*

*"(4) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.*

*"(5) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.*

*"(j) 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 part II of subchapter O of chapter 1 is amended by inserting after the item relating to section 1021 the following new item:*

*"Sec. 1022. Indexing of certain assets acquired after December 31, 2000, for purposes of determining gain."*

*(c) EFFECTIVE DATE.—*

*(1) IN GENERAL.—The amendments made by this section shall apply to the disposition of any*

*property the holding period of which begins after December 31, 2000.*

*(2) CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—The amendments made by this section shall not apply to the disposition of any property acquired after December 31, 2000, from a related person (as defined in section 1022(g)(2) of the Internal Revenue Code of 1986, as added by this section) if—*

*(A) such property was so acquired for a price less than the property's fair market value, and*

*(B) the amendments made by this section did not apply to such property in the hands of such related person.*

*(d) ELECTION TO RECOGNIZE GAIN ON ASSETS HELD ON JANUARY 1, 2001.—For purposes of the Internal Revenue Code of 1986—*

*(1) IN GENERAL.—A taxpayer other than a corporation may elect to treat—*

*(A) any readily tradable stock (which is an indexed asset) held by such taxpayer on January 1, 2001, and not sold before the next business day after such date, as having been sold on such next business day for an amount equal to its closing market price on such next business day*

*(and as having been reacquired on such next business day for an amount equal to such closing market price), and*

*(B) any other indexed asset held by the taxpayer on January 1, 2001, as having been sold on such date for an amount equal to its fair market value on such date (and as having been reacquired on such date for an amount equal to such fair market value).*

*(2) TREATMENT OF GAIN OR LOSS.—*

*(A) Any gain resulting from an election under paragraph (1) shall be treated as received or accrued on the date the asset is treated as sold under paragraph (1) and shall be recognized notwithstanding any provision of the Internal Revenue Code of 1986.*

*(B) Any loss resulting from an election under paragraph (1) shall not be allowed for any taxable year.*

*(3) ELECTION.—An election under paragraph (1) shall be made in such manner as the Secretary of the Treasury or his delegate may prescribe and shall specify the assets for which such election is made. Such an election, once made with respect to any asset, shall be irrevocable.*

*(4) READILY TRADABLE STOCK.—For purposes of this subsection, the term "readily tradable stock" means any stock which, as of January 1, 2001, is readily tradable on an established securities market or otherwise.*

*(e) TREATMENT OF PRINCIPAL RESIDENCES.—Property held and used by the taxpayer on January 1, 2001, as his principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986) shall be treated—*

*(1) for purposes of subsection (c)(1) of this section and section 1022 of such Code, as having a holding period which begins on January 1, 2001, and*

*(2) for purposes of section 1022(c)(2)(B)(ii) of such Code, as having been acquired on January 1, 2001.*

*Subsection (d) shall not apply to property to which this subsection applies.*

***SEC. 11023. MODIFICATIONS TO EXCLUSION OF GAIN ON CERTAIN SMALL BUSINESS STOCK.***

*(a) REDUCED RATE IN LIEU OF EXCLUSION.—*

*(1) Section 1, as amended by section 11021, is amended by adding at the end the following new subsection:*

*"(h) MAXIMUM CAPITAL GAINS RATE FOR CERTAIN SMALL BUSINESS STOCK.—*

*"(1) IN GENERAL.—If for any taxable year a taxpayer has gain from the sale or exchange of any qualified small business stock held for more than 5 years, then the tax imposed by this section shall not exceed the sum of—*

*"(A) a tax computed on the taxable income reduced by ½ the amount of the small business gain, at the rates and in the manner as if this subsection had not been enacted, plus*

*"(B) a tax of 14 percent of the small business gain.*

*"(2) SMALL BUSINESS GAIN.—For purposes of paragraph (1), the term 'small business gain' means the lesser of—*

*"(A) gain from the sale or exchange of any qualified small business stock held for more than 5 years, or*

*"(B) the net capital gain taken into account under section 1202(a).*

*"(3) QUALIFIED SMALL BUSINESS STOCK.—The term 'qualified small business stock' has the meaning given such term by section 1203(c)."*

*(2) Subsection (a) of section 1203, as redesignated by section 11021, is amended to read as follows:*

*"(a) APPLICATION OF REDUCED RATES TO QUALIFIED SMALL BUSINESS STOCK GAINS.—*

***"For treatment of gain on qualified small business stock held for more than 5 years, see sections 1(h) and 1201(b).".***

*(b) REPEAL OF MINIMUM TAX PREFERENCE.—*

*(1) Subsection (a) of section 57 is amended by striking paragraph (7).*

*(2) Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking ", (5), and (7)" and inserting "and (5)".*

*(c) STOCK OF LARGER BUSINESSES ELIGIBLE FOR REDUCED RATES.—Paragraph (1) of section 1203(d), as redesignated by section 11021, is amended by striking "$50,000,000" each place it appears and inserting "$100,000,000".*

*(d) REPEAL OF PER-ISSUER LIMITATION.—Section 1203, as so redesignated, is amended by striking subsection (b).*

*(e) OTHER MODIFICATIONS.—*

*(1) REPEAL OF WORKING CAPITAL LIMITATION.—Paragraph (6) of section 1203(e), as so redesignated, is amended—*

*(A) by striking "2 years" in subparagraph (B) and inserting "5 years", and*

*(B) by striking the last sentence.*

*(2) EXCEPTION FROM REDEMPTION RULES WHERE BUSINESS PURPOSE.—Paragraph (3) of section 1203(c), as so redesignated, is amended by adding at the end the following new subparagraph:*

*"(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitations of this section.".*

*(f) CLERICAL AMENDMENT.—The section heading for section 1203, as redesignated by section 11021, is amended to read as follows:*

***"SEC. 1203. SMALL BUSINESS STOCK ELIGIBLE FOR PREFERENTIAL RATES."***

*(g) EFFECTIVE DATES.—*

*(1) REDUCED RATES.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after the date of the enactment of this Act.*

*(2) INCREASE IN SIZE.—The amendment made by subsection (c) shall apply to stock issued after the date of the enactment of this Act.*

*(3) OTHER RULES.—The amendments made by subsections (d) and (e) shall apply to stock issued after August 10, 1993.*

## *Subchapter B—Corporate Capital Gains*

### *SEC. 11025. REDUCTION OF ALTERNATIVE CAPITAL GAIN TAX FOR CORPORATIONS.*

*(a) IN GENERAL.—Section 1201 is amended to read as follows:*

### *"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.*

*"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, and 831 (a) and (b) (whichever is applicable), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—*

*"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus*

*"(2) a tax of 28 percent of the net capital gain.*

*"(b) SPECIAL RULES FOR QUALIFIED SMALL BUSINESS GAIN.—*

*"(1) IN GENERAL.—If for any taxable year a corporation has gain from the sale or exchange of any qualified small business stock held for more than 5*

*years, the amount determined under subsection (a)(2) for such taxable year shall be equal to the sum of—*

*"(A) 21 percent of the lesser of such gain or the corporation's net capital gain, plus*

*"(B) 28 percent of the net capital gain reduced by the gain taken into account under subparagraph (A).*

*"(2) QUALIFIED SMALL BUSINESS STOCK.—For purposes of paragraph (1), the term 'qualified small business stock' has the meaning given such term by section 1203(c), except that stock shall not be treated as qualified small business stock if such stock was at any time held by a member of the parent-subsidiary controlled group (as defined in section 1203(d)(3)) which includes the qualified small business.*

*"(c) TRANSITIONAL RULE.—*

*"(1) IN GENERAL.—In applying this section, net capital gain for any taxable year shall not exceed the net capital gain determined by taking into account only gains and losses properly taken into account for the portion of the taxable year after December 31, 1994.*

*"(2) SPECIAL RULE FOR PASS-THRU ENTITIES.—Section 1202(e)(2) shall apply for purposes of paragraph (1).*

*"(d) CROSS REFERENCES.—*

***"For computation of the alternative tax—***

***"(1) in the case of life insurance companies, see section 801(a)(2),***

***"(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3)(A) and (D), and***

***"(3) in the case of real estate investment trusts, see section 857(b)(3)(A).".***

*(b) TECHNICAL AMENDMENT.—Clause (iii) of section 852(b)(3)(D) is amended by striking "65 percent" and inserting "72 percent".*

*(c) EFFECTIVE DATE.—*

*(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after December 31, 1994.*

*(2) QUALIFIED SMALL BUSINESS STOCK.—Section 1201(b) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to gain from qualified small business stock acquired on or after the date of the enactment of this Act.*

## *Subchapter C—Capital Loss Deduction Allowed With Respect to Sale or Exchange of Principal Residence*

### *SEC. 11026. CAPITAL LOSS DEDUCTION ALLOWED WITH RESPECT TO SALE OR EXCHANGE OF PRINCIPAL RESIDENCE.*

*(a) IN GENERAL.—Subsection (c) of section 165 (relating to limitation on losses of individuals) is amended by*

*striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; and", and by adding at the end the following new paragraph:*

*"(4) losses arising from the sale or exchange of the principal residence (within the meaning of section 1034) of the taxpayer."*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales and exchanges after December 31, 1994, in taxable years ending after such date.*

## *CHAPTER 3—CORPORATE ALTERNATIVE MINIMUM TAX REFORM*

### *SEC. 11031. MODIFICATION OF DEPRECIATION RULES UNDER MINIMUM TAX.*

*(a) IN GENERAL.—Clause (i) of section 56(a)(1)(A) is amended by inserting "and before January 1, 1996," after "December 31, 1986,".*

*(b) CONFORMING AMENDMENT.—Clause (ii) of section 56(a)(1)(A) is amended by striking "The method" and inserting "In the case of property placed in service before January 1, 1996, the method".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1995.*

***SEC. 11032. LONG-TERM UNUSED CREDITS ALLOWED AGAINST MINIMUM TAX.***

*(a) IN GENERAL.—Section 53(c) (relating to limitation) is amended by adding at the end the following new paragraph:*

*"(2) SPECIAL RULE FOR TAXPAYERS WITH LONG-TERM UNUSED CREDITS.—*

*"(A) IN GENERAL.—If—*

*"(i) a corporation to which section 56(g) applies has a long-term unused minimum tax credit for a taxable year, and*

*"(ii) no credit would be allowable under this section for the taxable year by reason of paragraph (1),*

*then there shall be allowed a credit under subsection (a) for the taxable year in the amount determined under subparagraph (B).*

*"(B) AMOUNT OF CREDIT.—For purposes of subparagraph (A), the amount of the credit shall be equal to the least of the following for the taxable year:*

*"(i) The long-term unused minimum tax credit.*

*"(ii) 50 percent of the taxpayer's tentative minimum tax.*

*"(iii) The excess (if any) of the amount under paragraph (1)(B) over the amount under paragraph (1)(A).*

*"(C) LONG-TERM UNUSED MINIMUM TAX CREDIT.—For purposes of this paragraph—*

*"(i) IN GENERAL.—The long-term unused minimum tax credit for any taxable year is the portion of the minimum tax credit determined under subsection (b) attributable to the adjusted net minimum tax for taxable years beginning after 1986 and ending before the 7th taxable year immediately preceding the taxable year for which the determination is being made.*

*"(ii) FIRST-IN, FIRST-OUT ORDERING RULE.—For purposes of clause (i), credits shall be treated as allowed under subsection (a) on a first-in, first-out basis.".*

*(b) CONFORMING AMENDMENTS.—(1) Section 53(c) (as in effect before the amendment made by subsection (a)) is amended—*

*(A) by striking "The" and inserting:*

*"(1) IN GENERAL.—The", and*

*(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.*

*(2) Subparagraph (C) of section 108(b)(4) is amended by striking "and (G)" in the text and heading thereof and inserting ", (C), and (G)".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

## CHAPTER 4—COST RECOVERY PROVISIONS

### SEC. 11035. TREATMENT OF ABANDONMENT OF LESSOR IMPROVEMENTS AT TERMINATION OF LEASE.

*(a) IN GENERAL.—Paragraph (8) of section 168(i) is amended to read as follows:*

*"(8) TREATMENT OF LEASEHOLD IMPROVEMENTS.—*

*"(A) IN GENERAL.—In the case of any building erected (or improvements made) on leased property, if such building or improvement is property to which this section applies, the depreciation deduction shall be determined under the provisions of this section.*

*"(B) TREATMENT OF LESSOR IMPROVEMENTS WHICH ARE ABANDONED AT TERMINATION OF LEASE.—An improvement—*

*"(i) which is made by the lessor of leased property for the lessee of such property, and*

*"(ii) which is irrevocably disposed of or abandoned by the lessor at the termination of the lease by such lessee,*

*shall be treated for purposes of determining gain or loss under this title as disposed of by the lessor when so disposed of or abandoned."*

*(b) EFFECTIVE DATE.—Subparagraph (B) of section 168(i)(8) of the Internal Revenue Code of 1986, as added by the amendment made by subsection (a), shall apply to improvements disposed of or abandoned after March 13, 1995.*

***SEC. 11036. INCREASE IN EXPENSE TREATMENT FOR SMALL BUSINESSES.***

*(a) GENERAL RULE.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended to read as follows:*

*"(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed the following applicable amount:*

| ***"If the taxable year begins in:*** | ***The applicable amount is:*** |
|---|---|
| *1996* | *$19,000* |
| *1997* | *20,000* |
| *1998* | *21,000* |
| *1999* | *22,000* |
| *2000* | *23,000* |

| | |
|---|---|
| *2001* | *24,000* |
| *2002 or thereafter* | *25,000.''* |

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.*

# *Subtitle C—Health Related Provisions*

## *CHAPTER 1—LONG-TERM CARE PROVISIONS*

### *Subchapter A—Long-Term Care Services and Contracts*

#### *PART I—GENERAL PROVISIONS*

##### *SEC. 11041. TREATMENT OF LONG-TERM CARE INSURANCE.*

*(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 per-*

*sonal 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 (d)(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 de-*

*scribed 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 or to cognitive impairment, or*

*"(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).*

*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 serv-*

*ices' 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) SPECIAL RULES FOR TREATMENT OF INSUREDS.—*

*"(1) AGGREGATE PAYMENTS IN EXCESS OF LIMITS.—*

*"(A) 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 exceed the dollar amount in effect for such period under subparagraph (C), 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 oth-*

*erwise compensated for by insurance or otherwise) for qualified long-term care services provided during such period for such insured.*

*"(B) PERIODIC PAYMENTS.—For purposes of subparagraph (A), 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.*

*"(C) DOLLAR AMOUNT.—The dollar amount in effect under this paragraph shall be $175 per day (or the equivalent amount in the case of payments on another periodic basis).*

*"(D) INFLATION ADJUSTMENT.—In the case of a calendar year after 1996, the dollar amount contained in subparagraph (C) shall be increased at the same time and in the same manner as amounts are increased pursuant to section 213(d)(11).*

*"(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 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) RESERVE METHOD.—Clause (iii) of section 807(d)(3)(A) is amended by inserting ''(other than a qualified long-term care insurance contract, as defined in section 7702B(b))'' after ''insurance contract''.*

*(c) 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.—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 provided in subsection (b), gross income of an employee does not include employer-provided coverage under an accident or health plan.*

*"(b) INCLUSION OF LONG-TERM CARE BENEFITS PROVIDED THROUGH FLEXIBLE SPENDING ARRANGEMENTS.—*

*"(1) IN GENERAL.—Effective on and after January 1, 1996, 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."*

*(d) 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)).*"

*(e) AMOUNTS PAID TO RELATIVES TREATED AS NOT PAID FOR MEDICAL CARE.—Section 213(d) is amended by adding at the end the following new paragraph:*

*"(10) 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 a relative (directly or through a partnership, corporation, or other entity) unless the relative is a licensed professional with respect to such services, 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.''*

*(f) 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.''.*

*(g) EFFECTIVE DATE.—*

*(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued after December 31, 1995.*

*(2) CONTINUATION OF EXISTING POLICIES.—In the case of any contract issued before January 1, 1996, 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 Jan-*

*uary 1, 1997, 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. 11042. 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 striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".*

*(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 (11)) shall be taken into account under subparagraph (D)."*

*(B) Subsection (d) of section 213 is amended by adding at the end the following new paragraph:*

*"(11) 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 1996, 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 1995.*

*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."*

*(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.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

***SEC. 11043. CERTAIN EXCHANGES OF LIFE INSURANCE CONTRACTS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS NOT TAXABLE.***

*(a) IN GENERAL.—Subsection (a) of section 1035 (relating to certain exchanges of insurance contracts) is amended by striking the period at the end of paragraph (3) and inserting "; or", and by adding at the end the following new paragraph:*

*"(4) a contract of life insurance or an endowment or annuity contract for a qualified long-term care insurance contract (as defined in section 7702B(b)).*"

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.*

***SEC. 11044. EXCEPTION FROM PENALTY TAX FOR AMOUNTS WITHDRAWN FROM CERTAIN RETIREMENT PLANS FOR QUALIFIED LONG-TERM CARE INSURANCE.***

*(a) IN GENERAL.—Paragraph (2) of section 72(t) is amended by adding at the end the following new subparagraph:*

*"(F) PREMIUMS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—Distributions to an individual from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3), to the extent such distributions do not exceed the premiums for a qualified long-term care insurance contract (as defined in section 7702B(b)) for such individual or the spouse of such individual. In applying subparagraph (B), such premiums shall be treated as amounts not paid for medical care."*

*(b) DISTRIBUTIONS PERMITTED FROM CERTAIN PLANS TO PAY LONG-TERM CARE PREMIUMS.—*

*(1) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:*

*"(V) the date distributions for premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of such individual or the spouse of such individual are made, and".*

*(2) Section 403(b)(11) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:*

*"(C) for the payment of premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of the employee or the spouse of the employee."*

*(3) Subparagraph (A) of section 457(d)(1) is amended by striking "or" at the end of clause (ii), by striking "and" at the end of clause (iii) and inserting "or", and by inserting after clause (iii) the following new clause:*

*"(iv) the date distributions for premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of such individual or the spouse of such individual are made, and".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1995.*

***SEC. 11045. REPORTING REQUIREMENTS.***

*(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61, as amended by section 11004, is amended by adding at the end the following new section:*

***"SEC. 6050R. 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 any amount paid under a long-term care insurance policy (within the meaning of section 4980C(e)).".*

*(b) PENALTIES.—*

*(1) Subparagraph (B) of section 6724(d)(1), as amended by section 11004, is amended by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, and by inserting after clause (ix) the following new clause:*

*"(x) section 6050R (relating to certain long-term care benefits),".*

*(2) Paragraph (2) of section 6724(d), as amended by section 11004, is amended by redesignating sub-*

*paragraphs (R) through (U) as subparagraphs (S) through (V), respectively, and by inserting after subparagraph (P) the following new subparagraph:*

*"(R) section 6050R(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. 6050R. Certain long-term care benefits."*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits paid after December 31, 1995.*

## *PART II—CONSUMER PROTECTION PROVISIONS*

### *SEC. 11051. POLICY REQUIREMENTS.*

*Section 7702B (as added by section 11041) 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.*

*"(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. 11052. 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. 11053. 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 Inter-*

*nal Revenue Code of 1986), if such standards are not in conflict with or inconsistent with the standards established under such Code.*

***SEC. 11054. EFFECTIVE DATES.***

*(a) IN GENERAL.—The provisions of, and amendments made by, this part shall apply to contracts issued after December 31, 1995. The provisions of section 11041(g) of this Act (relating to transition rule) shall apply to such contracts.*

*(b) ISSUERS.—The amendments made by section 11052 shall apply to actions taken after December 31, 1995.*

## ***Subchapter B—Treatment of Accelerated Death Benefits***

***SEC. 11061. 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 determined in such manner as the Secretary may prescribe) 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.*

*"(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, 1995.*

***SEC. 11062. 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, 1996.*

*(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.*

## *CHAPTER 2—MEDICAL SAVINGS ACCOUNTS*

### *SEC. 11066. 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 222 as section 223 and by inserting after section 221 the following new section:*

### *"SEC. 222. MEDICAL SAVINGS ACCOUNTS.*

*"(a) DEDUCTION ALLOWED.—In the case of an individual who is an eligible individual for any month during*

*the taxable year, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid in cash during such taxable year by such individual to a medical savings account of such individual.*

*"(b) LIMITATIONS.—*

*"(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount allowable as a deduction under subsection (a) to an individual for the taxable year shall not exceed—*

*"(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), any amount is paid to any medical savings ac-*

*count 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 deduct-*

*ible 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).*

*"(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 contract (as defined in section 7702B), 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.—Paragraph (2) shall not apply to the distribution of any contribution paid during a taxable year to a medical savings account to the extent that such contribution exceeds the amount under subsection (d)(1)(A)(ii) 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 pay-*

*ment 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 1996, 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 1995.*

*"(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 (18) the following new paragraph:*

*"(19) MEDICAL SAVINGS ACCOUNTS.—The deduction allowed by section 222."*

*(c) EXCLUSIONS FOR EMPLOYER CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—*

*(1) EXCLUSION FROM INCOME TAX.—Section 106 (relating to contributions by employer to accident and health plans), as amended by this Act, is amended—*

*(A) by adding at the end the following new subsection:*

*"(c) 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 222(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 em-*

*ployer 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 222", and*

*(B) by striking "subsection (b)" in subsection (a) and inserting "this subsection".*

*(2) EXCLUSION FROM WITHHOLDING TAX.—Subsection (a) of section 3401 is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting "; or", and by inserting after paragraph (20) the following new paragraph:*

*"(21) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."*

*(d) MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS NOT AVAILABLE UNDER CAFETERIA PLANS.—Subsection (f) of section 125 is amended by inserting "106(b)," before "117".*

*(e) 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 222(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 222(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 account (within the meaning of section 222(d)), the term 'excess contributions' means the sum of—*

*"(1) the amount by which the amount contributed for the taxable year to the account exceeds the amount which may be contributed to the account under section 222(d)(1)(B)(ii) for such taxable year, 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 222(f) (2) or (3) and the excess (if any) of the maximum amount allowable as a deduction under section 222 for the taxable year over the amount contributed.*

*For purposes of this subsection, any contribution which is distributed out of the medical savings account in a distribution to which section 222(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 222(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 222(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 MEDICAREPLUS MSA'S.—*

*(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 222(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 222(d)).".*

*(j) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following:*

*"Sec. 222. Medical savings accounts.*
*"Sec. 223. Cross reference."*

*(k) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

## *CHAPTER 3—INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS*

### *SEC. 11068. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.*

*(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—** |
|---|---|
| *1996 or 1997* | *30* |
| *1998 or 1999* | *35* |
| *2000 or 2001* | *40* |
| *2002 or thereafter* | *50."* |

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.*

# Subtitle D—Estate and Gift Provisions

## SEC. 11071. COST-OF-LIVING ADJUSTMENTS RELATING TO ESTATE AND GIFT TAX PROVISIONS.

*(a) INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.—*

*(1) ESTATE TAX CREDIT.—*

*(A) Subsection (a) of section 2010 (relating to unified credit against estate tax) is amended by striking "$192,800" and inserting "the applicable credit amount".*

*(B) Section 2010 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:*

*"(c) APPLICABLE CREDIT AMOUNT.—For purposes of this section—*

*"(1) IN GENERAL.—The applicable credit amount is the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the applicable exclusion amount determined in accordance with the following table:*

| ***"In the case of estates of decedents dying, and gifts made, during:*** | ***The applicable exclusion amount is:*** |
|---|---|
| *1996* | *$625,000* |
| *1997* | *$650,000* |
| *1998* | *$675,000* |
| *1999* | *$700,000* |
| *2000* | *$725,000* |
| *2001 or thereafter* | *$750,000.* |

*"(2) COST-OF-LIVING ADJUSTMENTS.—In the case of any decedent dying, and gift made, in a calendar year after 2001, the $750,000 amount set forth*

*in paragraph (1) shall be increased by an amount equal to—*

*"(A) $750,000, multiplied by*

*"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2000' for 'calendar year 1992' in subparagraph (B) thereof.*

*If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000."*

*(C) Paragraph (1) of section 6018(a) is amended by striking "$600,000" and inserting "the applicable exclusion amount in effect under section 2010(c) (as adjusted under paragraph (2) thereof) for the calendar year which includes the date of death".*

*(D) Paragraph (2) of section 2001(c) is amended by striking "$21,040,000" and inserting "the amount at which the average tax rate under this section is 55 percent".*

*(E) Subparagraph (A) of section 2102(c)(3) is amended by striking "$192,800" and inserting "the applicable credit amount in effect under sec-*

*tion 2010(c) for the calendar year which includes the date of death".*

*(2) UNIFIED GIFT TAX CREDIT.—Paragraph (1) of section 2505(a) is amended by striking "$192,800" and inserting "the applicable credit amount in effect under section 2010(c) for such calendar year".*

*(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying, and gifts made, after December 31, 1995.*

*(b) ALTERNATE VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.—Subsection (a) of section 2032A is amended by adding at the end the following new paragraph:*

*"(3) INFLATION ADJUSTMENT.—In the case of estates of decedents dying in a calendar year after 2000, the $750,000 amount contained in paragraph (2) shall be increased by an amount equal to—*

*"(A) $750,000, multiplied by*

*"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.*

*If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000."*

*(c) ANNUAL GIFT TAX EXCLUSION.—Subsection (b) of section 2503 is amended—*

*(1) by striking the subsection heading and inserting the following:*

*"(b) EXCLUSIONS FROM GIFTS.—*

*"(1) IN GENERAL.—",*

*(2) by moving the text 2 ems to the right, and*

*(3) by adding at the end the following new paragraph:*

*"(2) INFLATION ADJUSTMENT.—In the case of gifts made in a calendar year after 2000, the $10,000 amount contained in paragraph (1) shall be increased by an amount equal to—*

*"(A) $10,000, multiplied by*

*"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.*

*If any amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the nearest multiple of $1,000."*

*(d) EXEMPTION FROM GENERATION-SKIPPING TAX.—Section 2631 (relating to GST exemption) is amended by adding at the end the following new subsection:*

*"(c) INFLATION ADJUSTMENT.—In the case of an individual who dies in any calendar year after 2000, the $1,000,000 amount contained in subsection (a) shall be increased by an amount equal to—*

*"(1) $1,000,000, multiplied by*

*"(2) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.*

*If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000."*

*(e) AMOUNT OF TAX ELIGIBLE FOR 4 PERCENT INTEREST RATE ON EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX ON CLOSELY HELD BUSINESS.—*

*(1) Subparagraph (A) of section 6601(j)(2) is amended by striking "$345,800" and inserting "the applicable limitation amount".*

*(2) Subsection (j) of section 6601 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:*

*"(3) APPLICABLE LIMITATION AMOUNT.—*

*"(A) IN GENERAL.—For purposes of paragraph (2), the applicable limitation amount is*

*the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were $1,000,000.*

*"(B) INFLATION ADJUSTMENT.—In the case of estates of decedents dying in a calendar year after 2000, the $1,000,000 amount contained in subparagraph (A) shall be increased by an amount equal to—*

*"(i) $1,000,000, multiplied by*

*"(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.*

*If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000."*

***SEC. 11072. FAMILY-OWNED BUSINESS EXCLUSION.***

*(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:*

***"SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.***

*"(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—*

*"(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or*

*"(2) the sum of—*

*"(A) $1,000,000, plus*

*"(B) 50 percent of the excess (if any) of the adjusted value of such interests over $1,000,000, but not over $2,500,000.*

*"(b) ESTATES TO WHICH SECTION APPLIES.—*

*"(1) IN GENERAL.—This section shall apply to an estate if—*

*"(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,*

*"(B) the sum of—*

*"(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus*

*"(ii) the amount of the gifts of such interests determined under paragraph (3),*

*exceeds 50 percent of the adjusted gross estate, and*

*"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—*

*"(i) such interests were owned by the decedent or a member of the decedent's family, and*

*"(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.*

*"(2) INCLUDIBLE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—The qualified family-owned business interests described in this paragraph are the interests which—*

*"(A) are included in determining the value of the gross estate (without regard to this section), and*

*"(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).*

*"(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business*

*interests determined under this paragraph is the excess of—*

*"(A) the sum of—*

*"(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), plus*

*"(ii) the amount of such gifts otherwise excluded under section 2503(b),*

*to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death, over*

*"(B) the amount of such gifts from the decedent to members of the decedent's family otherwise included in the gross estate.*

*"(c) ADJUSTED GROSS ESTATE.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—*

*"(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and*

*"(2) increased by the excess of—*

*"(A) the sum of—*

*"(i) the amount of gifts determined under subsection (b)(3), plus*

*"(ii) the amount (if more than de minimis) of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus*

*"(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's family otherwise excluded under section 2503(b), over*

*"(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includible in the gross estate. For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.*

*"(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—*

*"(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over*

*"(2) the sum of—*

*"(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3), plus*

*"(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus*

*"(C) any indebtedness not described in clause (i) or (ii), to the extent such indebtedness does not exceed $10,000.*

*"(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—*

*"(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means—*

*"(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or*

*"(B) an interest in an entity carrying on a trade or business, if—*

*"(i) at least—*

*"(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,*

*"(II) 70 percent of such entity is so owned by members of 2 families, or*

*"(III) 90 percent of such entity is so owned by members of 3 families, and*

*"(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.*

*"(2) LIMITATION.—Such term shall not include—*

*"(A) any interest in a trade or business the principal place of business of which is not located in the United States,*

*"(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years of the date of the decedent's death,*

*"(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)),*

*"(D) that portion of an interest in a trade or business that is attributable to—*

*"(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and*

*"(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), the income of which is described in section 543(a) or in subparagraph (B), (C), (D), or (E) of section 954(c)(1) (determined by substituting 'trade or business' for 'controlled foreign corporation').*

*"(3) RULES REGARDING OWNERSHIP.—*

*"(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—*

*"(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.*

*"(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.*

*"(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—*

*"(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and*

*"(ii) this section shall be applied separately in determining if such interest in*

*any other trade or business is a qualified family-owned business interest.*

*"(C) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.*

*"(f) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—*

*"(1) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—*

*"(A) the material participation requirements described in section 2032A(c)(6)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,*

*"(B) the qualified heir disposes of any portion of a qualified family-owned business interest*

*(other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),*

*"(C) the qualified heir loses United States citizenship (within the meaning of section 877) or with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or*

*"(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.*

*"(2) ADDITIONAL ESTATE TAX.—*

*"(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—*

*"(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus*

*"(ii) interest on the amount determined under clause (i) at the underpayment rate established under sec-*

*tion 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.*

*"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:*

| **"If the event described in paragraph (1) occurs in the following year of material participation:** | **The applicable percentage is:** |
|---|---|
| *1 through 6* | *100* |
| *7* | *80* |
| *8* | *60* |
| *9* | *40* |
| *10* | *20.* |

*"(g) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS.—*

*"(1) IN GENERAL.—Except upon the application of subparagraph (F) or (M) of subsection (h)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subsection (f)(1)(C)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or is held) in a qualified trust.*

*"(2) QUALIFIED TRUST.—The term 'qualified trust' means a trust—*

*"(A) which is organized under, and governed by, the laws of the United States or a State, and*

*"(B) except as otherwise provided in regulations, with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.*

*"(h) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—*

*"(1) QUALIFIED HEIR.—The term 'qualified heir'—*

*"(A) has the meaning given to such term by section 2032A(e)(1), and*

*"(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.*

*"(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).*

*"(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:*

*"(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).*

*"(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).*

*"(C) Section 2032A(c)(2)(D) (relating to partial dispositions).*

*"(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).*

*"(E) Section 2032A(c)(4) (relating to due date).*

*"(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).*

*"(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).*

*"(H) Section 2032A(e)(10) (relating to community property).*

*"(I) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).*

*"(J) Section 2032A(f) (relating to statute of limitations).*

*"(K) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).*

*"(L) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).*

*"(M) Section 6324B (relating to special lien for additional estate tax).*

*"(4) COORDINATION WITH OTHER ESTATE TAX BENEFITS.—If there is a reduction in the value of the gross estate under this section—*

*"(A) the dollar limitation applicable under section 2032A(a)(2), and*

*"(B) the $1,000,000 amount under section 6601(j)(3) (as adjusted),*

*shall each be reduced (but not below zero) by the amount of such reduction.".*

*(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:*

*"Sec. 2033A. Family-owned business exclusion.".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.*

***SEC. 11073. TREATMENT OF LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.***

*(a) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—Section 2031 (relating to the definition of gross estate) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:*

*"(c) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—*

*"(1) IN GENERAL.—If the executor makes the election described in paragraph (4), then, except as otherwise provided in this subsection, there shall be excluded from the gross estate the applicable percentage of the lesser of—*

*"(A) the value of land subject to a qualified conservation easement, reduced by the amount of any deduction under section 2055(f) with respect to such land, or*

*"(B) the excess (if any) of $5,000,000 over the lesser of—*

*"(i) $2,500,000, or*

*"(ii) the adjusted value of the qualified family-owned business interests of the decedent determined under section 2033A.*

*"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage'*

*means 40 percent reduced (but not below zero) by 2 percentage points for each percentage point (or fraction thereof) by which the value of the qualified conservation easement is less than 30 percent of the value of the land (determined without regard to the value of such easement and reduced by the value of any retained development right (as defined in paragraph (4)).*

*"(3) TREATMENT OF CERTAIN INDEBTEDNESS.—*

*"(A) IN GENERAL.—The exclusion provided in paragraph (1) shall not apply to the extent that the land is debt-financed property.*

*"(B) DEFINITIONS.—For purposes of this paragraph—*

*"(i) DEBT-FINANCED PROPERTY.—The term 'debt-financed property' means any property with respect to which there is an acquisition indebtedness (as defined in clause (ii)) on the date of the decedent's death.*

*"(ii) ACQUISITION INDEBTEDNESS.—The term 'acquisition indebtedness' means, with respect to debt-financed property, the unpaid amount of—*

*"(I) the indebtedness incurred by the donor in acquiring such property,*

*"(II) the indebtedness incurred before the acquisition of such property if such indebtedness would not have been incurred but for such acquisition,*

*"(III) the indebtedness incurred after the acquisition of such property if such indebtedness would not have been incurred but for such acquisition and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition, and*

*"(IV) the extension, renewal, or refinancing of an acquisition indebtedness.*

*"(4) TREATMENT OF RETAINED DEVELOPMENT RIGHT.—*

*"(A) IN GENERAL.—Paragraph (1) shall not apply to the value of any development right retained by the donor in the conveyance of a qualified conservation easement.*

*"(B) TERMINATION OF RETAINED DEVELOPMENT RIGHT.—If every person in being who has an interest (whether or not in possession) in the*

*land executes an agreement to extinguish permanently some or all of any development rights (as defined in subparagraph (D)) retained by the donor on or before the date for filing the return of the tax imposed by section 2001, then any tax imposed by section 2001 shall be reduced accordingly. Such agreement shall be filed with the return of the tax imposed by section 2001. The agreement shall be in such form as the Secretary shall prescribe.*

*"(C) ADDITIONAL TAX.—Any failure to implement the agreement described in subparagraph (B) not later than the earlier of—*

*"(i) the date which is 2 years after the date of the decedent's death, or*

*"(ii) the date of the sale of such land subject to the qualified conservation easement,*

*shall result in the imposition of an additional tax in the amount of the tax which would have been due on the retained development rights subject to such agreement. Such additional tax shall be due and payable on the last day of the 6th month following such date.*

*"(D) DEVELOPMENT RIGHT DEFINED.—For purposes of this paragraph, the term 'development right' means any right to use the land subject to the qualified conservation easement in which such right is retained for any commercial purpose which is not subordinate to and directly supportive of the use of such land as a farm for farming purposes (within the meaning of section 6420(c)).*

*"(4) ELECTION.—The election under this subsection shall be made on the return of the tax imposed by section 2001. Such an election, once made, shall be irrevocable.*

*"(5) CALCULATION OF ESTATE TAX DUE.—An executor making the election described in paragraph (4) shall, for purposes of calculating the amount of tax imposed by section 2001, include the value of any development right (as defined in paragraph (3)) retained by the donor in the conveyance of such qualified conservation easement. The computation of tax on any retained development right prescribed in this paragraph shall be done in such manner and on such forms as the Secretary shall prescribe.*

*"(6) DEFINITIONS.—For purposes of this subsection—*

*"(A) LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—The term 'land subject to a qualified conservation easement' means land—*

*"(i) which is located—*

*"(I) in or within 25 miles of an area which, on the date of the decedent's death, is a metropolitan area (as defined by the Office of Management and Budget),*

*"(II) in or within 25 miles of an area which, on the date of the decedent's death, is a national park or wilderness area designated as part of the National Wilderness Preservation System (unless it is determined by the Secretary that land in or within 25 miles of such a park or wilderness area is not under significant development pressure), or*

*"(III) in or within 10 miles of an area which, on the date of the decedent's death, is an Urban National Forest (as designated by the Forest Service),*

*"(ii) which was owned by the decedent or a member of the decedent's family at all times during the 3-year period ending on the date of the decedent's death, and*

*"(iii) with respect to which a qualified conservation easement has been made by the decedent or a member of the decedent's family.*

*"(B) QUALIFIED CONSERVATION EASEMENT.—The term 'qualified conservation easement' means a qualified conservation contribution (as defined in section 170(h)(1)) of a qualified real property interest (as defined in section 170(h)(2)(C)), except that clause (iv) of section 170(h)(4)(A) shall not apply, and the restriction on the use of such interest described in section 170(h)(2)(C) shall include a prohibition on commercial recreational activity.*

*"(C) MEMBER OF FAMILY.—The term 'member of the decedent's family' means any member of the family (as defined in section 2032A(e)(2)) of the decedent.*

*"(7) APPLICATION OF THIS SECTION TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.—This section shall apply to an interest in*

*a partnership, corporation, or trust if at least 30 percent of the entity is owned (directly or indirectly) by the decedent, as determined under the rules described in section 2033A(e)(3).".*

*(b) CARRYOVER BASIS.—Section 1014(a) (relating to basis of property acquired from a decedent) is amended by striking the period at the end of paragraph (3) and inserting ", or" and by adding after paragraph (3) the following new paragraph:*

*"(4) to the extent of the applicability of the exclusion described in section 2031(c), the basis in the hands of the decedent.".*

*(c) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—Subsection (c) of section 2032A (relating to alternative valuation method) is amended by adding at the end the following new paragraph:*

*"(8) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—A qualified conservation contribution (as defined in section 170(h)) by gift or otherwise shall not be deemed a disposition under subsection (c)(1)(A).".*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.*

***SEC. 11074. EXPANSION OF EXCEPTION FROM GENERATION-SKIPPING TRANSFER TAX FOR TRANSFERS TO INDIVIDUALS WITH DECEASED PARENTS.***

*(a) IN GENERAL.—Section 2651 (relating to generation assignment) is amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following new subsection:*

*"(e) SPECIAL RULE FOR PERSONS WITH A DECEASED PARENT.—*

*"(1) IN GENERAL.—For purposes of determining whether any transfer is a generation-skipping transfer, if—*

*"(A) an individual is a descendant of a parent of the transferor (or the transferor's spouse or former spouse), and*

*"(B) such individual's parent who is a lineal descendant of the parent of the transferor (or the transferor's spouse or former spouse) is dead at the time the transfer (from which an interest of such individual is established or derived) is subject to a tax imposed by chapter 11 or 12 upon the transferor (and if there shall be more than 1 such time, then at the earliest such time),*

*such individual shall be treated as if such individual were a member of the generation which is 1 generation below the lower of the transferor's generation or*

*the generation assignment of the youngest living ancestor of such individual who is also a descendant of the parent of the transferor (or the transferor's spouse or former spouse), and the generation assignment of any descendant of such individual shall be adjusted accordingly.*

*"(2) LIMITED APPLICATION OF SUBSECTION TO COLLATERAL HEIRS.—This subsection shall not apply with respect to a transfer to any individual who is not a lineal descendant of the transferor (or the transferor's spouse or former spouse) if, at the time of the transfer, such transferor has any living lineal descendant."*

*(b) CONFORMING AMENDMENTS.—*

*(1) Section 2612(c) (defining direct skip) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).*

*(2) Section 2612(c)(2) (as so redesignated) is amended by striking "section 2651(e)(2)" and inserting "section 2651(f)(2)".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to terminations, distributions, and transfers occurring after December 31, 1994.*

***SEC. 11075. EXTENSION OF TREATMENT OF CERTAIN RENTS UNDER SECTION 2032A TO LINEAL DESCENDANTS.***

*(a) GENERAL RULE.—Paragraph (7) of section 2032A(c) (relating to special rules for tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new subparagraph:*

*"(E) CERTAIN RENTS TREATED AS QUALIFIED USE.—For purposes of this subsection, a surviving spouse or lineal descendant of the decedent shall not be treated as failing to use qualified real property in a qualified use solely because such spouse or descendant rents such property to a member of the family of such spouse or descendant on a net cash basis. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as the child of such individual by blood.".*

*(b) CONFORMING AMENDMENT.—Section 2032A(b)(5)(A) is amended by striking out the last sentence.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to leases entered into after December 31, 1995.*

# *Subtitle E—Extension of Expiring Provisions*

## *CHAPTER 1—TEMPORARY EXTENSIONS*

### *SEC. 11111. WORK OPPORTUNITY TAX CREDIT.*

*(a) AMOUNT OF CREDIT.—Subsection (a) of section 51 (relating to amount of credit) is amended by striking "40 percent" and inserting "35 percent".*

*(b) MEMBERS OF TARGETED GROUPS.—Subsection (d) of section 51 is amended to read as follows:*

*"(d) MEMBERS OF TARGETED GROUPS.—For purposes of this subpart—*

*"(1) IN GENERAL.—An individual is a member of a targeted group if such individual is—*

*"(A) a qualified IV–A recipient,*

*"(B) a qualified veteran,*

*"(C) a qualified ex-felon,*

*"(D) a high-risk youth,*

*"(E) a vocational rehabilitation referral, or*

*"(F) a qualified summer youth employee.*

*"(2) QUALIFIED IV–A RECIPIENT.—*

*"(A) IN GENERAL.—The term 'qualified IV–A recipient' means any individual who is certified by the designated local agency as being a member of a family receiving assistance under a IV–A program for at least a 9-month period end-*

*ing during the 9-month period ending on the hiring date.*

*"(B) IV–A PROGRAM.—For purposes of this paragraph, the term 'IV–A program' means any program providing assistance under a State plan approved under part A of title IV of the Social Security Act (relating to assistance for needy families with minor children) and any successor of such program.*

*"(3) QUALIFIED VETERAN.—*

*"(A) IN GENERAL.—The term 'qualified veteran' means any veteran who is certified by the designated local agency as being—*

*"(i) a member of a family receiving assistance under a IV–A program (as defined in paragraph (2)(B)) for at least a 9-month period ending during the 12-month period ending on the hiring date, or*

*"(ii) a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for at least a 3-month period ending during the 12-month period ending on the hiring date.*

*"(B) VETERAN.—For purposes of subparagraph (A), the term 'veteran' means any individ-*

*ual who is certified by the designated local agency as—*

*"(i)(I) having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, or*

*"(II) having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability, and*

*"(ii) not having any day during the 60-day period ending on the hiring date which was a day of extended active duty in the Armed Forces of the United States.*

*For purposes of clause (ii), the term 'extended active duty' means a period of more than 90 days during which the individual was on active duty (other than active duty for training).*

*"(4) QUALIFIED EX-FELON.—The term 'qualified ex-felon' means any individual who is certified by the designated local agency—*

*"(A) as having been convicted of a felony under any statute of the United States or any State,*

*"(B) as having a hiring date which is not more than 1 year after the last date on which such individual was so convicted or was released from prison, and*

*"(C) as being a member of a family which had an income during the 6 months immediately preceding the earlier of the month in which such income determination occurs or the month in which the hiring date occurs, which, on an annual basis, would be 70 percent or less of the Bureau of Labor Statistics lower living standard.*

*Any determination under subparagraph (C) shall be valid for the 45-day period beginning on the date such determination is made.*

*"(5) HIGH-RISK YOUTH.—*

*"(A) IN GENERAL.—The term 'high-risk youth' means any individual who is certified by the designated local agency—*

*"(i) as having attained age 18 but not age 25 on the hiring date, and*

*"(ii) as having his principal place of abode within an empowerment zone or enterprise community.*

*"(B) YOUTH MUST CONTINUE TO RESIDE IN ZONE.—In the case of a high-risk youth, the term*

*'qualified wages' shall not include wages paid or incurred for services performed while such youth's principal place of abode is outside an empowerment zone or enterprise community.*

*"(6) VOCATIONAL REHABILITATION REFERRAL.—The term 'vocational rehabilitation referral' means any individual who is certified by the designated local agency as—*

*"(A) having a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment, and*

*"(B) having been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to—*

*"(i) an individualized written rehabilitation plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, or*

*"(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.*

*"(7) QUALIFIED SUMMER YOUTH EMPLOYEE.—*

*"(A) IN GENERAL.—The term 'qualified summer youth employee' means any individual—*

*"(i) who performs services for the employer between May 1 and September 15,*

*"(ii) who is certified by the designated local agency as having attained age 16 but not 18 on the hiring date (or if later, on May 1 of the calendar year involved),*

*"(iii) who has not been an employee of the employer during any period prior to the 90-day period described in subparagraph (B)(i), and*

*"(iv) who is certified by the designated local agency as having his principal place of abode within an empowerment zone or enterprise community.*

*"(B) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any qualified summer youth employee—*

*"(i) subsection (b)(2) shall be applied by substituting 'any 90-day period between May 1 and September 15' for 'the 1-year period beginning with the day the individual begins work for the employer', and*

*"(ii) subsection (b)(3) shall be applied by substituting '$3,000' for '$6,000'.*

*The preceding sentence shall not apply to an individual who, with respect to the same employer, is certified as a member of another targeted group after such individual has been a qualified summer youth employee.*

*"(C) YOUTH MUST CONTINUE TO RESIDE IN ZONE.—Paragraph (5)(B) shall apply for purposes of this paragraph.*

*"(8) HIRING DATE.—The term 'hiring date' means the day the individual is hired by the employer.*

*"(9) DESIGNATED LOCAL AGENCY.—The term 'designated local agency' means a State employment security agency established in accordance with the Act of June 6, 1933, as amended (29 U.S.C. 49–49n).*

*"(10) SPECIAL RULES FOR CERTIFICATIONS.—*

*"(A) IN GENERAL.—An individual shall not be treated as a member of a targeted group unless—*

*"(i) on or before the day on which such individual begins work for the employer, the employer has received a certification from a designated local agency that such individual is a member of a targeted group, or*

*"(ii)(I) on or before the day the individual is offered employment with the employer, a pre-screening notice is completed by the employer with respect to such individual, and*

*"(II) not later than the 14th day after the individual begins work for the employer, the employer submits such notice, signed by the employer and the individual under penalties of perjury, to the designated local agency as part of a written request for such a certification from such agency.*

*For purposes of this paragraph, the term 'pre-screening notice' means a document (in such form as the Secretary shall prescribe) which contains information provided by the individual on the basis of which the employer believes that the individual is a member of a targeted group.*

*"(B) INCORRECT CERTIFICATIONS.—If—*

*"(i) an individual has been certified by a designated local agency as a member of a targeted group, and*

*"(ii) such certification is incorrect because it was based on false information provided by such individual,*

*the certification shall be revoked and wages paid by the employer after the date on which notice of revocation is received by the employer shall not be treated as qualified wages.*

*"(C) EXPLANATION OF DENIAL OF REQUEST.—If a designated local agency denies a request for certification of membership in a targeted group, such agency shall provide to the person making such request a written explanation of the reasons for such denial."*

*(c) MINIMUM EMPLOYMENT PERIOD.—Paragraph (3) of section 51(i) (relating to certain individuals ineligible) is amended to read as follows:*

*"(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIOD.—No wages shall be taken into account under subsection (a) with respect to any individual unless such individual either—*

*"(A) is employed by the employer at least 180 days (20 days in the case of a qualified summer youth employee), or*

*"(B) has completed at least 500 hours (120 hours in the case of a qualified summer youth employee) of services performed for the employer."*

*(d) TERMINATION.—Paragraph (4) of section 51(c) (relating to wages defined) is amended to read as follows:*

*"(4) TERMINATION.—The term 'wages' shall not include any amount paid or incurred to an individual who begins work for the employer—*

*"(A) after December 31, 1994, and before January 1, 1996, or*

*"(B) after December 31, 1996."*

*(e) REDESIGNATION OF CREDIT.—*

*(1) Sections 38(b)(2) and 51(a) are each amended by striking "targeted jobs credit" and inserting "work opportunity credit".*

*(2) The subpart heading for subpart F of part IV of subchapter A of chapter 1 is amended by striking "**Targeted Jobs Credit**" and inserting "**Work Opportunity Credit**".*

*(3) The table of subparts for such part IV is amended by striking "targeted jobs credit" and inserting "work opportunity credit".*

*(4) The heading for paragraph (3) of section 1396(c) is amended by striking "TARGETED JOBS CREDIT" and inserting "WORK OPPORTUNITY CREDIT".*

*(f) TECHNICAL AMENDMENTS.—*

*(1) Paragraph (1) of section 51(c) is amended by striking ", subsection (d)(8)(D),".*

*(2) Paragraph (3) of section 51(i) is amended by striking "(d)(12)" each place it appears and inserting "(d)(6)".*

*(g) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 1995.*

***SEC. 11112. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.***

*(a) EXTENSION.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "December 31, 1994" and inserting "December 31, 1996".*

*(b) LIMITATION TO EDUCATION BELOW GRADUATE LEVEL.—The last sentence of section 127(c)(1) is amended by inserting before the period "or at the graduate level".*

*(c) EFFECTIVE DATES.—*

*(1) EXTENSION.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.*

*(2) LIMITATION.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1995.*

***SEC. 11113. RESEARCH CREDIT.***

*(a) IN GENERAL.—Subsection (h) of section 41 (relating to credit for research activities) is amended—*

*(1) by striking "June 30, 1995" each place it appears and inserting "December 31, 1996", and*

*(2) by striking "July 1, 1995" each place it appears and inserting "January 1, 1997".*

*(b) BASE AMOUNT FOR START-UP COMPANIES.—Clause (i) of section 41(c)(3)(B) (relating to start-up companies) is amended to read as follows:*

*"(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if—*

*"(I) the first taxable year in which a taxpayer had both gross receipts and qualified research expenses begins after December 31, 1983, or*

*"(II) there are fewer than 3 taxable years beginning after December 31, 1983, and before January 1, 1989, in which the taxpayer had both gross receipts and qualified research expenses.".*

*(c) ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—Subsection (c) of section 41 is amended by redesignat-*

*ing paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:*

*"(4) ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—*

*"(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to the sum of—*

*"(i) 1.65 percent of so much of the qualified research expenses for the taxable year as exceeds 1 percent of the average described in subsection (c)(1)(B) but does not exceed 1.5 percent of such average,*

*"(ii) 2.2 percent of so much of such expenses as exceeds 1.5 percent of such average but does not exceed 2 percent of such average, and*

*"(iii) 2.75 percent of so much of such expenses as exceeds 2 percent of such average.*

*"(B) ELECTION.—An election under this paragraph may be made only for the first taxable year of the taxpayer beginning after June 30, 1995. Such an election shall apply to the taxable year for which made and all succeeding*

*taxable years unless revoked with the consent of the Secretary.''*

*(d) INCREASED CREDIT FOR CONTRACT RESEARCH EXPENSES WITH RESPECT TO CERTAIN RESEARCH CONSORTIA.—Paragraph (3) of section 41(b) is amended by adding at the end the following new subparagraph:*

*''(C) AMOUNTS PAID TO CERTAIN RESEARCH CONSORTIA.—*

*''(i) IN GENERAL.—Subparagraph (A) shall be applied by substituting '75 percent' for '65 percent' with respect to amounts paid or incurred by the taxpayer to a qualified research consortium for qualified research.*

*''(ii) QUALIFIED RESEARCH CONSORTIUM.—The term 'qualified research consortium' means any organization described in subsection (e)(6)(B) if—*

*''(I) at least 15 unrelated taxpayers paid (during the calendar year in which the taxable year of the taxpayer begins) amounts to such organization for qualified research,*

*''(II) no 3 persons paid during such calendar year more than 50 per-*

*cent of the total amounts paid during such calendar year for qualified research, and*

*"(III) no person contributed more than 20 percent of such total amounts.*

*For purposes of subclause (I), all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related taxpayers."*

*(e) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking "June 30, 1995" and inserting "December 31, 1996".*

*(f) EFFECTIVE DATE.—*

*(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after June 30, 1995.*

*(2) SUBSECTIONS (c) AND (d).—The amendments made by subsections (c) and (d) shall apply to taxable years beginning after June 30, 1995.*

***SEC. 11114. ORPHAN DRUG TAX CREDIT.***

*(a) RECATEGORIZED AS A BUSINESS CREDIT.—*

*(1) IN GENERAL.—Section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is transferred to subpart D of part IV*

*of subchapter A of chapter 1, inserted after section 45B, and redesignated as section 45C.*

*(2) CONFORMING AMENDMENT.—Subsection (b) of section 38 (relating to general business credit) is amended by striking "plus" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", plus", and by adding at the end the following new paragraph:*

*"(12) the orphan drug credit determined under section 45C(a).".*

*(3) CLERICAL AMENDMENTS.—*

*(A) The table of sections for subpart B of such part IV is amended by striking the item relating to section 28.*

*(B) The table of sections for subpart D of such part IV is amended by adding at the end the following new item:*

*"Sec. 45C. Clinical testing expenses for certain drugs for rare diseases or conditions.".*

*(b) CREDIT TERMINATION.—Subsection (e) of section 45C, as redesignated by subsection (a)(1), is amended by striking "December 31, 1994" and inserting "December 31, 1996".*

*(c) NO PRE-1995 CARRYBACKS.—Subsection (d) of section 39 (relating to carryback and carryforward of unused*

*credits) is amended by adding at the end the following new paragraph:*

*"(7) NO CARRYBACK OF SECTION 45C CREDIT BEFORE 1995.—No portion of the unused business credit for any taxable year which is attributable to the orphan drug credit determined under section 45C may be carried back to a taxable year beginning before January 1, 1995.".*

*(d) ADDITIONAL CONFORMING AMENDMENTS.—*

*(1) Section 45C(a), as redesignated by subsection (a)(1), is amended by striking "There shall be allowed as a credit against the tax imposed by this chapter for the taxable year" and inserting "For purposes of section 38, the credit determined under this section for the taxable year is".*

*(2) Section 45C(d), as so redesignated, is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).*

*(3) Section 29(b)(6)(A) is amended by striking "sections 27 and 28" and inserting "section 27".*

*(4) Section 30(b)(3)(A) is amended by striking "sections 27, 28, and 29" and inserting "sections 27 and 29".*

*(5) Section 53(d)(1)(B) is amended—*

*(A) by striking "or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)," in clause (iii), and*

*(B) by striking "or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)" in clause (iv)(II).*

*(6) Section 55(c)(2) is amended by striking "28(d)(2),".*

*(7) Section 280C(b) is amended—*

*(A) by striking "section 28(b)" in paragraph (1) and inserting "section 45C(b)",*

*(B) by striking "section 28" in paragraphs (1) and (2)(A) and inserting "section 45C(b)", and*

*(C) by striking "subsection (d)(2) thereof" in paragraphs (1) and (2)(A) and inserting "section 38(c)".*

*(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1994.*

***SEC. 11115. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS.***

*(a) IN GENERAL.—Subparagraph (D) of section 170(e)(5) (relating to special rule for contributions of stock for which market quotations are readily available) is*

*amended by striking "December 31, 1994" and inserting "December 31, 1996".*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 1994.*

***SEC. 11116. DELAY OF TAX ON FUEL USED IN COMMERCIAL AVIATION.***

*(a) IN GENERAL.—Sections 4092(b)(2), 6421(f)(2)(B), and 6427(l)(4)(B) are each amended by striking "September 30, 1995" and inserting "September 30, 1997".*

*(b) CONFORMING AMENDMENT.—Section 13245 of the Omnibus Budget Reconciliation Act of 1993 is hereby repealed.*

*(c) EFFECTIVE DATE.—*

*(1) IN GENERAL.—The amendments made by this section shall take effect after September 30, 1995, but shall not take effect if section 11117 does not take effect.*

*(2) CROSS REFERENCE.—*

***For refund of tax paid on commercial aviation fuel before the date of the enactment of this Act, see section 6427(l) of the Internal Revenue Code of 1986.***

*(d) FLOOR STOCKS TAX.—*

*(1) IMPOSITION OF TAX.—In the case of commercial aviation fuel which is held by any person on October 1, 1997, there is hereby imposed a floor stocks tax equal to 4.3 cents per gallon.*

*(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—*

*(A) LIABILITY FOR TAX.—A person holding aviation fuel on October 1, 1997, to which the tax imposed by paragraph (1) applies shall be liable for such tax.*

*(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.*

*(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before April 30, 1998.*

*(3) DEFINITIONS.—For purposes of this subsection—*

*(A) HELD BY A PERSON.—Aviation fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).*

*(B) COMMERCIAL AVIATION FUEL.—The term "commercial aviation fuel" means aviation fuel (as defined in section 4093 of such Code) which is held on October 1, 1997, for sale or use in commercial aviation (as defined in section 4092(b) of such Code).*

*(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or the Secretary's delegate.*

*(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to aviation fuel held by any person exclusively for any use for which a credit or refund of the entire tax imposed by section 4091 of such Code (other than the rate imposed by section 4091(b)(2) of such Code) is allowable for aviation fuel so used.*

*(5) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—*

*(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on aviation fuel held on October 1, 1997, by any person if the aggregate amount of commercial aviation fuel held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.*

*(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt*

*from the tax imposed by paragraph (1) by reason of paragraph (4).*

*(C) CONTROLLED GROUPS.—For purposes of this paragraph—*

*(i) CORPORATIONS.—*

*(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.*

*(II) CONTROLLED GROUP.—The term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.*

*(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.*

*(6) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4091.*

***SEC. 11117. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES.***

*(a) FUEL TAX.—*

*(1) Subparagraph (A) of section 4091(b)(3) is amended by striking "January 1, 1996" and inserting "October 1, 1996".*

*(2) Paragraph (2) of section 4081(d), as amended by section 11651 of this Act, is amended by striking "January 1, 1996" and inserting "October 1, 1996".*

*(b) TICKET TAXES.—Sections 4261(g) and 4271(d) are each amended by striking "January 1, 1996" and inserting "October 1, 1996".*

*(c) TRANSFER TO AIRPORT AND AIRWAY TRUST FUND.—*

*(1) Subsection (b) of section 9502 is amended by striking "January 1, 1996" each place it appears and inserting "October 1, 1996".*

*(2) Paragraph (3) of section 9502(f) is amended by striking "December 31, 1995" and inserting "September 30, 1996".*

**SEC. 11118. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.**

*Subsection (c) of section 10511 of the Revenue Act of 1987 is amended by striking "October 1, 2000" and by inserting "October 1, 2002".*

## CHAPTER 2—SUNSET OF LOW-INCOME HOUSING CREDIT

**SEC. 11121. SUNSET OF LOW-INCOME HOUSING CREDIT.**

*(a) REPEAL OF REALLOCATION OF UNUSED CREDITS AMONG STATES.—Subparagraph (D) of section 42(h)(3) is amended by adding at the end the following new clause:*

*"(v) TERMINATION.—No amount may be allocated under this paragraph for any calendar year after 1995."*

*(b) TERMINATION.—Section 42 is amended by adding at the end the following new subsection:*

*"(o) TERMINATION.—*

*"(1) IN GENERAL.—Except as provided in paragraph (2)—*

*"(A) clause (i) of subsection (h)(3)(C) shall not apply to any amount allocated after December 31, 1997, and*

*"(B) subsection (h)(4) shall not apply to any building placed in service after such date.*

*"(2) EXCEPTION FOR BOND-FINANCED BUILDINGS IN PROGRESS.—For purposes of paragraph (1)(B), a building shall be treated as placed in service before January 1, 1998, if—*

*"(A) the bonds with respect to such building are issued before such date,*

*"(B) the taxpayer's basis in the project (of which the building is a part) as of December 31, 1997, is more than 10 percent of the taxpayer's reasonably expected basis in such project as of December 31, 1999, and*

*"(C) such building is placed in service before January 1, 2000."*

## *CHAPTER 3—EXTENSIONS OF SUPERFUND AND OIL SPILL LIABILITY TAXES*

### *SEC. 11131. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND TAXES.*

*(a) EXTENSION OF TAXES.—*

*(1) ENVIRONMENTAL TAX.—Section 59A(e) is amended to read as follows:*

*"(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1997.".*

*(2) EXCISE TAXES.—Section 4611(e) is amended to read as follows:*

*"(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before October 1, 1996.".*

*(b) TERMINATION ON DEPOSITS OF TAXES INTO HAZARDOUS SUBSTANCE SUPERFUND.—Paragraph (1) of section 9507(b) is amended by inserting "before August 1, 1996" after "received".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.*

***SEC. 11132. EXTENSION OF OIL SPILL LIABILITY TAX.***

*(a) IN GENERAL.—Section 4611(f)(1) (relating to application of oil spill liability trust fund financing rate) is amended by striking "after December 31, 1989, and before January 1, 1995" and inserting "after December 31, 1995, and before October 1, 2002".*

*(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 1996.*

## *CHAPTER 4—EXTENSIONS RELATING TO FUEL TAXES*

### *SEC. 11141. ETHANOL BLENDER REFUNDS.*

*(a) IN GENERAL.—Paragraph (4) of section 6427(f) (relating to gasoline, diesel fuel, and aviation fuel used to produce certain alcohol fuels) is amended by striking "1995" and inserting "1999".*

*(b) SPECIAL RULE.—With respect to refund claims which could have been filed under section 6427(f) of the Internal Revenue Code of 1986 during the period beginning on October 8, 1995, and ending on the date of the enactment of this Act, but for the expiration of such section after September 30, 1995, interest shall accrue on such claims from the date which is the later of—*

*(1) November 1, 1995, or*

*(2) 20 days after the claim could have been filed under such section as in effect on September 30, 1995.*

*(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.*

### *SEC. 11142. EXTENSION OF BINDING CONTRACT DATE FOR BIOMASS AND COAL FACILITIES.*

*(a) IN GENERAL.—Subparagraph (A) of section 29(g)(1) (relating to extension of certain facilities) is amended by striking "January 1, 1997" and inserting*

*"January 1, 1998" and by striking "January 1, 1996" and inserting "July 1, 1996".*

*(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.*

***SEC. 11143. EXEMPTION FROM DIESEL FUEL DYEING REQUIREMENTS WITH RESPECT TO CERTAIN STATES.***

*(a) IN GENERAL.—Section 4082 (relating to exemptions for diesel fuel) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:*

*"(c) EXCEPTION TO DYEING REQUIREMENTS.—Paragraph (2) of subsection (a) shall not apply with respect to any diesel fuel—*

*"(1) removed, entered, or sold in a State for ultimate sale or use in an area of such State on or after the date on which such area is exempted from the fuel dyeing requirements under subsection (i) of section 211 of the Clean Air Act (as in effect on the date of the enactment of this subsection) by the Administrator of the Environmental Protection Agency under paragraph (4) of such subsection (i) (as so in effect), and*

*"(2) the use of which is certified pursuant to regulations issued by the Secretary."*

*(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act.*

***SEC. 11144. MORATORIUM FOR EXCISE TAX ON DIESEL FUEL SOLD FOR USE OR USED IN DIESEL-POWERED MOTORBOATS.***

*(a) IN GENERAL.—Subparagraph (D) of section 4041(a)(1) (relating to the imposition of tax on diesel fuel and special motor fuels) is amended to read as follows:*

*"(D) DIESEL FUEL USED IN MOTORBOATS.—*

*"(i) MORATORIUM.—No tax shall be imposed by subsection (a) or (d)(1) on diesel fuel sold for use or used in a diesel-powered motorboat during the period after December 31, 1995, and before July 1, 1997.*

*"(ii) SPECIAL TERMINATION DATE.—In the case of any sale for use, or use, of fuel in a diesel-powered motorboat—*

*"(I) effective during the period after September 30, 1999, and before January 1, 2000, the rate of tax im-*

*posed by this paragraph is 24.3 cents per gallon, and*

*"(II) the termination of the tax under subsection (d) shall not occur before January 1, 2000.".*

*(b) EFFECTIVE DATE.—The amendments made by this section shall take effect after December 31, 1995.*

## *CHAPTER 5—PERMANENT EXTENSION OF FUTA EXEMPTION FOR ALIEN AGRICULTURAL WORKERS*

### *SEC. 11151. FUTA EXEMPTION FOR ALIEN AGRICULTURAL WORKERS.*

*(a) IN GENERAL.—Subparagraph (B) of section 3306(c)(1) (defining employment) is amended by striking "before January 1, 1995,".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services performed after December 31, 1994.*

### *CHAPTER 6—DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS*

#### *SEC. 11161. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS.*

*(a) GENERAL RULE.—Subparagraph (D) of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking "Clause (viii) shall not apply after September 30, 1998." and inserting "Clause (viii) shall not apply after September 30, 2002."*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.*

## *Subtitle F—Taxpayer Bill of Rights 2 Provisions*

#### *SEC. 11201. EXPANSION OF AUTHORITY TO ABATE INTEREST.*

*(a) GENERAL RULE.—Paragraph (1) of section 6404(e) (relating to abatement of interest in certain cases) is amended—*

*(1) by inserting "unreasonable" before "error" each place it appears in subparagraphs (A) and (B), and*

*(2) by striking "in performing a ministerial act" each place it appears and inserting "in performing a ministerial or managerial act".*

*(b) CLERICAL AMENDMENT.—The subsection heading for subsection (e) of section 6404 is amended—*

*(1) by striking "ASSESSMENTS" and inserting "ABATEMENT", and*

*(2) by inserting "UNREASONABLE" before "ERRORS".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act.*

***SEC. 11202. EXTENSION OF INTEREST-FREE PERIOD FOR PAYMENT OF TAX AFTER NOTICE AND DEMAND.***

*(a) GENERAL RULE.—Paragraph (3) of section 6601(e) (relating to payments made within 10 days after notice and demand) is amended to read as follows:*

*"(3) PAYMENTS MADE WITHIN SPECIFIED PERIOD AFTER NOTICE AND DEMAND.—If notice and demand is made for payment of any amount and if such amount is paid within 21 calendar days (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000) after the*

*date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand.''*

*(b) CONFORMING AMENDMENTS.—*

*(1) Subparagraph (A) of section 6601(e)(2) is amended by striking ''10 days from the date of notice and demand therefor'' and inserting ''21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000)''.*

*(2) Paragraph (3) of section 6651(a) is amended by striking ''10 days of the date of the notice and demand therefor'' and inserting ''21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000)''.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of any notice and demand given after June 30, 1996.*

***SEC. 11203. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX.***

*(a) GENERAL RULE.—Paragraph (2) of section 6013(b) (relating to limitations on filing of joint return after filing separate returns) is amended by striking sub-*

*paragraph (A) and redesignating the following subparagraphs accordingly.*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.*

***SEC. 11204. MODIFICATIONS TO CERTAIN LEVY EXEMPTION AMOUNTS.***

*(a) FUEL, ETC.—Paragraph (2) of section 6334(a) (relating to fuel, provisions, furniture, and personal effects exempt from levy) is amended—*

*(1) by striking "If the taxpayer is the head of a family, so" and inserting "So",*

*(2) by striking "his household" and inserting "the taxpayer's household", and*

*(3) by striking "$1,650 ($1,550 in the case of levies issued during 1989)" and inserting "$2,500".*

*(b) BOOKS, ETC.—Paragraph (3) of section 6334(a) (relating to books and tools of a trade, business, or profession) is amended by striking "$1,100 ($1,050 in the case of levies issued during 1989)" and inserting "$1,250".*

*(c) INFLATION ADJUSTMENT.—Section 6334 (relating to property exempt from levy) is amended by adding at the end the following new subsection:*

*"(f) INFLATION ADJUSTMENT.—*

*"(1) IN GENERAL.—In the case of any calendar year beginning after 1996, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—*

*"(A) such dollar amount, multiplied by*

*"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.*

*"(2) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.".*

*(d) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to levies issued after December 31, 1995.*

***SEC. 11205. OFFERS-IN-COMPROMISE.***

*(a) REVIEW REQUIREMENTS.—Subsection (b) of section 7122 (relating to records) is amended by striking "$500." and inserting "$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.".*

*(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.*

***SEC. 11206. INCREASED LIMIT ON ATTORNEY FEES.***

*(a) IN GENERAL.—Paragraph (1) of section 7430(c) (defining reasonable litigation costs) is amended—*

*(1) by striking "$75" in clause (iii) of subparagraph (B) and inserting "$110",*

*(2) by striking "an increase in the cost of living or" in clause (iii) of subparagraph (B), and*

*(3) by adding after clause (iii) the following:*

*"In the case of any calendar year beginning after 1996, the dollar amount referred to in clause (iii) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10."*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.*

***SEC. 11207. AWARD OF LITIGATION COSTS PERMITTED IN DECLARATORY JUDGMENT PROCEEDINGS.***

*(a) IN GENERAL.—Subsection (b) of section 7430 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.*

***SEC. 11208. INCREASE IN LIMIT ON RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS.***

*(a) GENERAL RULE.—Subsection (b) of section 7433 (relating to damages) is amended by striking "$100,000" and inserting "$1,000,000".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act.*

***SEC. 11209. ENROLLED AGENTS INCLUDED AS THIRD-PARTY RECORDKEEPERS.***

*(a) IN GENERAL.—Paragraph (3) of section 7609(a) (relating to third-party recordkeeper defined) is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting "; and", and by adding at the end the following the subparagraph:*

*"(I) any enrolled agent."*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to summonses issued after the date of the enactment of this Act.*

***SEC. 11210. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.***

*(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:*

***"SEC. 7524. ANNUAL NOTICE OF TAX DELINQUENCY.***

*"Not less often than annually, the Secretary shall send a written notice to each taxpayer who has a tax delinquent account of the amount of the tax delinquency as of the date of the notice."*

*(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:*

*"Sec. 7524. Annual notice of tax delinquency."*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 1995.*

## *Subtitle G—Casualty and Involuntary Conversion Provisions*

***SEC. 11251. BASIS ADJUSTMENT TO PROPERTY HELD BY CORPORATION WHERE STOCK IN CORPORATION IS REPLACEMENT PROPERTY UNDER INVOLUNTARY CONVERSION RULES.***

*(a) IN GENERAL.—Subsection (b) of section 1033 is amended to read as follows:*

*"(b) BASIS OF PROPERTY ACQUIRED THROUGH INVOLUNTARY CONVERSION.—*

*"(1) CONVERSIONS DESCRIBED IN SUBSECTION (a)(1).—If the property was acquired as the result of a compulsory or involuntary conversion described in subsection (a)(1), the basis shall be the same as in the case of the property so converted—*

*"(A) decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and*

*"(B) increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law ap-*

*plicable to the year in which such conversion was made.*

*"(2) CONVERSIONS DESCRIBED IN SUBSECTION (a)(2).—In the case of property purchased by the taxpayer in a transaction described in subsection (a)(2) which resulted in the nonrecognition of any part of the gain realized as the result of a compulsory or involuntary conversion, the basis shall be the cost of such property decreased in the amount of the gain not so recognized; and if the property purchased consists of more than 1 piece of property, the basis determined under this sentence shall be allocated to the purchased properties in proportion to their respective costs.*

*"(3) PROPERTY HELD BY CORPORATION THE STOCK OF WHICH IS REPLACEMENT PROPERTY.—*

*"(A) IN GENERAL.—If the basis of stock in a corporation is decreased under paragraph (2), an amount equal to such decrease shall also be applied to reduce the basis of property held by the corporation at the time the taxpayer acquired control (as defined in subsection (a)(2)(E)) of such corporation.*

*"(B) LIMITATION.—Subparagraph (A) shall not apply to the extent that it would (but for this subparagraph) require a reduction in the*

*aggregate adjusted bases of the property of the corporation below the taxpayer's adjusted basis of the stock in the corporation (determined immediately after such basis is decreased under paragraph (2)).*

*"(C) ALLOCATION OF BASIS REDUCTION.—The decrease required under subparagraph (A) shall be allocated—*

*"(i) first to property which is similar or related in service or use to the converted property,*

*"(ii) second to depreciable property (as defined in section 1017(b)(3)(B)) not described in clause (i), and*

*"(iii) then to other property.*

*"(D) SPECIAL RULES.—*

*"(i) REDUCTION NOT TO EXCEED ADJUSTED BASIS OF PROPERTY.—No reduction in the basis of any property under this paragraph shall exceed the adjusted basis of such property (determined without regard to such reduction).*

*"(ii) ALLOCATION OF REDUCTION AMONG PROPERTIES.—If more than 1 property is described in a clause of subpara-*

*graph (C), the reduction under this paragraph shall be allocated among such property in proportion to the adjusted bases of such property (as so determined).".*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after September 13, 1995.*

***SEC. 11252. EXPANSION OF REQUIREMENT THAT INVOLUNTARILY CONVERTED PROPERTY BE REPLACED WITH PROPERTY ACQUIRED FROM AN UNRELATED PERSON.***

*(a) IN GENERAL.—Subsection (i) of section 1033 is amended to read as follows:*

*"(i) REPLACEMENT PROPERTY MUST BE ACQUIRED FROM UNRELATED PERSON IN CERTAIN CASES.—*

*"(1) IN GENERAL.—If the property which is involuntarily converted is held by a taxpayer to which this subsection applies, subsection (a) shall not apply if the replacement property or stock is acquired from a related person. The preceding sentence shall not apply to the extent that the related person acquired the replacement property or stock from an unrelated person during the period applicable under subsection (a)(2)(B).*

*"(2) TAXPAYERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—*

*"(A) a C corporation,*

*"(B) a partnership in which 1 or more C corporations own, directly or indirectly (determined in accordance with section 707(b)(3)), more than 50 percent of the capital interest, or profits interest, in such partnership at the time of the involuntary conversion, and*

*"(C) any other taxpayer if, with respect to property which is involuntarily converted during the taxable year, the aggregate of the amount of realized gain on such property on which there is realized gain exceeds $100,000.*

*In the case of a partnership, subparagraph (C) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders.*

*"(3) RELATED PERSON.—For purposes of this subsection, a person is related to another person if the person bears a relationship to the other person described in section 267(b) or 707(b)(1)."*.

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after September 13, 1995.*

***SEC. 11253. SPECIAL RULE FOR CROP INSURANCE PROCEEDS AND DISASTER PAYMENTS.***

*(a) IN GENERAL.—Section 451(d) (relating to special rule for crop insurance proceeds and disaster payments) is amended to read as follows:*

*"(d) SPECIAL RULE FOR CROP INSURANCE PROCEEDS AND DISASTER PAYMENTS.—*

*"(1) GENERAL RULE.—In the case of any payment described in paragraph (2), a taxpayer reporting on the cash receipts and disbursements method of accounting—*

*"(A) may elect to treat any such payment received in the taxable year of destruction or damage of crops as having been received in the following taxable year if the taxpayer establishes that, under the taxpayer's practice, income from such crops involved would have been reported in a following taxable year, or*

*"(B) may elect to treat any such payment received in a taxable year following the taxable year of the destruction or damage of crops as having been received in the taxable year of destruction or damage, if the taxpayer establishes that, under the taxpayer's practice, income from such crops involved would have been reported in the taxable year of destruction or damage.*

*"(2) PAYMENTS DESCRIBED.—For purposes of this subsection, a payment is described in this paragraph if such payment—*

*"(A) is insurance proceeds received on account of destruction or damage to crops, or*

*"(B) is disaster assistance received under any Federal law as a result of—*

*"(i) destruction or damage to crops caused by drought, flood, or other natural disaster, or*

*"(ii) inability to plant crops because of such a disaster.".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to payments received after December 31, 1992, as a result of destruction or damage occurring after such date.*

***SEC. 11254. APPLICATION OF INVOLUNTARY EXCLUSION RULES TO PRESIDENTIALLY DECLARED DISASTERS.***

*(a) IN GENERAL.—Section 1033(h) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4) and by inserting after paragraph (1) the following new paragraph:*

*"(2) TRADE OR BUSINESS AND INVESTMENT PROPERTY.—If a taxpayer's property held for produc-*

*tive use in a trade or business or for investment is compulsorily or involuntarily converted as a result of a Presidentially declared disaster, tangible property of a type held for productive use in a trade or business shall be treated for purposes of subsection (a) as property similar or related in use to the property so converted.".*

*(b) CONFORMING AMENDMENTS.—Section 1033(h) is amended—*

*(1) by striking "residence" in paragraph (3) (as redesignated by subsection (a)) and inserting "property",*

*(2) by striking "Principal Residences" in the heading and inserting "Property", and*

*(3) by striking "(1) IN GENERAL.—" and inserting "(1) PRINCIPAL RESIDENCES.—".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters declared after December 31, 1994, in taxable years ending after such date.*

# Subtitle H—Exempt Organizations and Charitable Reforms

## CHAPTER 1—EXCISE TAX ON AMOUNTS OF PRIVATE EXCESS BENEFITS

### SEC. 11271. EXCISE TAXES FOR FAILURE BY CERTAIN CHARITABLE ORGANIZATIONS TO MEET CERTAIN QUALIFICATION REQUIREMENTS.

*(a) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations) is amended by redesignating subchapter D as subchapter E and by inserting after subchapter C the following new subchapter:*

## "Subchapter D—Failure By Certain Charitable Organizations To Meet Certain Qualification Requirements

*"Sec. 4958. Taxes on excess benefit transactions.*

### "SEC. 4958. TAXES ON EXCESS BENEFIT TRANSACTIONS.

*"(a) INITIAL TAXES.—*

*"(1) ON THE DISQUALIFIED PERSON.—There is hereby imposed on each excess benefit transaction a tax equal to 25 percent of the excess benefit. The tax imposed by this paragraph shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.*

*"(2) ON THE MANAGEMENT.—In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any organization manager in the excess benefit transaction, knowing that it is such a transaction, a tax equal to 10 percent of the excess benefit, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any organization manager who participated in the excess benefit transaction.*

*"(b) ADDITIONAL TAX ON THE DISQUALIFIED PERSON.—In any case in which an initial tax is imposed by subsection (a)(1) on an excess benefit transaction and the excess benefit involved in such transaction is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the excess benefit involved. The tax imposed by this subsection shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.*

*"(c) EXCESS BENEFIT TRANSACTION; EXCESS BENEFIT.—For purposes of this section—*

*"(1) EXCESS BENEFIT TRANSACTION.—*

*"(A) IN GENERAL.—The term 'excess benefit transaction' means any transaction in which an economic benefit is provided by an applicable*

*tax-exempt organization directly or indirectly to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit. For purposes of the preceding sentence, an economic benefit shall not be treated as consideration for the performance of services unless such organization clearly indicated its intent to so treat such benefit.*

*"(B) EXCESS BENEFIT.—The term 'excess benefit' means the excess referred to in subparagraph (A).*

*"(2) AUTHORITY TO INCLUDE CERTAIN OTHER PRIVATE INUREMENT.—To the extent provided in regulations prescribed by the Secretary, the term 'excess benefit transaction' includes any transaction in which the amount of any economic benefit provided to or for the use of a disqualified person is determined in whole or in part by the revenues of 1 or more activities of the organization but only if such transaction results in inurement not permitted under paragraph (3) or (4) of section 501(c), as the case may be. In the case of any such transaction, the excess benefit*

*shall be the amount of the inurement not so permitted.*

*"(d) SPECIAL RULES.—For purposes of this section—*

*"(1) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable for any tax imposed by subsection (a) or subsection (b), all such persons shall be jointly and severally liable for such tax.*

*"(2) LIMIT FOR MANAGEMENT.—With respect to any 1 excess benefit transaction, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000.*

*"(e) APPLICABLE TAX-EXEMPT ORGANIZATION.—For purposes of this subchapter, the term 'applicable tax-exempt organization' means—*

*"(1) any organization which (without regard to any excess benefit) would be described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a), and*

*"(2) any organization which was described in paragraph (1) at any time during the 2-year period ending on the date of the transaction.*

*Such term shall not include a private foundation (as defined in section 509(a)).*

*"(f) OTHER DEFINITIONS.—For purposes of this section—*

*"(1) DISQUALIFIED PERSON.—The term 'disqualified person' means, with respect to any transaction—*

*"(A) any person who was, at any time during the 5-year period ending on the date of such transaction, in a position to exercise substantial influence over the affairs of the organization,*

*"(B) a member of the family of an individual described in subparagraph (A), and*

*"(C) a 35-percent controlled entity.*

*"(2) ORGANIZATION MANAGER.—The term 'organization manager' means, with respect to any applicable tax-exempt organization, any officer, director, or trustee of such organization (or any individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization).*

*"(3) 35-PERCENT CONTROLLED ENTITY.—*

*"(A) IN GENERAL.—The term '35-percent controlled entity' means—*

*"(i) a corporation in which persons described in subparagraph (A) or (B) of paragraph (1) own more than 35 percent of the total combined voting power,*

*"(ii) a partnership in which such persons own more than 35 percent of the profits interest, and*

*"(iii) a trust or estate in which such persons own more than 35 percent of the beneficial interest.*

*"(B) CONSTRUCTIVE OWNERSHIP RULES.—Rules similar to the rules of paragraphs (3) and (4) of section 4946(a) shall apply for purposes of this paragraph.*

*"(4) FAMILY MEMBERS.—The members of an individual's family shall be determined under section 4946(d); except that such members also shall include the brothers and sisters (whether by the whole or half blood) of the individual and their spouses.*

*"(5) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess benefit transaction, the period beginning with the date on which the transaction occurs and ending on the earliest of—*

*"(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1), or*

*"(B) the date on which the tax imposed by subsection (a)(1) is assessed.*

*"(6) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any excess benefit transaction, undoing the excess benefit to the extent possible, and where fully undoing the excess benefit is not possible, such additional corrective action as is prescribed by the Secretary by regulations."*

*(b) APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—*

*(1) Paragraph (4) of section 501(c) is amended by inserting "(A)" after "(4)" and by adding at the end the following:*

*"(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual."*

*(2) In the case of an organization operating on a cooperative basis which, before the date of the enactment of this Act, was determined by the Secretary of the Treasury or his delegate, to be described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, the allocation or return of net margins or capital to the members of such organization in accordance with its incorporating statute and bylaws shall not be*

*treated for purposes of such Code as the inurement of the net earnings of such organization to the benefit of any private shareholder or individual. The preceding sentence shall apply only if such statute and bylaws are substantially as such statute and bylaws were in existence on the date of the enactment of this Act.*

*(c) TECHNICAL AND CONFORMING AMENDMENTS.—*

*(1) Subsection (e) of section 4955 is amended—*

*(A) by striking "SECTION 4945" in the heading and inserting "SECTIONS 4945 and 4958", and*

*(B) by inserting before the period "or an excess benefit for purposes of section 4958".*

*(2) Subsections (a), (b), and (c) of section 4963 are each amended by inserting "4958," after "4955,".*

*(3) Subsection (e) of section 6213 is amended by inserting "4958 (relating to private excess benefit)," before "4971".*

*(4) Paragraphs (2) and (3) of section 7422(g) are each amended by inserting "4958," after "4955,".*

*(5) Subsection (b) of section 7454 is amended by inserting "or whether an organization manager (as defined in section 4958(f)(2)) has 'knowingly' participated in an excess benefit transaction (as defined in section 4958(c)),'' after "section 4912(b),".*

*(6) The table of subchapters for chapter 42 is amended by striking the last item and inserting the following:*

*"Subchapter D. Failure by certain charitable organizations to meet certain qualification requirements.*
*"Subchapter E. Abatement of first and second tier taxes in certain cases."*

*(d) EFFECTIVE DATES.—*

*(1) IN GENERAL.—The amendments made by this section (other than subsection (b)) shall apply to excess benefit transactions occurring on or after September 14, 1995.*

*(2) BINDING CONTRACTS.—The amendments referred to in paragraph (1) shall not apply to any benefit arising from a transaction pursuant to any written contract which was binding on September 13, 1995, and at all times thereafter before such transaction occurred.*

*(3) APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT ORGANIZATIONS DESCRIBED IN SECTION 501(C)(4).—*

*(A) IN GENERAL.—The amendment made by subsection (b) shall apply to inurement occurring on or after September 14, 1995.*

*(B) BINDING CONTRACTS.—The amendment made by subsection (b) shall not apply to any inurement occurring before January 1, 1997,*

*pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such inurement occurred.*

***SEC. 11272. REPORTING OF CERTAIN EXCISE TAXES AND OTHER INFORMATION.***

*(a) REPORTING BY ORGANIZATIONS DESCRIBED IN SECTION 501(c)(3).—Subsection (b) of section 6033 (relating to certain organizations described in section 501(c)(3)) is amended by striking "and" at the end of paragraph (9), by redesignating paragraph (10) as paragraph (14), and by inserting after paragraph (9) the following new paragraphs:*

*"(10) the respective amounts (if any) of the taxes paid by the organization during the taxable year under the following provisions:*

*"(A) section 4911 (relating to tax on excess expenditures to influence legislation),*

*"(B) section 4912 (relating to tax on disqualifying lobbying expenditures of certain organizations), and*

*"(C) section 4955 (relating to taxes on political expenditures of section 501(c)(3) organizations),*

*"(11) the respective amounts (if any) of the taxes paid by the organization, or any disqualified person*

*with respect to such organization, during the taxable year under section 4958 (relating to taxes on private excess benefit from certain charitable organizations),*

*"(12) such information as the Secretary may require with respect to any excess benefit transaction (as defined in section 4958),*

*"(13) the name of each disqualified person (as defined in section 4958(f)(1)(A)) with respect to such organization and such other information as the Secretary may prescribe, and".*

*(b) ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Section 6033 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:*

*"(f) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Every organization described in section 501(c)(4) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a) the information referred to in paragraphs (11), (12) and (13) of subsection (b) with respect to such organization."*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for taxable years beginning after the date of the enactment of this Act.*

***SEC. 11273. INCREASE IN PENALTIES ON EXEMPT ORGANIZATIONS FOR FAILURE TO FILE COMPLETE AND TIMELY ANNUAL RETURNS.***

*(a) IN GENERAL.—Subparagraph (A) of section 6652(c)(1) (relating to annual returns under section 6033) is amended by striking "$10" and inserting "$20" and by striking "$5,000" and inserting "$10,000".*

*(b) LARGER PENALTY ON ORGANIZATIONS HAVING GROSS RECEIPTS IN EXCESS OF $1,000,000.—Subparagraph (A) of section 6652(c)(1) is amended by adding at the end the following new sentence: "In the case of an organization having gross receipts exceeding $1,000,000 for any year, with respect to the return required under section 6033 for such year, the first sentence of this subparagraph shall be applied by substituting '$100' for '$20' and, in lieu of applying the second sentence of this subparagraph, the maximum penalty under this subparagraph shall not exceed $50,000."*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for taxable years ending on or after December 31, 1995.*

## ***CHAPTER 2—OTHER PROVISIONS***

***SEC. 11276. COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.***

*(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended*

*by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:*

*"(n) COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.—*

*"(1) IN GENERAL.—For purposes of this title, if an organization—*

*"(A) is organized and operated solely for purposes referred to in subsection (f)(1),*

*"(B) is composed solely of members which are exempt from taxation under subsection (a) and are—*

*"(i) private foundations, or*

*"(ii) community foundations as to which section 170(b)(1)(A)(vi) applies,*

*"(C) has at least 20 members,*

*"(D) does not at any time after the second taxable year beginning after the date of its organization or, if later, beginning after the date of the enactment of this subsection, have a member which holds more than 10 percent (by value) of the interests in the organization,*

*"(E) is organized and controlled by its members but is not controlled by any one member and does not have a member which controls another member of the organization, and*

*"(F) permits members of the organization to require the dismissal of any of the organization's investment advisers, following reasonable notice, if members holding a majority of interest in the account managed by such adviser vote to remove such adviser,*

*then such organization shall be treated as an organization organized and operated exclusively for charitable purposes.*

*"(2) TREATMENT OF INCOME OF MEMBERS.—If any member of an organization described in paragraph (1) is a private foundation (other than an exempt operating foundation, as defined in section 4940(d)), such private foundation's allocable share of the capital gain net income and gross investment income of the organization for any taxable year of the organization shall be treated, for purposes of section 4940, as capital gain net income and gross investment income of such private foundation (whether or not distributed to such foundation) for the taxable year of such private foundation with or within which the taxable year of the organization described in paragraph (1) ends (and such private foundation shall take into account its allocable share of the de-*

*ductions referred to in section 4940(c)(3) of the organization).*

*"(3) APPLICABLE EXCISE TAXES.—Subchapter A of chapter 42 (other than sections 4940 and 4942) shall apply to any organization described in paragraph (1).".*

*(b) CONFORMING AMENDMENTS.—*

*(1) Section 4945(d) is amended by adding at the end the following new flush sentence:*

*"Paragraph (4)(B) shall not apply to a grant to an organization described in section 501(n)."*

*(2) Section 4942(g)(1)(A) is amended by inserting "or an organization described in section 501(n)" after "subsection (j)(3))".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1995.*

***SEC. 11277. EXCLUSION FROM UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN SPONSORSHIP PAYMENTS.***

*(a) IN GENERAL.—Section 513 (relating to unrelated trade or business income) is amended by adding at the end the following new subsection:*

*"(i) TREATMENT OF CERTAIN SPONSORSHIP PAYMENTS.—*

*"(1) IN GENERAL.—The term 'unrelated trade or business' does not include the activity of soliciting and receiving qualified sponsorship payments.*

*"(2) QUALIFIED SPONSORSHIP PAYMENTS.—For purposes of this subsection—*

*"(A) IN GENERAL.—The term 'qualified sponsorship payment' means any payment made by any person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than the use or acknowledgement of the name or logo (or product lines) of such person's trade or business in connection with the activities of the organization that receives such payment. Such a use or acknowledgement does not include advertising such person's products or services (including messages containing qualitative or comparative language, price information or other indications of savings or value, an endorsement, or an inducement to purchase, sell, or use such products or services).*

*"(B) LIMITATIONS.—*

*"(i) CONTINGENT PAYMENTS.—The term 'qualified sponsorship payment' does not include any payment if the amount of*

*such payment is contingent upon the level of attendance at one or more events, broadcast ratings, or other factors indicating the degree of public exposure to one or more events.*

*"(ii) ACKNOWLEDGEMENTS OR ADVERTISING IN PERIODICALS.—The term 'qualified sponsorship payment' does not include any payment which entitles the payor to an acknowledgement or advertising in regularly scheduled and printed material published by or on behalf of the payee organization that is not related to and primarily distributed in connection with a specific event conducted by the payee organization.*

*"(3) ALLOCATION OF PORTIONS OF SINGLE PAYMENT.—For purposes of this subsection, to the extent that a portion of a payment would (if made as a separate payment) be a qualified sponsorship payment, such portion of such payment and the other portion of such payment shall be treated as separate payments.".*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments solicited or received after December 31, 1995.*

***SEC. 11278. TREATMENT OF DUES PAID TO AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.***

*(a) GENERAL RULE.—Section 512 (defining unrelated business taxable income) is amended by adding at the end the following new subsection:*

*"(d) TREATMENT OF DUES OF AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.—*

*"(1) IN GENERAL.—If—*

*"(A) an agricultural or horticultural organization described in section 501(c)(5) requires annual dues to be paid in order to be a member of such organization, and*

*"(B) the amount of such required annual dues does not exceed $100,*

*in no event shall any portion of such dues be treated as derived by such organization from an unrelated trade or business by reason of any benefits or privileges to which members of such organization are entitled.*

*"(2) INDEXATION OF $100 AMOUNT.—In the case of any taxable year beginning in a calendar year after 1995, the $100 amount in paragraph (1) shall be increased by an amount equal to—*

*"(A) $100, multiplied by*

*"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year*

*in which the taxable year begins, by substituting 'calendar year 1994' for 'calendar year 1992' in subparagraph (B) thereof.*

*"(3) DUES.—For purposes of this subsection, the term 'dues' means any payment required to be made in order to be recognized by the organization as a member of the organization.".*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.*

***SEC. 11279. REPEAL OF CREDIT FOR CONTRIBUTIONS TO COMMUNITY DEVELOPMENT CORPORATIONS.***

*(a) IN GENERAL.—Section 13311 of the Revenue Reconciliation Act of 1993 (relating to credit for contributions to certain community development corporations) is hereby repealed.*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act (other than contributions made pursuant to a legally enforceable agreement which is effect on the date of the enactment of this Act).*

# *Subtitle I—Tax Reform and Other Provisions*

## *CHAPTER 1—PROVISIONS RELATING TO BUSINESSES*

### *SEC. 11301. TAX TREATMENT OF CERTAIN EXTRAORDINARY DIVIDENDS.*

*(a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN EXCESS OF BASIS.—Paragraph (2) of section 1059(a) (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended to read as follows:*

*"(2) AMOUNTS IN EXCESS OF BASIS.—If the nontaxed portion of such dividends exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock for the taxable year in which the extraordinary dividend is received.".*

*(b) TREATMENT OF REDEMPTIONS WHERE OPTIONS INVOLVED.—Paragraph (1) of section 1059(e) (relating to treatment of partial liquidations and non-pro rata redemptions) is amended to read as follows:*

*"(1) TREATMENT OF PARTIAL LIQUIDATIONS AND CERTAIN REDEMPTIONS.—Except as otherwise provided in regulations—*

*"(A) REDEMPTIONS.—In the case of any redemption of stock—*

*"(i) which is part of a partial liquidation (within the meaning of section 302(e)) of the redeeming corporation,*

*"(ii) which is not pro rata as to all shareholders, or*

*"(iii) which would not have been treated (in whole or in part) as a dividend if any options had not been taken into account under section 318(a)(4),*

*any amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock. In the case of a redemption described in clause (iii), only the basis in the stock redeemed shall be taken into account under subsection (a).*

*"(B) REORGANIZATIONS, ETC.—An exchange described in section 356(a)(1) which is treated as a dividend under section 356(a)(2) shall be treated as a redemption of stock for purposes of applying subparagraph (A)."*.

*(c) EFFECTIVE DATES.—*

*(1) IN GENERAL.—The amendments made by this section shall apply to distributions after May 3, 1995.*

*(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution made pursuant to the terms of—*

*(A) a written binding contract in effect on May 3, 1995, and at all times thereafter before such distribution, or*

*(B) a tender offer outstanding on May 3, 1995.*

*(3) CERTAIN DIVIDENDS NOT PURSUANT TO CERTAIN REDEMPTIONS.—In determining whether the amendment made by subsection (a) applies to any extraordinary dividend other than a dividend treated as an extraordinary dividend under section 1059(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act), paragraphs (1) and (2) shall be applied by substituting "September 13, 1995" for "May 3, 1995".*

***SEC. 11302. REGISTRATION OF CONFIDENTIAL CORPORATE TAX SHELTERS.***

*(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended by redesignating subsections*

*(d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:*

*"(d) CERTAIN CONFIDENTIAL ARRANGEMENTS TREATED AS TAX SHELTERS.—*

*"(1) IN GENERAL.—For purposes of this section, the term 'tax shelter' includes any entity, plan, arrangement, or transaction—*

*"(A) a significant purpose of the structure of which is the avoidance or evasion of Federal income tax for a direct or indirect participant which is a corporation,*

*"(B) which is offered to any potential participant under conditions of confidentiality, and*

*"(C) for which the tax shelter promoters may receive fees in excess of $100,000 in the aggregate.*

*"(2) CONDITIONS OF CONFIDENTIALITY.—For purposes of paragraph (1)(B), an offer is under conditions of confidentiality if—*

*"(A) the potential participant to whom the offer is made (or any other person acting on behalf of such participant) has an understanding or agreement with or for the benefit of any promoter of the tax shelter that such participant (or such other person) will limit disclosure of the tax*

*shelter or any significant tax features of the tax shelter, or*

*"(B) any promoter of the tax shelter—*

*"(i) claims, knows, or has reason to know,*

*"(ii) knows or has reason to know that any other person (other than the potential participant) claims, or*

*"(iii) causes another person to claim,*

*that the tax shelter (or any aspect thereof) is proprietary to any person other than the potential participant or is otherwise protected from disclosure to or use by others.*

*For purposes of this subsection, the term 'promoter' means any person or any related person (within the meaning of section 267 or 707) who participates in the organization, management, or sale of the tax shelter.*

*"(3) PERSONS OTHER THAN PROMOTER REQUIRED TO REGISTER IN CERTAIN CASES.—*

*"(A) IN GENERAL.—If—*

*"(i) the requirements of subsection (a) are not met with respect to any tax shelter (as defined in paragraph (1)) by any tax shelter promoter, and*

*"(ii) no tax shelter promoter is a United States person,*

*then each United States person who discussed participation in such shelter shall register such shelter under subsection (a).*

*"(B) EXCEPTION.—Subparagraph (A) shall not apply to a United States person who discussed participation in a tax shelter if—*

*"(i) such person notified the promoter in writing (not later than the close of the 90th day after the day on which such discussions began) that such person would not participate in such shelter, and*

*"(ii) such person does not participate in such shelter.*

*"(4) OFFER TO PARTICIPATE TREATED AS OFFER FOR SALE.—For purposes of subsections (a) and (b), an offer to participate in a tax shelter (as defined in paragraph (1)) shall be treated as an offer for sale.".*

*(b) PENALTY.—Subsection (a) of section 6707 (relating to failure to furnish information regarding tax shelters) is amended by adding at the end the following new paragraph:*

*"(3) CONFIDENTIAL ARRANGEMENTS.—*

*"(A) IN GENERAL.—In the case of a tax shelter (as defined in section 6111(d)), the pen-*

*alty imposed under paragraph (1) shall be an amount equal to the greater of—*

*"(i) 50 percent of the fees paid to any promoter of the tax shelter with respect to offerings made before the date such shelter is registered under section 6111, or*

*"(ii) $10,000.*

*Clause (i) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in paragraph (1).*

*"(B) SPECIAL RULE FOR PARTICIPANTS REQUIRED TO REGISTER SHELTER.—In the case of a person required to register such a tax shelter by reason of section 6111(d)(3)—*

*"(i) such person shall be required to pay the penalty under paragraph (1) only if such person actually participated in such shelter,*

*"(ii) the amount of such penalty shall be determined by taking into account under subparagraph (A)(i) only the fees paid by such person, and*

*"(iii) such penalty shall be in addition to the penalty imposed on any other person for failing to register such shelter.".*

*(c) CONFORMING AMENDMENTS.—*

*(1) Paragraph (2) of section 6707(a) is amended by striking "The penalty" and inserting "Except as provided in paragraph (3), the penalty".*

*(2) Subparagraph (A) of section 6707(a)(1) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3), as the case may be".*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any tax shelter (as defined in section 6111(d) of the Internal Revenue Code of 1986, as amended by this section) interests in which are offered to potential participants after the Secretary of the Treasury prescribes guidance with respect to meeting requirements added by such amendments.*

***SEC. 11303. DENIAL OF DEDUCTION FOR INTEREST ON LOANS WITH RESPECT TO COMPANY-OWNED INSURANCE.***

*(a) IN GENERAL.—Paragraph (4) of section 264(a) is amended—*

*(1) by inserting ", or any endowment or annuity contracts owned by the taxpayer covering any individual," after "the life of any individual", and*

*(2) by striking all that follows "carried on by the taxpayer" and inserting a period.*

*(b) EXCEPTION FOR CONTRACTS RELATING TO KEY PERSONS; PERMISSIBLE INTEREST RATES.—Section 264 is amended—*

*(1) by striking "Any" in subsection (a)(4) and inserting "Except as provided in subsection (d), any", and*

*(2) by adding at the end the following new subsection:*

*"(d) SPECIAL RULES FOR APPLICATION OF SUBSECTION (a)(4).—*

*"(1) EXCEPTION FOR KEY PERSONS.—Subsection (a)(4) shall not apply to any interest paid or accrued on any indebtedness with respect to policies or contracts covering an individual who is a key person to the extent that the aggregate amount of such indebtedness with respect to policies and contracts covering such individual does not exceed $50,000.*

*"(2) INTEREST RATE CAP ON KEY PERSONS AND PRE-1986 CONTRACTS.—*

*"(A) IN GENERAL.—No deduction shall be allowed by reason of paragraph (1) or the last sentence of subsection (a) with respect to interest paid or accrued for any month to the extent the amount of such interest exceeds the amount*

*which would have been determined if the applicable rate of interest were used for such month.*

*"(B) APPLICABLE RATE OF INTEREST.—For purposes of subparagraph (A)—*

*"(i) IN GENERAL.—The applicable rate of interest for any month is the rate of interest described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.*

*"(ii) PRE-1986 CONTRACT.—In the case of indebtedness on a contract to which the last sentence of subsection (a) applies—*

*"(I) which is a contract providing a fixed rate of interest, the applicable rate of interest for any month shall be the Moody's rate described in clause (i) for the month in which the contract was purchased, or*

*"(II) which is a contract providing a variable rate of interest, the applicable rate of interest for any month in an applicable period shall be such*

*Moody's rate for the last month preceding such period.*

*For purposes of subclause (II), the taxpayer shall elect an applicable period for such contract on its return of tax imposed by this chapter for its first taxable year ending on or after October 13, 1995. Such applicable period shall be for any number of months (not greater than 12) specified in the election and may not be changed by the taxpayer without the consent of the Secretary.*

*"(3) KEY PERSON.—For purposes of paragraph (1), the term 'key person' means an officer or 20-percent owner, except that the number of individuals who may be treated as key persons with respect to any taxpayer shall not exceed the greater of—*

*"(A) 5 individuals, or*

*"(B) the lesser of 5 percent of the total officers and employees of the taxpayer or 10 individuals.*

*"(4) 20-PERCENT OWNER.—For purposes of this subsection, the term '20-percent owner' means—*

*"(A) if the taxpayer is a corporation, any person who owns directly 20 percent or more of*

*the outstanding stock of the corporation or stock possessing 20 percent or more of the total combined voting power of all stock of the corporation, or*

*"(B) if the taxpayer is not a corporation, any person who owns 20 percent or more of the capital or profits interest in the employer.*

*"(5) AGGREGATION RULES.—*

*"(A) IN GENERAL.—For purposes of paragraph (4)(A) and applying the $50,000 limitation in paragraph (1)—*

*"(i) all members of a controlled group shall be treated as 1 taxpayer, and*

*"(ii) such limitation shall be allocated among the members of such group in such manner as the Secretary may prescribe.*

*"(B) CONTROLLED GROUP.—For purposes of this paragraph, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as members of a controlled group.".*

*(c) EFFECTIVE DATES.—*

*(1) IN GENERAL.—The amendments made by this section shall apply to interest paid or accrued after December 31, 1995.*

*(2) TRANSITION RULE FOR EXISTING INDEBTEDNESS.—*

*(A) IN GENERAL.—In the case of—*

*(i) indebtedness incurred before January 1, 1996, or*

*(ii) indebtedness incurred before January 1, 1997 with respect to any contract or policy entered into in 1994 or 1995,*

*the amendments made by this section shall not apply to qualified interest paid or accrued on such indebtedness after October 13, 1995, and before January 1, 1999.*

*(B) QUALIFIED INTEREST.—For purposes of subparagraph (A), the qualified interest with respect to any indebtedness for any month is the amount of interest which would be paid or accrued for such month on such indebtedness if—*

*(i) in the case of any interest paid or accrued after December 31, 1995, indebtedness with respect to no more than 20,000 insured individuals were taken into account, and*

*(ii) the lesser of the following rates of interest were used for such month:*

*(I) The rate of interest specified under the terms of the indebtedness as in effect on October 13, 1995 (and without regard to modification of such terms after such date).*

*(II) The applicable percentage rate of interest described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.*

*For purposes of clause (i), all persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 or subsection (m) or (o) of section 414 of such Code shall be treated as one person.*

*(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (B), the applicable percentage is as follows:*

| **For calendar year:** | **The percentage is:** |
|---|---|
| *1995* | *100 percent* |
| *1996* | *90 percent* |
| *1997* | *80 percent* |
| *1998* | *70 percent.* |

*(3) SPECIAL RULE FOR GRANDFATHERED CONTRACTS.—This section shall not apply to any contract purchased on or before June 20, 1986, except that section 264(d)(2) of the Internal Revenue Code of*

*1986 shall apply to interest paid or accrued after October 13, 1995.*

*(d) SPREAD OF INCOME INCLUSION ON SURRENDER, ETC. OF CONTRACTS.—*

*(1) IN GENERAL.—If any amount is received under any life insurance policy or endowment or annuity contract described in paragraph (4) of section 264(a) of the Internal Revenue Code of 1986—*

*(A) on the complete surrender, redemption, or maturity of such policy or contract during calendar year 1996, 1997, or 1998, or*

*(B) in full discharge during any such calendar year of the obligation under the policy or contract which is in the nature of a refund of the consideration paid for the policy or contract,*

*then (in lieu of any other inclusion in gross income) such amount shall be includible in gross income ratably over the 4-taxable year period beginning with the taxable year such amount would (but for this paragraph) be includible. The preceding sentence shall only apply to the extent the amount is includible in gross income for the taxable year in which the event described in subparagraph (A) or (B) occurs.*

*(2) SPECIAL RULES FOR APPLYING SECTION 264.—A contract shall not be treated as—*

*(A) failing to meet the requirement of section 264(c)(1) of the Internal Revenue Code of 1986, or*

*(B) a single premium contract under section 264(b)(1) of such Code,*

*solely by reason of an occurrence described in subparagraph (A) or (B) of paragraph (1) of this subsection or solely by reason of no additional premiums being received under the contract by reason of a lapse occurring after October 13, 1995.*

*(3) SPECIAL RULE FOR DEFERRED ACQUISITION COSTS.—In the case of the occurrence of any event described in subparagraph (A) or (B) of paragraph (1) of this subsection with respect to any policy or contract—*

*(A) section 848 of the Internal Revenue Code of 1986 shall not apply to the unamortized balance (if any) of the specified policy acquisition expenses attributable to such policy or contract immediately before the insurance company's taxable year in which such event occurs, and*

*(B) there shall be allowed as a deduction to such company for such taxable year under chap-*

*ter 1 of such Code an amount equal to such unamortized balance.*

***SEC. 11304. TERMINATION OF SUSPENSE ACCOUNTS FOR FAMILY CORPORATIONS REQUIRED TO USE ACCRUAL METHOD OF ACCOUNTING.***

*(a) IN GENERAL.—Subsection (i) of section 447 (relating to method of accounting for corporations engaged in farming) is amended by adding at the end the following new paragraph:*

*"(7) TERMINATION.—*

*"(A) IN GENERAL.—No suspense account may be established under this subsection by any corporation required by this section to change its method of accounting for any taxable year ending after September 13, 1995.*

*"(B) 20-YEAR PHASEOUT OF EXISTING SUSPENSE ACCOUNTS.—Each suspense account under this subsection shall be reduced (but not below zero) for each of the first 20 taxable years beginning after September 13, 1995, by an amount equal to the applicable portion of such account. Any reduction in a suspense account under this paragraph shall be included in gross income for the taxable year of the reduction. The amount of the reduction required under this*

*paragraph for any taxable year shall be reduced (but not below zero) by the amount of any reduction required for such taxable year under any other provision of this subsection.*

*"(C) APPLICABLE PORTION.—For purposes of subparagraph (B), the term 'applicable portion' means, for any taxable year, the amount which would ratably reduce the amount in the account (after taking into account prior reductions) to zero over the period consisting of such taxable year and the remaining taxable years in such first 20 taxable years.".*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after September 13, 1995.*

***SEC. 11305. TERMINATION OF PUERTO RICO AND POSSESSION TAX CREDIT.***

*(a) IN GENERAL.—Section 936 is amended by adding at the end the following new subsection:*

*"(j) TERMINATION.—*

*"(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall not apply to any taxable year beginning after December 31, 1995.*

*"(2) TRANSITION RULES FOR ACTIVE BUSINESS INCOME CREDIT.—Except as provided in paragraph (3)—*

*"(A) IN GENERAL.—In the case of an existing credit claimant to which subsection (a)(4)(B) does not apply, the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 2002.*

*"(B) SPECIAL RULE FOR REDUCED CREDIT.—*

*"(i) IN GENERAL.—In the case of an existing credit claimant to which subsection (a)(4)(B) applies, the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 1998.*

*"(ii) ELECTION IRREVOCABLE AFTER 1997.—An election under subsection (a)(4)(B)(iii) which is in effect for the taxpayer's last taxable year beginning before 1997 may not be revoked unless it is revoked for the taxpayer's first taxable year beginning in 1997 and all subsequent taxable years.*

*"(3) ADDITIONAL RESTRICTED CREDIT.—*

*"(A) IN GENERAL.—In the case of an existing credit claimant—*

*"(i) the credit under subsection (a)(1)(A) shall be allowed for the period beginning with the first taxable year after the last taxable year to which subparagraph (A) or (B) of paragraph (2), whichever is appropriate, applied and ending with the last taxable year beginning before January 1, 2006, except that*

*"(ii) the aggregate amount of taxable income taken into account under subsection (a)(1)(A) for any such taxable year shall not exceed the adjusted base period income of such claimant.*

*"(B) COORDINATION WITH SUBSECTION (a)(4).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(4) shall be such income as reduced under this paragraph.*

*"(4) ADJUSTED BASE PERIOD INCOME.—For purposes of paragraph (3)—*

*"(A) IN GENERAL.—The term 'adjusted base period income' means the average of the infla-*

*tion-adjusted possession incomes of the corporation for each base period year.*

*"(B) INFLATION-ADJUSTED POSSESSION INCOME.—For purposes of subparagraph (A), the inflation-adjusted possession income of any corporation for any base period year shall be an amount equal to the sum of—*

*"(i) the possession income of such corporation for such base period year, plus*

*"(ii) such possession income multiplied by the inflation adjustment percentage for such base period year.*

*"(C) INFLATION ADJUSTMENT PERCENTAGE.—For purposes of subparagraph (B), the inflation adjustment percentage for any base period year means the percentage (if any) by which—*

*"(i) the CPI for 1995, exceeds*

*"(ii) the CPI for the calendar year in which the base period year for which the determination is being made ends.*

*For purposes of the preceding sentence, the CPI for any calendar year is the CPI (as defined in section 1(f)(5)) for such year under section 1(f)(4).*

*"(D) INCREASE IN INFLATION ADJUSTMENT PERCENTAGE FOR GROWTH DURING BASE YEARS.—The inflation adjustment percentage (determined under subparagraph (C) without regard to this subparagraph) for each of the 5 taxable years referred to in paragraph (5)(A) shall be increased by—*

*"(i) 5 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1995;*

*"(ii) 10.25 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1994;*

*"(iii) 15.76 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1993;*

*"(iv) 21.55 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1992; and*

*"(v) 27.63 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1991.*

*"(5) BASE PERIOD YEAR.—For purposes of this subsection—*

*"(A) IN GENERAL.—The term 'base period year' means each of 3 taxable years which are among the 5 most recent taxable years of the corporation ending before October 14, 1995, determined by disregarding—*

*"(i) one taxable year for which the corporation had the largest inflation-adjusted possession income, and*

*"(ii) one taxable year for which the corporation had the smallest inflation-adjusted possession income.*

*"(B) CORPORATIONS NOT HAVING SIGNIFICANT POSSESSION INCOME THROUGHOUT 5-YEAR PERIOD.—*

*"(i) IN GENERAL.—If a corporation does not have significant possession income for each of the most recent 5 taxable years ending before October 14, 1995, then, in lieu of applying subparagraph (A), the term 'base period year' means only those taxable years (of such 5 taxable years) for which the corporation has significant possession income; except that, if such corporation has significant possession income for 4 of such*

*5 taxable years, the rule of subparagraph (A)(ii) shall apply.*

*"(ii) SPECIAL RULE.—If there is no year (of such 5 taxable years) for which a corporation has significant possession income—*

*"(I) the term 'base period year' means the first taxable year ending on or after October 14, 1995, but*

*"(II) the amount of possession income for such year which is taken into account under paragraph (4) shall be the amount which would be determined if such year were a short taxable year ending on September 30, 1995.*

*"(iii) SIGNIFICANT POSSESSION INCOME.—For purposes of this subparagraph, the term 'significant possession income' means possession income which exceeds 2 percent of the possession income of the taxpayer for the taxable year (of the period of 6 taxable years ending with the first taxable year ending on or after October 14, 1995) having the greatest possession income.*

*"(C) ELECTION TO USE ONE BASE PERIOD YEAR.—*

*"(i) IN GENERAL.—At the election of the taxpayer, the term 'base period year' means—*

*"(I) only the last taxable year of the corporation ending in calendar year 1992, or*

*"(II) a deemed taxable year which includes the first ten months of calendar year 1995.*

*"(ii) BASE PERIOD INCOME FOR 1995.—In determining the adjusted base period income of the corporation for the deemed taxable year under clause (i)(II), the possession income shall be annualized and shall be determined without regard to any extraordinary item.*

*"(iii) ELECTION.—An election under this subparagraph by any possession corporation may be made only for the corporation's first taxable year beginning after December 31, 1995, for which it is a possession corporation. The rules of subclauses (II) and (III) of subsection (a)(4)(B)(iii) shall*

*apply to the election under this subparagraph.*

*"(D) ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of subparagraphs (A) and (B) of section 41(f)(3) shall apply for purposes of this subsection.*

*"(6) POSSESSION INCOME.—For purposes of this subsection, the term 'possession income' means the income referred to in subsection (a)(1)(A), except that there shall not be taken into account any such income from an applicable possession (as defined in paragraph (8)(B)). In no event shall possession income be treated as being less than zero.*

*"(7) SHORT YEARS.—If the current year or a base period year is a short taxable year, the application of this subsection shall be made with such annualizations as the Secretary shall prescribe.*

*"(8) SPECIAL RULES FOR CERTAIN POSSESSIONS.—*

*"(A) IN GENERAL.—In the case of an existing credit claimant with respect to an applicable possession, this section (other than the preceding paragraphs of this subsection) shall apply to taxable years beginning after December 31, 1995, and before January 1, 2006.*

*"(B) APPLICABLE POSSESSION.—For purposes of this paragraph, the term 'applicable possession' means Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.*

*"(9) EXISTING CREDIT CLAIMANT.—For purposes of this subsection—*

*"(A) IN GENERAL.—The term 'existing credit claimant' means a corporation—*

*"(i) which was actively conducting a trade or business in a possession on October 13, 1995, and*

*"(ii) with respect to which an election under this section is in effect for the corporation's taxable year which includes October 13, 1995.*

*"(B) NEW LINES OF BUSINESS PROHIBITED.—If, after October 13, 1995, a corporation which would (but for this subparagraph) be an existing credit claimant adds a substantial new line of business, such corporation shall cease to be treated as an existing credit claimant as of the close of the taxable year ending before the date of such addition.*

*"(C) BINDING CONTRACT EXCEPTION.—If, on October 13, 1995, and at all times thereafter,*

*there is in effect with respect to a corporation a binding contract for the acquisition of assets to be used in, or for the sale of assets to be produced from, a trade or business, the corporation shall be treated for purposes of this paragraph as actively conducting such trade or business on October 13, 1995. The preceding sentence shall not apply if such trade or business is not actively conducted before January 1, 1996.*

*"(D) SPECIAL RULE FOR APPLICABLE POSSESSIONS.—In determining under paragraph (8) whether a taxpayer is an existing credit claimant with respect to an applicable possession, this paragraph shall be applied separately with respect to such possession."*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.*

***SEC. 11306. DEPRECIATION UNDER INCOME FORECAST METHOD.***

*(a) GENERAL RULE.—Section 167 (relating to depreciation) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:*

*"(g) DEPRECIATION UNDER INCOME FORECAST METHOD.—*

*"(1) IN GENERAL.—If the depreciation deduction allowable under this section to any taxpayer with respect to any property is determined under the income forecast method or any similar method—*

*"(A) in determining the amount of the depreciation deduction under such method, the estimated income from the property shall include all income earned before the close of the 10th taxable year following the taxable year in which the property was placed in service in connection with the ultimate use of the property by, or the ultimate sale of merchandise to, persons who are not related persons (within the meaning of section 267(b)) to the taxpayer,*

*"(B) the adjusted basis of the property shall only include amounts with respect to which the requirements of section 461(h) are satisfied,*

*"(C) the depreciation deduction under such method for the 10th taxable year beginning after the taxable year in which the property was placed in service shall be equal to the adjusted basis of such property as of the beginning of such 10th taxable year, and*

*"(D) such taxpayer shall pay (or be entitled to receive) interest computed under the look-back method of paragraph (2) for any recomputation year.*

*"(2) LOOK-BACK METHOD.—The interest computed under the look-back method of this paragraph for any recomputation year shall be determined by—*

*"(A) first determining the depreciation deductions under this section with respect to such property which would have been allowable for prior taxable years if the determination of the amounts so allowable had been made on the basis of the sum of the following (instead of the estimated income with respect to such property)—*

*"(i) the actual income from such property for periods before the close of the recomputation year, and*

*"(ii) an estimate of the future income with respect to such property for periods after the recomputation year,*

*"(B) second, determining (solely for purposes of computing such interest) the overpayment or underpayment of tax for each such prior taxable year which would result solely from the application of subparagraph (A), and*

*"(C) then using the adjusted overpayment rate (as defined in section 460(b)(7)), compounded daily, on the overpayment or underpayment determined under subparagraph (B).*

*For purposes of the preceding sentence, any cost incurred after the property is placed in service (which is not treated as a separate property under paragraph (5)) shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such cost is incurred) such cost to its value as of the date the property is placed in service. The taxpayer may elect with respect to any property to have the preceding sentence not apply to such property.*

*"(3) EXCEPTION FROM LOOK-BACK METHOD.—Paragraph (1)(D) shall not apply with respect to any property which, when placed in service by the taxpayer, had a basis of $100,000 or less.*

*"(4) RECOMPUTATION YEAR.—For purposes of this subsection, except as provided in regulations, the term 'recomputation year' means, with respect to any property, the third and the 10th taxable years beginning after the taxable year in which the property was placed in service, unless the actual income from the*

*property for the period before the close of such third or 10th taxable year is within 10 percent of the estimated income from the property for such period which was taken into account under paragraph (1)(A).*

*"(5) SPECIAL RULES.—*

*"(A) CERTAIN COSTS TREATED AS SEPARATE PROPERTY.—For purposes of this subsection, the following costs shall be treated as separate properties:*

*"(i) Any costs incurred with respect to any property after the 10th taxable year beginning after the taxable year in which the property was placed in service.*

*"(ii) Any costs incurred after the property is placed in service and before the close of such 10th taxable year if such costs are significant and give rise to a significant increase in the income from the property which was not included in the estimated income from the property.*

*"(B) SYNDICATION INCOME FROM TELEVISION SERIES.—In the case of property which is an episode in a television series, income from syndicating such series shall not be required to*

*be taken into account under this subsection before the earlier of—*

*"(i) the 4th taxable year beginning after the date the first episode in such series is placed in service, or*

*"(ii) the earliest taxable year in which the taxpayer has an arrangement relating to the future syndication of such series.*

*"(C) COLLECTION OF INTEREST.—For purposes of subtitle F (other than sections 6654 and 6655), any interest required to be paid by the taxpayer under paragraph (1) for any recomputation year shall be treated as an increase in the tax imposed by this chapter for such year.*

*"(D) DETERMINATIONS.—For purposes of paragraph (2), determinations of the amount of income from any property shall be determined in the same manner as for purposes of applying the income forecast method; except that any income from the disposition of such property shall be taken into account.*

*"(E) TREATMENT OF PASS-THRU ENTITIES.—Rules similar to the rules of section 460(b)(4) shall apply for purposes of this subsection.".*

*(b) EFFECTIVE DATE.—*

*(1) IN GENERAL.—The amendment made by subsection (a) shall apply to property placed in service after September 13, 1995.*

*(2) BINDING CONTRACTS.—The amendment made by subsection (a) shall not apply to any property produced or acquired by the taxpayer pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such production or acquisition.*

***SEC. 11307. TRANSFERS OF EXCESS PENSION ASSETS.***

*(a) IN GENERAL.—Section 420 (relating to transfers of excess pension assets to retiree health accounts) is amended by adding at the end the following new subsection:*

*"(f) SIMILAR RULES TO APPLY TO OTHER TRANSFERS OF EXCESS PLAN ASSETS.—*

*"(1) IN GENERAL.—If there is a qualified employee benefit transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to an employer—*

*"(A) a trust which is part of such plan shall not be treated as failing to meet the requirements of section 401(a) solely by reason of such transfer (or any other action authorized under this section), and*

*"(B) such transfer shall not be treated as—*

*"(i) an employer reversion for purposes of section 4980, or*

*"(ii) a prohibited transaction for purposes of section 4975.*

*The gross income of the employer shall include the amount of any qualified employee benefit transfer made during the taxable year.*

*"(2) QUALIFIED EMPLOYEE BENEFIT TRANSFER.—For purposes of this section—*

*"(A) IN GENERAL.—The term 'qualified employee benefit transfer' means a transfer—*

*"(i) of excess pension assets of a defined benefit plan to the employer, and*

*"(ii) with respect to which—*

*"(I) the use requirements of paragraph (3) are met, and*

*"(II) the requirements of subsection (c)(2)(A) are met (determined by treating such transfer as a qualified transfer).*

*"(B) LIMITATION ON AMOUNTS TRANSFERRED.—The amount of excess pension assets which may be transferred in qualified employee benefit transfers during any taxable year shall*

*not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) during the taxable year for qualified current employee benefit liabilities.*

*"(C) COORDINATION WITH TRANSFERS TO RETIREE HEALTH ACCOUNTS.—Such term shall not include any qualified transfer (as defined in subsection (b)).*

*"(D) EXPIRATION.—No transfer in any taxable year beginning after December 31, 2001, shall be treated as a qualified employee benefit transfer.*

*"(3) RESTRICTIONS ON USE OF TRANSFERRED ASSETS.—*

*"(A) IN GENERAL.—Any assets transferred to an employer in a qualified employee benefit transfer shall be used only to pay qualified current employee benefit liabilities for the taxable year of the transfer (whether directly or through reimbursement).*

*"(B) AMOUNTS NOT USED TO PAY BENEFITS.—An employer shall transfer to a plan an amount equal to any assets transferred out of the plan in a qualified employee benefit transfer*

*which are not used as provided in subparagraph (A). Such amount shall be treated in the same manner as amounts are treated under subsection (c)(1)(B), except that allocable income shall be determined by using the Federal short-term rate under section 1274(d).*

*"(C) QUALIFIED CURRENT EMPLOYEE BENEFIT LIABILITIES.—For purposes of this subsection—*

*"(i) IN GENERAL.—The term 'qualified current employee benefit liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) for which a deduction is allowable to the employer for such taxable year with respect to applicable employee benefits.*

*"(ii) APPLICABLE EMPLOYEE BENEFITS.—The term 'applicable employee benefits' means—*

*"(I) contributions to a trust described in section 401(a) which is exempt from tax under section 501(a),*

*"(II) benefits under an accident or health plan (within the meaning of section 105),*

*"(III) disability benefits,*

*"(IV) benefits under an educational assistance program of the employer described in section 127(b), and*

*"(V) benefits under a dependent care assistance program of the employer described in section 129(d).*

*"(4) DEFINITION AND SPECIAL RULES.—For purposes of this subsection—*

*"(A) EXCESS PENSION ASSETS.—The term 'excess pension assets' has the meaning given such term by subsection (e)(2).*

*"(B) COORDINATION WITH SECTION 412.—In the case of a qualified employee benefit transfer—*

*"(i) any assets transferred in a plan year on or before the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412, be treated as assets in the plan as of the valuation date for such year, and*

*"(ii) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) in an amount equal to the amount of such transfer and for which am-*

*ortization charges begin for the first plan year after the plan year in which such transfer occurs, except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'."*

*(b) EXCESS ASSETS.—Section 420(e)(2) is amended to read as follows:*

*"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—*

*"(A) the amount determined under section 412(c)(7)(A)(ii), over*

*"(B) the greater of—*

*"(i) the amount determined under section 412(c)(7)(A)(i)(II), or*

*"(ii) 125 percent of termination liability determined under section 414(l), except that the actuarial assumptions used in making such determinations shall be the assumptions used by the Pension Benefit Guaranty Corporation for single-employer plan termination purposes under regulations under title IV of the Employee Retirement Income Security Act of 1974.*

*The determination under the preceding sentence with respect to any transfer shall be made as of the date*

*of the transfer. No substantial changes in the regulations described in clause (ii) which are made after the date of the enactment of the Revenue Reconciliation Act of 1995 shall be taken into account for purposes of such clause.''*

*(c) TAXPAYERS IN BANKRUPTCY MAY NOT MAKE TRANSFERS.—Section 420(e) is amended by adding at the end the following new paragraph:*

*''(5) EXCLUSION OF TAXPAYERS IN BANKRUPTCY.—No qualified transfer or qualified employee benefit transfer may be made under this section by a taxpayer if—*

*''(A) the taxpayer has filed, or has had filed against it, a petition in a title 11 or similar case (within the meaning of section 368(a)(3)), and*

*''(B) such case is still pending.''*

*(d) CONFORMING AMENDMENTS TO ERISA.—*

*(1) NOTICE.—Section 101(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)) is amended—*

*(A) by inserting ''or a qualified employee benefit transfer,'' after ''to a health benefits account,'' in paragraphs (1) and (2)(A),*

*(B) by inserting "or qualified employee benefits" after "the amount of health benefits liabilities" in paragraph (1),*

*(C) in paragraph (3)—*

*(i) by striking "January 1, 1995" and inserting "the date of the enactment of the Revenue Reconciliation Act of 1995", and*

*(ii) by striking "paragraph (1)" and inserting "this subsection", and*

*(D) by striking "TO HEALTH BENEFITS ACCOUNTS" in the heading.*

*(2) EXCLUSIVE BENEFIT.—Paragraph (1) of section 403(c) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking "January 1, 1995" and inserting "the date of the enactment of the Revenue Reconciliation Act of 1995".*

*(3) EXEMPTION FROM PROHIBITED TRANSACTION.—Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(13)) is amended—*

*(A) by striking "retiree health account" and inserting "health benefits account",*

*(B) by inserting before the period at the end ", or any transfer of such assets in a taxable year beginning before January 1, 2002, in a*

*qualified employee benefit transfer permitted under such section 420", and*

*(C) by striking "January 1, 1995" and inserting "the date of the enactment of the Revenue Reconciliation Act of 1995".*

*(e) EFFECTIVE DATES.—*

*(1) IN GENERAL.—The amendments made by this section shall apply to transfers on and after the date of the enactment of this Act.*

*(2) QUALIFIED TRANSFERS.—To the extent the amendments made by subsections (b), (c), and (d) apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act), such amendments shall apply to transfers occurring after December 31, 1995.*

***SEC. 11308. REPEAL OF EXCLUSION FOR INTEREST ON LOANS USED TO ACQUIRE EMPLOYER SECURITIES.***

*(a) IN GENERAL.—Section 133 (relating to interest on certain loans used to acquire employer securities) is hereby repealed.*

*(b) CONFORMING AMENDMENTS.—*

*(1) Subparagraph (B) of section 291(e)(1) is amended by striking clause (iv) and by redesignating clause (v) as clause (iv).*

*(2) Section 812 is amended by striking subsection (g).*

*(3) Paragraph (5) of section 852(b) is amended by striking subparagraph (C).*

*(4) Paragraph (2) of section 4978(b) is amended by striking subparagraph (A) and all that follows and inserting the following:*

*"(A) first from qualified securities to which section 1042 applied acquired during the 3-year period ending on the date of the disposition, beginning with the securities first so acquired, and*

*"(B) then from any other employer securities.*

*If subsection (d) applies to a disposition, the disposition shall be treated as made from employer securities in the opposite order of the preceding sentence.".*

*(5)(A) Section 4978B (relating to tax on disposition of employer securities to which section 133 applied) is hereby repealed.*

*(B) The table of sections for chapter 43 is amended by striking the item relating to section 4978B.*

*(6) Subsection (e) of section 6047 is amended by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:*

*"(1) any employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, an employee stock ownership plan which holds stock with respect to which section 404(k) applies to dividends paid on such stock, or*

*"(2) both such employer or plan administrator,".*

*(7) Subsection (f) of section 7872 is amended by striking paragraph (12).*

*(c) EFFECTIVE DATE.—*

*(1) IN GENERAL.—The amendments made by this section shall apply to loans made after October 13, 1995.*

*(2) REFINANCINGS.—The amendments made by this section shall not apply to loans made after October 13, 1995, to refinance securities acquisition loans (determined without regard to section 133(b)(1)(B) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act) made on or before such date or to refinance loans described in this paragraph if—*

*(A) the refinancing loans meet the requirements of section 133 of such Code (as so in effect),*

*(B) immediately after the refinancing the principal amount of the loan resulting from the refinancing does not exceed the principal amount of the refinanced loan (immediately before the refinancing), and*

*(C) the term of such refinancing loan does not extend beyond the last day of the term of the original securities acquisition loan.*

*For purposes of this paragraph, the term "securities acquisition loan" includes a loan from a corporation to an employee stock ownership plan described in section 133(b)(3) of such Code (as so in effect).*

## *CHAPTER 2—LEGAL REFORMS*

### *SEC. 11311. REPEAL OF EXCLUSION FOR PUNITIVE DAMAGES AND FOR DAMAGES NOT ATTRIBUTABLE TO PHYSICAL INJURIES OR SICKNESS.*

*(a) IN GENERAL.—Paragraph (2) of section 104(a) (relating to compensation for injuries or sickness) is amended to read as follows:*

*"(2) the amount of any damages (other than punitive damages) received (whether by suit or agreement and whether as lump sums or as periodic pay-*

*ments) on account of personal physical injuries or physical sickness;".*

*(b) EMOTIONAL DISTRESS AS SUCH TREATED AS NOT PHYSICAL INJURY OR PHYSICAL SICKNESS.—Section 104(a) is amended by striking the last sentence and inserting the following new sentence: "For purposes of paragraph (2), emotional distress shall not be treated as a physical injury or physical sickness. The preceding sentence shall not apply to an amount of damages not in excess of the amount paid for medical care (described in subparagraph (A) or (B) of section 213(d)(1)) attributable to emotional distress.".*

*(c) SPECIAL RULE FOR STATES IN WHICH ONLY PUNITIVE DAMAGES MAY BE AWARDED IN WRONGFUL DEATH ACTIONS.—Section 104 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:*

*"(c) RESTRICTION ON PUNITIVE DAMAGES NOT TO APPLY IN CERTAIN CASES.—The restriction on the application of subsection (a)(2) to punitive damages shall not apply to punitive damages which—*

*"(1) are awarded in a civil action—*

*"(A) which is a wrongful death action, and*

*"(B) with respect to which applicable State law (as in effect on February 1, 1996, and with-*

*out regard to any modification after such date) provides, or has been construed to provide by a court of competent jurisdiction pursuant to a decision issued on or before February 1, 1996, that only punitive damages may be awarded in such an action, and*

*"(2) would have been excludable from gross income under subsection (a)(2) as in effect for amounts received on December 31, 1995.*

*This subsection shall cease to apply to any civil action filed on or after the first date on which the applicable State law ceases to provide (or is no longer construed to provide) the treatment described in paragraph (2)."*

*(d) EFFECTIVE DATE.—*

*(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after December 31, 1995, in taxable years ending after such date.*

*(2) EXCEPTION.—The amendments made by this section shall not apply to any amount received under a written binding agreement, court decree, or mediation award in effect on (or issued on or before) September 13, 1995.*

***SEC. 11312. REPORTING OF CERTAIN PAYMENTS MADE TO ATTORNEYS.***

*(a) IN GENERAL.—Section 6045 (relating to returns of brokers) is amended by adding at the end the following new subsection:*

*"(f) RETURN REQUIRED IN THE CASE OF PAYMENTS TO ATTORNEYS.—*

*"(1) IN GENERAL.—Any person engaged in a trade or business and making a payment (in the course of such trade or business) to which this subsection applies shall file a return under subsection (a) and a statement under subsection (b) with respect to such payment.*

*"(2) APPLICATION OF SUBSECTION.—*

*"(A) IN GENERAL.—This subsection shall apply to any payment to an attorney in connection with legal services (whether or not such services are performed for the payor).*

*"(B) EXCEPTION.—This subsection shall not apply to the portion of any payment which is required to be reported under section 6041(a) (or would be so required but for the dollar limitation contained therein) or section 6051.".*

*(b) REPORTING OF ATTORNEYS' FEES PAYABLE TO CORPORATIONS.—The regulations providing an exception under section 6041 of the Internal Revenue Code of 1986*

*for payments made to corporations shall not apply to payments of attorneys' fees.*

*(c) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 1996.*

## *CHAPTER 3—REFORMS RELATING TO NONRECOGNITION PROVISIONS*

### *SEC. 11321. NO ROLLOVER OR EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE WHICH IS ATTRIBUTABLE TO DEPRECIATION DEDUCTIONS.*

*(a) IN GENERAL.—Subsection (d) of section 1034 (relating to limitations) is amended by adding at the end the following new paragraph:*

*"(3) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—Subsection (a) shall not apply to so much of the gain from the sale of any residence as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after December 31, 1995, in respect of such residence.".*

*(b) COMPARABLE TREATMENT UNDER 1-TIME EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE.—Subsection (d) of section 121 is amended by adding at the end the following new paragraph:*

*"(10) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—*

*"(A) IN GENERAL.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after December 31, 1995, in respect of such property.*

*"(B) COORDINATION WITH PARAGRAPH (5).—If this section does not apply to gain attributable to a portion of a residence by reason of paragraph (5), subparagraph (A) shall not apply to depreciation adjustments attributable to such portion.".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1995.*

***SEC. 11322. NONRECOGNITION OF GAIN ON SALE OF PRINCIPAL RESIDENCE BY NONCITIZENS LIMITED TO NEW RESIDENCES LOCATED IN THE UNITED STATES.***

*(a) IN GENERAL.—Subsection (d) of section 1034 (relating to limitations) (as amended by section 11321) is amended by adding at the end the following new paragraph:*

*"(4) NEW RESIDENCE MUST BE LOCATED IN UNITED STATES IN CERTAIN CASES.—*

*"(A) IN GENERAL.—In the case of a sale of an old residence by a taxpayer—*

*"(i) who is not a citizen of the United States at the time of sale, and*

*"(ii) who is not a citizen or resident of the United States on the date which is 2 years after the date of the sale of such old residence,*

*subsection (a) shall apply only if the new residence is located in the United States or a possession of the United States.*

*"(B) PROPERTY HELD JOINTLY BY HUSBAND AND WIFE.—Subparagraph (A) shall not apply if—*

*"(i) the old residence is held by a husband and wife as joint tenants, tenants by the entirety, or community property,*

*"(ii) such husband and wife make a joint return for the taxable year of the sale or exchange, and*

*"(iii) one spouse is a citizen of the United States at the time of sale.".*

*(b) EFFECTIVE DATE.—*

*(1) IN GENERAL.—The amendment made by this section shall apply to sales of old residences after December 31, 1995.*

*(2) TREATMENT OF PURCHASES OF NEW RESIDENCES.—The amendment made by this section shall not apply to new residences—*

*(A) purchased before September 13, 1995, or*

*(B) purchased on or after such date pursuant to a binding contract in effect on such date and at all times thereafter before such purchase.*

*(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, the rules of paragraphs (1), (2), and (3) of section 1034(c) of the Internal Revenue Code of 1986 shall apply.*

## *CHAPTER 4—EXCISE TAX AND TAX-EXEMPT BOND PROVISIONS*

### *SEC. 11331. REPEAL OF DIESEL FUEL TAX REBATE TO PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.*

*(a) IN GENERAL.—Section 6427 (relating to fuels not used for taxable purposes) is amended by striking subsection (g).*

*(b) CONFORMING AMENDMENTS.—*

*(1) Paragraph (3) of section 34(a) is amended to read as follows:*

*"(3) under section 6427 with respect to fuels used for nontaxable purposes or resold during the taxable year (determined without regard to section 6427(k)).".*

*(2) Paragraphs (1) and (2)(A) of section 6427(i) are each amended—*

*(A) by striking "(g),", and*

*(B) by striking "(or a qualified diesel powered highway vehicle purchased)" each place it appears.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to vehicles purchased after December 31, 1995.*

***SEC. 11332. MODIFICATIONS TO EXCISE TAX ON OZONE-DEPLETING CHEMICALS.***

*(a) IN GENERAL.—Section 4682(d)(1) (relating to recycling) is amended by inserting ", or on any recycled halon imported from any country which is a signatory to the Montreal Protocol on Substances that Deplete the Ozone Layer" before the period at the end.*

*(b) CERTIFICATION SYSTEM.—The Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency, shall develop a certification system to ensure compliance with the recycling requirement for imported halon under section 4682(d)(1) of*

*the Internal Revenue Code of 1986, as amended by subsection (a).*

*(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.*

***SEC. 11333. ELECTION TO AVOID TAX-EXEMPT BOND PENALTIES FOR LOCAL FURNISHERS OF ELECTRICITY AND GAS.***

*Section 142(f) (relating to local furnishing of electric energy or gas) is amended by adding at the end the following new paragraphs:*

*"(3) ELECTION TO AVOID PENALTIES FOR CERTAIN FURNISHERS.—*

*"(A) IN GENERAL.—If—*

*"(i) a person engaged in the local furnishing of electric energy or gas, directly or indirectly financed facilities for such furnishing in whole or in part with exempt facility bonds described in subsection (a)(8) issued before the date of the enactment of this paragraph,*

*"(ii) such bonds would (but for this paragraph) cease to be tax-exempt by reason of such person failing to meet the local furnishing requirement of such section as a re-*

*sult of a service area expansion by such person, and*

*"(iii) an election described in subparagraph (B) is made by such person with respect to all such facilities of the person,*

*then such bonds shall not cease to be tax-exempt by reason of such expansion (and section 150(b)(4) shall not apply to interest on such bonds).*

*"(B) ELECTION.—An election is described in this subparagraph if it is an election made in such manner as the Secretary prescribes, and such person agrees that—*

*"(i) no bond exempt from tax under section 103 and described in subsection (a)(8) may be issued on or after the date of the enactment of this paragraph with respect to the facilities for the local furnishing of electric energy or gas, or both of such person, other than such a bond issued to refund another bond if the amount of such bond does not exceed the outstanding amount of the refunded bond and the maturity date of the refunding bond is not later than the average maturity date of the refunded bonds*

*to be refunded by the issue of which the refunding bond is a part,*

*"(ii) the expansion of the service area—*

*"(I) is not financed with the proceeds of any exempt facility bond described in subsection (a)(8), and*

*"(II) is not treated as a nonqualifying use under the rules of paragraph (2), and*

*"(iii) all outstanding bonds used to finance the facilities for such person are redeemed not later than 6 months after the later of—*

*"(I) the earliest date on which such bonds may be redeemed, or*

*"(II) the date of the election.*

*"(C) RELATED PERSONS.—For purposes of this paragraph, the term 'person' includes a group of related persons (within the meaning of section 144(a)(3)) which includes such person.*

*"(4) APPLICATION OF SECTION.—For purposes of this section, no person may qualify on or after the date of the enactment of this paragraph for tax-exempt bond financing for the local furnishing of elec-*

*tric energy or gas unless such person is engaged on such date in the local furnishing of the energy source for which facilities are financed.''.*

***SEC. 11334. TAX-EXEMPT BONDS FOR SALE OF ALASKA POWER ADMINISTRATION FACILITY.***

*Sections 142(f)(4) (as added by section 11333(a)) and 147(d) of the Internal Revenue Code of 1986 shall not apply with respect to any private activity bond issued after the date of the enactment of this Act and used to finance the acquisition of the Snettisham hydroelectric project from the Alaska Power Administration in determining if such bond is a qualified bond for purposes of such Code.*

## *CHAPTER 5—FOREIGN TRUST TAX COMPLIANCE*

***SEC. 11341. 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 identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.*

*"(3) REPORTABLE EVENT.—For purposes of this subsection—*

*"(A) IN GENERAL.—The term 'reportable event' means—*

*"(i) the creation of any foreign trust by a United States person,*

*"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and*

*"(iii) the death of a citizen or resident of the United States if—*

*"(I) the decedent was treated as the owner of any portion of a foreign*

*trust under the rules of subpart E of part I of subchapter J of chapter 1, or*

*"(II) any portion of a foreign trust was included in the gross estate of the decedent.*

*"(B) EXCEPTIONS.—*

*"(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.*

*"(ii) 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 adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).*

*"(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 pur-*

*poses 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 sig-*

*nificant 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. 6048. 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 relat-*

*ing 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. 11342. 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 EXCEPTION.—*

*"(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—*

*"(i) 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) MODIFICATIONS 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. 11343. 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) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—*

*(1) Section 643 is amended by adding at the end the following new subsection:*

*"(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.".*

*(2) Section 665 is amended by striking subsection (c).*

*(d) EFFECTIVE DATE.—*

*(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.*

*(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—*

*(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and*

*(B) which is in existence on September 19, 1995.*

*The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.*

*(e) TRANSITIONAL RULE.—If—*

*(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and*

*(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,*

*no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.*

***SEC. 11344. 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 6039E the following new section:*

***"SEC. 6039F. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.***

*"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt*

*from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.*

*"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).*

*"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—*

*"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—*

*"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and*

*"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to*

*5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).*

*"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.*

*"(d) 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 6039E the following new item:*

*"Sec. 6039F. Notice of large gifts received from foreign persons.".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of*

*the enactment of this Act in taxable years ending after such date.*

***SEC. 11345. 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. 11346. 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) DOMESTIC 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 6—TREATMENT OF INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP*

### *SEC. 11348. REVISION OF INCOME, ESTATE, AND GIFT TAXES ON INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP.*

*(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 CORPORA-*

*TIONS.—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 ex-*

*change of any property, the running of the 10-year period described in subsection (a) shall be suspended for any period during which the individual's risk of loss with respect to the property is substantially diminished by—*

*"(A) the holding of a put with respect to such property (or similar property),*

*"(B) the holding by another person of a right to acquire the property, or*

*"(C) a short sale or any other transaction."*

*(d) CREDIT FOR FOREIGN TAXES IMPOSED ON UNITED STATES SOURCE INCOME.—*

*(1) Subsection (b) of section 877 is amended by adding at the end the following new sentence: "The tax imposed solely by reason of this section shall be reduced (but not below zero) by the amount of any income, war profits, and excess profits taxes (within the meaning of section 903) paid to any foreign country or possession of the United States on any income of the taxpayer on which tax is imposed solely by reason of this section."*

*(2) Subsection (a) of section 877, as amended by subsection (a), is amended by inserting "(after any reduction in such tax under the last sentence of such subsection)" after "such subsection".*

*(e) COMPARABLE ESTATE AND GIFT TAX TREATMENT.—*

*(1) ESTATE TAX.—*

*(A) IN GENERAL.—Subsection (a) of section 2107 is amended to read as follows:*

*"(a) TREATMENT OF EXPATRIATES.—*

*"(1) RATE OF TAX.—A tax computed in accordance with the table contained in section 2001 is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States if, within the 10-year period ending with the date of death, such decedent lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle A.*

*"(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—*

*"(A) IN GENERAL.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).*

*"(B) EXCEPTION.—Subparagraph (A) shall not apply to a decedent meeting the requirements of section 877(c)(1)."*

*(B) CREDIT FOR FOREIGN DEATH TAXES.—Subsection (c) of section 2107 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:*

*"(2) CREDIT FOR FOREIGN DEATH TAXES.—*

*"(A) IN GENERAL.—The tax imposed by subsection (a) shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any foreign country in respect of any property which is included in the gross estate solely by reason of subsection (b).*

*"(B) LIMITATION ON CREDIT.—The credit allowed by subparagraph (A) for such taxes paid to a foreign country shall not exceed the lesser of—*

*"(i) the amount which bears the same ratio to the amount of such taxes actually paid to such foreign country in respect of property included in the gross estate as the value of the property included in the gross estate solely by reason of subsection (b)*

*bears to the value of all property subjected to such taxes by such foreign country, or*

*"(ii) such property's proportionate share of the excess of—*

*"(I) the tax imposed by subsection (a), over*

*"(II) the tax which would be imposed by section 2101 but for this section.*

*"(C) PROPORTIONATE SHARE.—For purposes of subparagraph (B), a property's proportionate share is the percentage which the value of the property which is included in the gross estate solely by reason of subsection (b) bears to the total value of the gross estate."*

*(C) EXPANSION OF INCLUSION IN GROSS ESTATE OF STOCK OF FOREIGN CORPORATIONS.—Paragraph (2) of section 2107(b) is amended by striking "more than 50 percent of" and all that follows and inserting "more than 50 percent of—*

*"(A) the total combined voting power of all classes of stock entitled to vote of such corporation, or*

*"(B) the total value of the stock of such corporation,".*

*(2) GIFT TAX.—*

*(A) IN GENERAL.—Paragraph (3) of section 2501(a) is amended to read as follows:*

*"(3) EXCEPTION.—*

*"(A) CERTAIN INDIVIDUALS.—Paragraph (2) shall not apply in the case of a donor who, within the 10-year period ending with the date of transfer, lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle A.*

*"(B) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of subparagraph (A), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).*

*"(C) EXCEPTION FOR CERTAIN INDIVIDUALS.—Subparagraph (B) shall not apply to a decedent meeting the requirements of section 877(c)(1).*

*"(D) CREDIT FOR FOREIGN GIFT TAXES.—The tax imposed by this section solely by reason of this paragraph shall be credited with the amount of any gift tax actually paid to any for-*

*eign 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. 11349. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.***

*(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61, as amended by section 11344, is amended by inserting after section 6039F the following new section:*

***"SEC. 6039G. 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.*

*"(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 6039F the following new item:*

***"Sec. 6039G. 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.*

## *CHAPTER 7—FINANCIAL ASSET SECURITIZATION INVESTMENTS*

### *SEC. 11351. FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS.*

*(a) IN GENERAL.—Subchapter M of chapter 1 is amended by adding at the end the following new part:*

## *"PART V—FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS*

*"Sec. 860H. Taxation of a FASIT; other general rules.*
*"Sec. 860I. Gain recognition on contributions to and distributions from a FASIT and in other cases.*
*"Sec. 860J. Non-FASIT losses not to offset certain FASIT inclusions.*
*"Sec. 860K. Treatment of transfers of high-yield interests to disqualified holders.*
*"Sec. 860L. Definitions and other special rules.*

### *"SEC. 860H. TAXATION OF A FASIT; OTHER GENERAL RULES.*

*"(a) TAXATION OF FASIT.—A FASIT as such shall not be subject to taxation under this subtitle (and shall not be treated as a trust, partnership, corporation, or taxable mortgage pool).*

*"(b) TAXATION OF HOLDER OF OWNERSHIP INTEREST.—In determining the taxable income of the holder of the ownership interest in a FASIT—*

*"(1) all assets, liabilities, and items of income, gain, deduction, loss, and credit of a FASIT shall be treated as assets, liabilities, and such items (as the case may be) of such holder,*

*"(2) the constant yield method (including the rules of section 1272(a)(6)) shall be applied under an accrual method of accounting in determining all interest, acquisition discount, original issue discount, and market discount and all premium deductions or adjustments with respect to all debt instruments of the FASIT,*

*"(3) the amount of the tax imposed by section 860L(e) (relating to tax on income from foreclosure property) shall be allowed as a deduction,*

*"(4) there shall not be taken into account any item of income, gain, loss, or deduction allocable to prohibited income, and*

*"(5) interest accrued by the FASIT which is exempt from tax imposed by this subtitle shall, when taken into account by such holder, be treated as ordinary income.*

*For purposes of this subtitle, securities treated as held by such holder under paragraph (1) shall be treated as held for investment.*

*"(c) TREATMENT OF REGULAR INTERESTS.—For purposes of this title—*

*"(1) a regular interest in a FASIT, if not otherwise a debt instrument, shall be treated as a debt instrument,*

*"(2) section 163(e)(5) shall not apply to such an interest, and*

*"(3) amounts includible in gross income with respect to such an interest shall be determined under an accrual method of accounting.*

***"SEC. 860I. GAIN RECOGNITION ON CONTRIBUTIONS TO AND DISTRIBUTIONS FROM A FASIT AND IN OTHER CASES.***

*"(a) CONTRIBUTIONS TO FASIT.—*

*"(1) IN GENERAL.—If property is contributed to a FASIT by the holder of the ownership interest in such FASIT, gain (if any) shall be recognized to such holder in an amount equal to the excess (if any) of such property's value under subsection (e) on the date of such contribution over its adjusted basis on such date.*

*"(2) DEBT INSTRUMENTS ACQUIRED OTHER THAN BY CONTRIBUTION BY HOLDER OF OWNERSHIP INTEREST.—For purposes of this part, any debt instrument which is acquired by a FASIT other than in a contribution by the holder of the ownership interest in the FASIT shall be treated—*

*"(A) as having been acquired by such holder at its fair market value on the date of its acquisition by the FASIT, and*

*"(B) as having been contributed by such holder to the FASIT at its value under subsection (e) on such date.*

*"(3) DEFERRAL OF GAIN RECOGNITION.—The Secretary may prescribe regulations which—*

*"(A) provide that gain otherwise recognized under paragraph (1) shall not be recognized before the earliest date on which such property supports any regular interest in such FASIT or any indebtedness of the holder of the ownership interest (or of any person related to such holder), and*

*"(B) provide such adjustments to the other provisions of this part to the extent appropriate in the context of the treatment provided under subparagraph (A).*

*"(b) CERTAIN DISTRIBUTIONS.—If a FASIT makes a distribution of property with respect to the ownership interest in the FASIT, gain (if any) shall be recognized to such FASIT on the distribution in the same manner as if the FASIT had sold such property to the distributee at its value under subsection (e) on the date of such distribution.*

*"(c) GAIN RECOGNITION ON PROPERTY OUTSIDE FASIT WHICH SUPPORTS REGULAR INTERESTS.—If property held by the holder of the ownership interest in a FASIT (or by any person related to such holder) supports any regular interest in such FASIT—*

*"(1) gain shall be recognized to such holder in the same manner as if such holder had sold such property at its value under subsection (e) on the ear-*

*liest date such property supports such an interest, and*

*"(2) such property shall be treated as held by such FASIT for purposes of this part.*

*"(d) GAIN RECOGNITION ON RETAINED INTERESTS.—If—*

*"(1) any interest in a debt instrument is contributed to a FASIT, and*

*"(2) the contributor (or any person related to such contributor) retains any interest in such instrument (including a right to receive excessive servicing fees with respect to such instrument),*

*then gain shall be recognized to such contributor (or person) in the same manner as if the contributor (or person) had sold the retained interest at its value under subsection (e) on the date of such contribution.*

*"(e) VALUATION.—For purposes of this section—*

*"(1) IN GENERAL.—The value of any property under this subsection shall be—*

*"(A) in the case of property other than a debt instrument, its fair market value, and*

*"(B) in the case of a debt instrument, the sum of the present values of the reasonably expected payments under such instrument deter-*

*mined (in the manner provided by regulations prescribed by the Secretary)—*

*"(i) as of the date of the event resulting in the gain recognition under this section, and*

*"(ii) by using a discount rate equal to 120 percent of the applicable Federal rate (as defined in section 1274(d)), or such other discount rate specified in such regulations, compounded semiannually.*

*"(2) SPECIAL RULE FOR REVOLVING LOAN ACCOUNTS.—For purposes of paragraph (1)—*

*"(A) each extension of credit (other than the accrual of interest) on a revolving loan account shall be treated as a separate debt instrument, and*

*"(B) payments on such extensions of credit having substantially the same terms shall be applied to such extensions beginning with the earliest such extension.*

*"(f) SPECIAL RULES.—*

*"(1) NONRECOGNITION RULES NOT TO APPLY.—Gain required to be recognized under this section shall be recognized notwithstanding any other provision of this subtitle.*

*"(2) BASIS ADJUSTMENTS.—The basis of any property on which gain is recognized under this section shall be increased by the amount of gain so recognized.*

***"SEC. 860J. NON-FASIT LOSSES NOT TO OFFSET CERTAIN FASIT INCLUSIONS.***

*"(a) IN GENERAL.—The taxable income of the holder of the ownership interest or any high-yield interest in a FASIT for any taxable year shall in no event be less than such holder's taxable income determined solely with respect to such interests.*

*"(b) COORDINATION WITH SECTION 172.—Any increase in the taxable income of any holder of the ownership interest or a high-yield interest in a FASIT for any taxable year by reason of subsection (a) shall be disregarded—*

*"(1) in determining under section 172 the amount of any net operating loss for such taxable year, and*

*"(2) in determining taxable income for such taxable year for purposes of the 2nd sentence of section 172(b)(2).*

*"(c) COORDINATION WITH MINIMUM TAX.—For purposes of part VI of subchapter A of this chapter—*

*"(1) the reference in section 55(b)(2) to taxable income shall be treated as a reference to taxable income determined without regard to this section,*

*"(2) the alternative minimum taxable income of any holder of the ownership interest or a high-yield interest in a FASIT for any taxable year shall in no event be less than such holder's taxable income determined solely with respect to such interests, and*

*"(3) any increase in taxable income under this section shall be disregarded for purposes of computing the alternative tax net operating loss deduction.*

***"SEC. 860K. TREATMENT OF TRANSFERS OF HIGH-YIELD INTERESTS TO DISQUALIFIED HOLDERS.***

*"(a) GENERAL RULE.—If any high-yield interest is held by a disqualified holder, this chapter shall be applied as if the transferor of such interest to such holder had not transferred such interest.*

*"(b) EXCEPTIONS.—Rules similar to the rules of paragraphs (4) and (7) of section 860E(e) shall apply to the tax imposed by reason of subsection (a).*

*"(c) DISQUALIFIED HOLDER.—For purposes of this section, the term 'disqualified holder' means any holder other than an eligible corporation (as defined in section 860L(a)(2)).*

*"(d) TREATMENT OF INTERESTS HELD BY SECURITIES DEALERS.—*

*"(1) IN GENERAL.—Subsection (a) shall not apply to any high-yield interest held by a disqualified holder if such holder is a dealer in securities who acquired such interest exclusively for sale to customers in the ordinary course of business (and not for investment).*

*"(2) CHANGE IN DEALER STATUS.—*

*"(A) IN GENERAL.—In the case of a dealer in securities which is not an eligible corporation (as defined in section 860L(a)(2)), if—*

*"(i) such dealer ceases to be a dealer in securities, or*

*"(ii) such dealer commences holding the high-yield interest for investment,*

*there is hereby imposed (in addition to other taxes) an excise tax equal to the product of the highest rate of tax specified in section 11(b)(1) and the income of such dealer attributable to such interest for periods after the date of such cessation or commencement.*

*"(B) HOLDING FOR 31 DAYS OR LESS.—For purposes of subparagraph (A)(ii), a dealer shall not be treated as holding an interest for invest-*

*ment before the 32d day after the date such dealer acquired such interest unless such interest is so held as part of a plan to avoid the purposes of this paragraph.*

*"(C) ADMINISTRATIVE PROVISIONS.—The deficiency procedures of subtitle F shall apply to the tax imposed by this paragraph.*

*"(e) TREATMENT OF HIGH-YIELD INTERESTS IN PASS-THRU ENTITIES.—If a pass-thru entity (as defined in section 860E(e)(6)) issues a debt or equity interest—*

*"(1) which is supported by any regular interest in a FASIT, and*

*"(2) which has an original yield to maturity which is greater than each of—*

*"(A) the sum determined under clauses (i) and (ii) of section 163(i)(1)(B) with respect to such debt or equity interest, and*

*"(B) the yield to maturity on such regular interest,*

*there is hereby imposed on the pass-thru entity a tax (in addition to other taxes) equal to the product of the highest rate of tax specified in section 11(b)(1) and the income of the holder of such debt or equity interest which is properly attributable to such regular interest. For purposes of the preceding sentence, the yield*

*to maturity of any equity interest shall be determined under regulations prescribed by the Secretary.*

***"SEC. 860L. DEFINITIONS AND OTHER SPECIAL RULES.***

*"(a) FASIT.—*

*"(1) IN GENERAL.—For purposes of this title, the terms 'financial asset securitization investment trust' and 'FASIT' mean any entity—*

*"(A) for which an election to be treated as a FASIT applies for the taxable year,*

*"(B) all of the interests in which are regular interests or the ownership interest,*

*"(C) which has only 1 ownership interest and such ownership interest is held directly by an eligible corporation,*

*"(D) as of the close of the 3rd month beginning after the day of its formation and at all times thereafter, substantially all of the assets of which (including assets treated as held by the entity under section 860I(c)(2)) consist of permitted assets, and*

*"(E) which is not described in section 851(a).*

*A rule similar to the rule of the last sentence of section 860D(a) shall apply for purposes of this paragraph.*

*"(2) ELIGIBLE CORPORATION.—For purposes of paragraph (1)(C), the term 'eligible corporation' means any domestic C corporation other than—*

*"(A) a corporation which is exempt from, or is not subject to, tax under this chapter,*

*"(B) an entity described in section 851(a) or 856(a),*

*"(C) a REMIC, and*

*"(D) an organization to which part I of subchapter T applies.*

*"(3) ELECTION.—*

*"(A) IN GENERAL.—An entity (otherwise meeting the requirements of paragraph (1)) may elect to be treated as a FASIT. Except as provided in paragraph (5), such an election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.*

*"(B) ELECTIONS MADE AFTER 1ST TAXABLE YEAR OF ENTITY.—If the election under subparagraph (A) is made after the first taxable year of the entity, all property held (or treated as held under section 860I(c)(2)) by such entity as of the first day of the first taxable year for which such election is made shall be treated as contributed*

*to such entity on such first day by the holder of the ownership interest in such entity.*

*"(4) TERMINATION.—If any entity ceases to be a FASIT at any time during the taxable year, such entity shall not be treated as a FASIT for such taxable year or any succeeding taxable year.*

*"(5) INADVERTENT TERMINATIONS, ETC.—Rules similar to the rules of section 860D(b)(2)(B) shall apply to inadvertent failures to qualify or remain qualified as a FASIT.*

*"(b) INTERESTS IN FASIT.—For purposes of this part—*

*"(1) REGULAR INTEREST.—*

*"(A) IN GENERAL.—The term 'regular interest' means any interest which is issued by a FASIT with fixed terms and which is designated as a regular interest if—*

*"(i) such interest unconditionally entitles the holder to receive a specified principal amount (or other similar amount),*

*"(ii) except as otherwise provided by the Secretary—*

*"(I) in the case of a FASIT which would be treated as a REMIC if an election under section 860D(b) had*

*been made, interest payments (or other similar amounts), if any, with respect to such interest at or before maturity meet the requirements applicable under clause (i) or (ii) of section 860G(a)(1)(B), or*

*"(II) in the case of any other FASIT, interest payments (or other similar amounts), if any, with respect to such interest are determined using a current rate which is reasonably expected to measure contemporaneous variations in the cost of newly borrowed funds in the currency in which the regular interest is denominated,*

*"(iii) such interest does not have a stated maturity (including options to renew) greater than 30 years (or such longer period as may be permitted by regulations),*

*"(iv) the issue price of such interest does not exceed 125 percent of its stated principal amount, and*

*"(v) the yield to maturity on such interest is less than the sum determined under*

*section 163(i)(1)(B) with respect to such interest.*

*Interest shall not fail to meet the requirements of clause (i) merely because the timing (but not the amount) of the principal payments (or other similar amounts) may be contingent on the extent that payments on debt instruments held by the FASIT are made in advance of anticipated payments and on the amount of income from permitted assets.*

*"(B) HIGH-YIELD INTERESTS.—*

*"(i) IN GENERAL.—The term 'regular interest' includes any high-yield interest.*

*"(ii) HIGH-YIELD INTEREST.—The term 'high-yield interest' means any interest which would be described in subparagraph (A) but for failing to meet the requirements of one or more of clauses (i), (iv), or (v) thereof.*

*"(2) OWNERSHIP INTEREST.—The term 'ownership interest' means the interest issued by a FASIT which is designated as an ownership interest and which is not a regular interest.*

*"(c) PERMITTED ASSETS.—For purposes of this part—*

*"(1) IN GENERAL.—The term 'permitted asset' means—*

*"(A) cash or cash equivalents,*

*"(B) any debt instrument (as defined in section 1275(a)(1)) under which interest payments (or other similar amounts), if any, at or before maturity meet the requirements applicable under clause (i) or (ii) of section 860G(a)(1)(B),*

*"(C) foreclosure property,*

*"(D) any asset—*

*"(i) which is an interest rate or foreign currency notional principal contract, letter of credit, insurance, guarantee against payment defaults, or other similar instrument, permitted by the Secretary, and*

*"(ii) which is a reasonably required to guarantee or hedge against the FASIT's risks associated with being the obligor on interests issued by the FASIT, and*

*"(E) contract rights to acquire debt instruments described in subparagraph (B) or assets described in subparagraph (D).*

*"(2) DEBT ISSUED BY HOLDER OF OWNERSHIP INTEREST NOT PERMITTED ASSET.—The term 'permitted asset' shall not include any debt instrument is-*

*sued by the holder of the ownership interest in the FASIT or by any person related to such holder or any direct or indirect interest in such a debt instrument. The preceding sentence shall not apply to cash equivalents and to any other investment specified in regulations prescribed by the Secretary.*

*"(3) FORECLOSURE PROPERTY.—The term 'foreclosure property' means property—*

*"(A) which would be foreclosure property under section 856(e) (determined without regard to paragraph (5) thereof) if acquired by a real estate investment trust, and*

*"(B) which is acquired in connection with the default or imminent default of a debt instrument held by the FASIT unless the security interest in such property was created for the principal purpose of permitting the FASIT to invest in such property.*

*Solely for purposes of subsection (a)(1), the determination of whether any property is foreclosure property shall be made without regard to section 856(e)(4).*

*"(d) TAX ON PROHIBITED TRANSACTIONS.—*

*"(1) IN GENERAL.—There is hereby imposed for each taxable year of a FASIT a tax equal to 100 per-*

*cent of the net income derived from prohibited transactions.*

*"(2) PROHIBITED TRANSACTIONS.—For purposes of this part, the term 'prohibited transaction' means—*

*"(A) the receipt of any income derived from any asset that is not a permitted asset,*

*"(B) except as provided in paragraph (3), the disposition of any permitted asset,*

*"(C) the receipt of any income derived from any loan originated by the FASIT, and*

*"(D) the receipt of any income representing a fee or other compensation for services (other than any fee received as compensation for a waiver, amendment, or consent under permitted assets (other than foreclosure property) held by the FASIT).*

*"(3) EXCEPTION FOR INCOME FROM CERTAIN DISPOSITIONS.—*

*"(A) IN GENERAL.—Paragraph (2)(B) shall not apply to a disposition which would not be a prohibited transaction (as defined in section 860F(a)(2)) by reason of—*

*"(i) clause (ii), (iii), or (iv) of section 860F(a)(2)(A), or*

*"(ii) section 860F(a)(5),*

*if the FASIT were treated as a REMIC and debt instruments described in subsection (c)(1)(B) were treated as qualified mortgages.*

*"(B) SUBSTITUTION OF DEBT INSTRUMENTS; REDUCTION OF OVER-COLLATERALIZATION.—Paragraph (2)(B) shall not apply to—*

*"(i) the substitution of a debt instrument described in subsection (c)(1)(B) for another debt instrument which is a permitted asset, or*

*"(ii) the distribution of a debt instrument contributed by the holder of the ownership interest to such holder in order to reduce over-collateralization of the FASIT,*

*but only if a principal purpose of acquiring the debt instrument which is disposed of was not the recognition of gain (or the reduction of a loss) as a result of an increase in the market value of the debt instrument after its acquisition by the FASIT.*

*"(C) LIQUIDATION OF CLASS OF REGULAR INTERESTS.—Paragraph (2)(B) shall not apply*

*to the complete liquidation of any class of regular interests.*

*"(4) NET INCOME.—For purposes of this subsection, net income shall be determined in accordance with section 860F(a)(3).*

*"(e) TAX ON INCOME FROM FORECLOSURE PROPERTY.—*

*"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the net income from foreclosure property of each FASIT. Such tax shall be computed by multiplying the net income from foreclosure property by the highest rate of tax specified in section 11(b).*

*"(2) NET INCOME FROM FORECLOSURE PROPERTY.—For purposes of this part, the term 'net income from foreclosure property' means the amount which would be the FASIT's net income from foreclosure property under section 857(b)(4)(B) if the FASIT were a real estate investment trust.*

*"(f) COORDINATION WITH WASH SALES RULES.—Rules similar to the rules of section 860F(d) shall apply to the ownership interest in a FASIT.*

*"(g) RELATED PERSON.—For purposes of this part, a person (hereinafter in this subsection referred to as the 'related person') is related to any person if—*

*"(1) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or*

*"(2) the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).*

*For purposes of paragraph (1), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.*

*"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent the abuse of the purposes of this part through transactions which are not primarily related to securitization of debt instruments by a FASIT.".*

*(b) TECHNICAL AMENDMENTS.—*

*(1) Paragraph (2) of section 26(b) is amended by striking "and" at the end of subparagraph (M), by striking the period at the end of subparagraph (N) and inserting ", and", and by adding at the end the following new subparagraphs:*

*"(O) section 860K (relating to treatment of transfers of high-yield interests to disqualified holders).".*

*(2) Paragraph (6) of section 56(g) is amended by striking "or REMIC" and inserting "REMIC, or FASIT".*

*(3) Clause (ii) of section 382(l)(4)(B) is amended by striking "or a REMIC to which part IV of subchapter M applies" and inserting "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies".*

*(4) Paragraph (1) of section 582(c) is amended by inserting ", and any regular or ownership interest in a FASIT," after "REMIC".*

*(5) Subparagraph (E) of section 856(c)(6) is amended by adding at the end the following new sentence: "References in the preceding provisions of this subparagraph to a REMIC shall be treated as including a reference to a FASIT.".*

*(6) Subparagraph (C) of section 1202(e)(4) is amended by striking "or REMIC" and inserting "REMIC, or FASIT".*

*(7) Clause (xi) of section 7701(a)(19)(C) is amended to read as follows:*

*"(xi) any regular or residual interest in a REMIC, and any regular or ownership interest in a FASIT, but only in the proportion which the assets of such REMIC or*

*FASIT consist of property described in any of the preceding clauses of this subparagraph; except that if 95 percent or more of the assets of such REMIC or FASIT are assets described in clauses (i) through (x), the entire interest in the REMIC or FASIT shall qualify.".*

*(8) Subparagraph (A) of section 7701(i)(2) is amended by inserting "or a FASIT" after "a REMIC".*

*(c) CLERICAL AMENDMENT.—The table of parts for subchapter M of chapter 1 is amended by adding at the end the following new item:*

*"Part V. Financial asset securitization investment trusts.".*

*(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.*

## *CHAPTER 8—DEPRECIATION PROVISIONS*

### *SEC. 11361. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.*

*(a) TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.—*

*(1) IN GENERAL.—Section 118 (relating to contributions to the capital of a corporation) is amended—*

*(A) by redesignating subsection (c) as subsection (e), and*

*(B) by inserting after subsection (b) the following new subsections:*

*"(c) SPECIAL RULES FOR WATER AND SEWERAGE DISPOSAL UTILITIES.—*

*"(1) GENERAL RULE.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—*

*"(A) such amount is a contribution in aid of construction,*

*"(B) in the case of contribution of property other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and*

*"(C) such amount (or any property acquired or constructed with such amount) is not included in the taxpayer's rate base for rate-making purposes.*

*"(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—*

*"(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—*

*"(i) which is the property for which the contribution was made or is of the same type as such property, and*

*"(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,*

*"(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and*

*"(C) accurate records are kept of the amounts contributed and expenditures made, the expenditures to which contributions are allocated, and the year in which the contributions and expenditures are received and made.*

*"(3) DEFINITIONS.—For purposes of this subsection—*

*"(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term*

*shall not include amounts paid as service charges for starting or stopping services.*

*"(B) PREDOMINANTLY.—The term 'predominantly' means 80 percent or more.*

*"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.*

*"(4) DISALLOWANCE OF DEDUCTIONS AND CREDITS; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.*

*"(d) STATUTE OF LIMITATIONS.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (c), then—*

*"(1) the statutory period for the assessment of any deficiency attributable to any part of such*

*amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—*

*"(A) the amount of the expenditure referred to in subparagraph (A) of subsection (c)(2),*

*"(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or*

*"(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (c)(2); and*

*"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".*

*(2) CONFORMING AMENDMENT.—Section 118(b) is amended by inserting "except as provided in subsection (c)," before "the term".*

*(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received after the date of the enactment of this Act.*

*(b) RECOVERY METHOD AND PERIOD FOR WATER UTILITY PROPERTY.—*

*(1) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) is amended by adding at the end the following new subparagraph:*

*"(F) Water utility property described in subsection (e)(5).".*

*(2) 25-YEAR RECOVERY PERIOD.—The table contained in section 168(c)(1) is amended by inserting the following item after the item relating to 20-year property:*

*"Water utility property ..... 25 years".*

*(3) WATER UTILITY PROPERTY.—*

*(A) IN GENERAL.—Section 168(e) is amended by adding at the end the following new paragraph:*

*"(5) WATER UTILITY PROPERTY.—The term 'water utility property' means property—*

*"(A) which is an integral part of the gathering, treatment, or commercial distribution of water, and which, without regard to this paragraph, would be 20-year property, and*

*"(B) any municipal sewer.".*

*(B) CONFORMING AMENDMENTS.—Section 168 is amended—*

*(i) by striking subparagraph (F) of subsection (e)(3), and*

*(ii) by striking the item relating to subparagraph (F) in the table in subsection (g)(3).*

*(4) ALTERNATIVE SYSTEM.—Clause (iv) of section 168(g)(2)(C) is amended by inserting "or water utility property" after "tunnel bore".*

*(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act, other than property placed in service pursuant to a binding contract in effect on such date and at all times thereafter before the property is placed in service.*

***SEC. 11362. DEDUCTION FOR CERTAIN OPERATING AUTHORITY.***

*(a) GENERAL RULE.—For purpose of chapter 1 of the Internal Revenue Code of 1986, in computing the taxable income of a taxpayer who, on January 1, 1995, held one or more operating authorities preempted by section 601 of the Federal Aviation Administration Authorization Act of 1994, the taxpayer shall be entitled to deduct ratably over the 36-month period beginning with January 1995 an amount equal to the aggregate adjusted bases of such operating authorities held by the taxpayer on January 1, 1995.*

*(b) TREATMENT AS DEPRECIATION.—Any deduction under subsection (a) shall be treated as a deduction for depreciation for purposes of the Internal Revenue Code of 1986.*

*(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years ending after December 31, 1994.*

**SEC. 11363. CLASS LIFE FOR GAS STATION CONVENIENCE STORES AND SIMILAR STRUCTURES.**

*(a) IN GENERAL.—Section 168(e)(3)(E) (classifying certain property as 15-year property) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end the following new clause:*

> *"(iii) any section 1250 property which is a retail motor fuels outlet (whether or not food or other convenience items are sold at the outlet).".*

*(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 168(g)(3) is amended by inserting after the item relating to subparagraph (E)(ii) in the table contained therein the following new item:*

| | |
|---|---|
| *"(E)(iii)* | *20".* |

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property which is placed in service on or after the date of the enactment of this Act and to*

*which section 168 of the Internal Revenue Code of 1986 applies after the amendment made by section 201 of the Tax Reform Act of 1986. A taxpayer may elect to have such amendments apply with respect to any property placed in service before such date and to which such section so applies.*

## *CHAPTER 9—OTHER PROVISIONS*

### *SEC. 11371. APPLICATION OF FAILURE-TO-PAY PENALTY TO SUBSTITUTE RETURNS.*

*(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:*

*"(g) TREATMENT OF RETURNS PREPARED BY SECRETARY UNDER SECTION 6020(b).—In the case of any return made by the Secretary under section 6020(b)—*

*"(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but*

*"(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a).".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act.*

***SEC. 11372. EXTENSION OF WITHHOLDING TO CERTAIN GAMBLING WINNINGS.***

*(a) REPEAL OF EXEMPTION FOR BINGO AND KENO.—Paragraph (5) of section 3402(q) is amended to read as follows:*

*"(5) EXEMPTION FOR SLOT MACHINES.—The tax imposed under paragraph (1) shall not apply to winnings from a slot machine.".*

*(b) THRESHOLD AMOUNT.—Paragraph (3) of section 3402(q) is amended—*

*(1) by striking "(B) and (C)" in subparagraph (A) and inserting "(B), (C), and (D)", and*

*(2) by adding at the end the following new subparagraph:*

*"(D) BINGO AND KENO.—Proceeds of more than $5,000 from a wager placed in a bingo or keno game.".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.*

***SEC. 11373. LOSSES FROM FORECLOSURE PROPERTY.***

*(a) IN GENERAL.—Section 818(b) is amended by adding at the end the following new paragraph:*

*"(2) LOSSES FROM FORECLOSURE PROPERTY.—*

*"(A) IN GENERAL.—The amortizable portion of any loss arising from the sale or exchange of foreclosure property which (without regard to*

*this paragraph) is treated as a capital loss shall be treated as a loss from the sale or exchange of real property used in carrying on an insurance business which is recognized ratably over the 10-taxable year period beginning with the taxable year following the taxable year in which the sale or exchange of the foreclosure property occurred.*

*"(B) AMORTIZABLE PORTION.—For purposes of this paragraph—*

*"(i) IN GENERAL.—The amortizable portion of a loss referred to in subparagraph (A) is the percentage (not greater than 20 percent) of such loss to which the taxpayer elects to have this paragraph apply.*

*"(ii) SUBSEQUENT MODIFICATIONS OF AMOUNT.—The taxpayer may elect for any of the taxable years in the change period to change (subject to the limitation under clause (i)) the percentage of a loss referred to in subparagraph (A) which is treated as the amortizable portion of such loss. If the taxpayer so elects, each such changed percentage shall be treated as if it were the percentage specified in the election made under*

*clause (i), and proper adjustments shall be made for all taxable years to reflect each such change.*

*"(iii) STATUTE OF LIMITATIONS.— For purposes of section 6501(h) and 6511(d)(2), any change by reason of an election under clause (ii) shall be treated as a capital loss carryback from the year such change is made.*

*"(iv) CHANGE PERIOD.—For purposes of clause (ii), the change period is the 3-taxable year period following the taxable year in which the sale or exchange of the foreclosure property occurred.*

*"(C) ELECTION TO TREAT UNAMORTIZED ORDINARY LOSSES AS CAPITAL LOSSES.—*

*"(i) IN GENERAL.—The taxpayer may elect to treat any unused amount of any ordinary loss described in subparagraph (A) as a capital loss arising in the taxable year for which the election under this subparagraph is made.*

*"(ii) LIMITATION ON ELECTION.—An election may be made under clause (i) with respect to any loss only for any taxable year*

*in the 5-taxable year period following the taxable year referred to in subparagraph (A).*

*"(iii) UNUSED AMOUNT OF ORDINARY LOSS.—For purposes of clause (i), the unused amount of an ordinary loss is the amount of the amortizable portion of any loss which has not been recognized as of the close of the preceding taxable year.*

*"(iv) ORDERING RULE.—Any unused amount of an ordinary loss with respect to which an election was made under clause (i) shall be treated as coming first from the last taxable year in the 10-taxable year period referred to in subparagraph (A) and then from each preceding taxable year in reverse chronological order.*

*"(D) FORECLOSURE PROPERTY.—For purposes of this paragraph, the term 'foreclosure property' means any real property used in a trade or businesses (as defined in section 1231(b) without regard to this subsection) which is acquired by a life insurance company as the result of—*

*"(i) such company having bid on such property at foreclosure, or*

*"(ii) such company having otherwise reduced such property to ownership or possession by agreement or process of law, after there was a default (or default was imminent) on indebtedness which such property secured.*

*"(E) TIME FOR MAKING ELECTIONS.—Any election under this paragraph for any taxable year shall be made on or before the due date (including extensions) for the return of tax for such taxable year."*

*(b) CONFORMING AMENDMENTS.—Section 818(b) is amended—*

*(1) by striking "In the" and inserting:*

*"(1) IN GENERAL.—In the ", and*

*(2) by redesignating paragraphs (1) and (2) and subparagraphs (A) and (B) of paragraph (1) as subparagraphs (A) and (B) and clauses (i) and (ii) of subparagraph (A), respectively.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.*

***SEC. 11374. NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS BY COMMON TRUST FUNDS TO REGULATED INVESTMENT COMPANIES.***

*(a) GENERAL RULE.—Section 584 (relating to common trust funds) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:*

*"(h) NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS TO REGULATED INVESTMENT COMPANIES.—*

*"(1) IN GENERAL.—If—*

*"(A) pursuant to a single plan, a common trust fund transfers substantially all of its assets to one or more regulated investment companies in exchange solely for stock in the company or companies to which such assets are so transferred, and*

*"(B) such stock is distributed by such common trust fund to participants in such common trust fund in exchange solely for their interests in such common trust fund,*

*no gain or loss shall be recognized by such common trust fund by reason of such transfer or distribution, and no gain or loss shall be recognized by any participant in such common trust fund by reason of such exchange.*

*"(2) BASIS RULES.—*

*"(A) REGULATED INVESTMENT COMPANY.—The basis of any asset received by a regulated investment company in a transfer referred to in paragraph (1)(A) shall be the same as it would be in the hands of the common trust fund.*

*"(B) PARTICIPANTS.—The basis of the stock which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the property exchanged. If stock in more than one regulated investment company is received in such exchange, the basis determined under the preceding sentence shall be allocated among the stock in each such company on the basis of respective fair market values.*

*"(3) TREATMENT OF ASSUMPTIONS OF LIABILITY.—*

*"(A) IN GENERAL.—In determining whether the transfer referred to in paragraph (1)(A) is in exchange solely for stock in one or more regulated investment companies, the assumption by any such company of a liability of the common trust fund, and the fact that any property transferred by the common trust fund is subject to a liability, shall be disregarded.*

*"(B) SPECIAL RULE WHERE ASSUMED LIABILITIES EXCEED BASIS.—*

*"(i) IN GENERAL.—If, in any transfer referred to in paragraph (1)(A), the assumed liabilities exceed the aggregate adjusted bases (in the hands of the common trust fund) of the assets transferred to the regulated investment company or companies—*

*"(I) notwithstanding paragraph (1), gain shall be recognized to the common trust fund on such transfer in an amount equal to such excess,*

*"(II) the basis of the assets received by the regulated investment company or companies in such transfer shall be increased by the amount so recognized, and*

*"(III) any adjustment to the basis of a participant's interest in the common trust fund as a result of the gain so recognized shall be treated as occurring immediately before the exchange referred to in paragraph (1)(B).*

*If the transfer referred to in paragraph (1)(A) is to two or more regulated investment companies, the basis increase under subclause (II) shall be allocated among such companies on the basis of the respective fair market values of the assets received by each of such companies.*

*"(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means the aggregate of—*

*"(I) any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A), and*

*"(II) any liability to which property so transferred is subject.*

*"(4) COMMON TRUST FUND MUST MEET DIVERSIFICATION RULES.—This subsection shall not apply to any common trust fund which would not meet the requirements of section 368(a)(2)(F)(ii) if it were a corporation. For purposes of the preceding sentence, Government securities shall not be treated as securities of an issuer in applying the 25-percent and 50-percent test and such securities shall not be excluded*

*for purposes of determining total assets under clause (iv) of section 368(a)(2)(F).".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after December 31, 1995.*

***SEC. 11375. EXCLUSION FOR ENERGY CONSERVATION SUBSIDIES LIMITED TO SUBSIDIES WITH RESPECT TO DWELLING UNITS.***

*(a) IN GENERAL.—Paragraph (1) of section 136(c) (defining energy conservation measure) is amended by striking "energy demand—" and all that follows and inserting "energy demand with respect to a dwelling unit."*

*(b) CONFORMING AMENDMENTS.—*

*(1) Subsection (a) of section 136 is amended to read as follows:*

*"(a) EXCLUSION.—Gross income shall not include the value of any subsidy provided (directly or indirectly) by a public utility to a customer for the purchase or installation of any energy conservation measure."*

*(2) Paragraph (2) of section 136(c) is amended—*

*(A) by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and*

*(B) by striking "AND SPECIAL RULES" in the paragraph heading.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1995, unless received pursuant to a written binding contract in effect on September 13, 1995, and at all times thereafter.*

***SEC. 11376. ELECTION TO CEASE STATUS AS QUALIFIED SCHOLARSHIP FUNDING CORPORATION.***

*(a) IN GENERAL.—Subsection (d) of section 150 (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:*

*"(3) ELECTION TO CEASE STATUS AS QUALIFIED SCHOLARSHIP FUNDING CORPORATION.—*

*"(A) IN GENERAL.—Any qualified scholarship funding bond, and qualified student loan bond, outstanding on the date of the issuer's election under this paragraph (and any bond (or series of bonds) issued to refund such a bond) shall not fail to be a tax-exempt bond solely because the issuer ceases to be described in subparagraphs (A) and (B) of paragraph (2) if the issuer meets the requirements of subparagraphs (B) and (C) of this paragraph.*

*"(B) ASSETS AND LIABILITIES OF ISSUER TRANSFERRED TO TAXABLE SUBSIDIARY.—The*

*requirements of this subparagraph are met by an issuer if—*

*"(i) all of the student loan notes of the issuer and other assets pledged to secure the repayment of qualified scholarship funding bond indebtedness of the issuer are transferred to another corporation within a reasonable period after the election is made under this paragraph;*

*"(ii) such transferee corporation assumes or otherwise provides for the payment of all of the qualified scholarship funding bond indebtedness of the issuer within a reasonable period after the election is made under this paragraph;*

*"(iii) to the extent permitted by law, such transferee corporation assumes all of the responsibilities, and succeeds to all of the rights, of the issuer under the issuer's agreements with the Secretary of Education in respect of student loans;*

*"(iv) immediately after such transfer, the issuer, together with any other issuer which has made an election under this paragraph in respect of such transferee,*

*hold all of the senior stock in such transferee corporation; and*

*"(v) such transferee corporation is not exempt from tax under this chapter.*

*"(C) ISSUER TO OPERATE AS INDEPENDENT ORGANIZATION DESCRIBED IN SECTION 501(c)(3).—The requirements of this subparagraph are met by an issuer if, within a reasonable period after the transfer referred to in subparagraph (B)—*

*"(i) the issuer is described in section 501(c)(3) and exempt from tax under section 501(a);*

*"(ii) the issuer no longer is described in subparagraphs (A) and (B) of paragraph (2); and*

*"(iii) at least 80 percent of the members of the board of directors of the issuer are independent members.*

*"(D) SENIOR STOCK.—For purposes of this paragraph, the term 'senior stock' means stock—*

*"(i) which participates pro rata and fully in the equity value of the corporation with all other common stock of the corporation but which has the right to payment of*

*liquidation proceeds prior to payment of liquidation proceeds in respect of other common stock of the corporation;*

*"(ii) which has a fixed right upon liquidation and upon redemption to an amount equal to the greater of—*

*"(I) the fair market value of such stock on the date of liquidation or redemption (whichever is applicable); or*

*"(II) the fair market value of all assets transferred in exchange for such stock and reduced by the amount of all liabilities of the corporation which has made an election under this paragraph assumed by the transferee corporation in such transfer;*

*"(iii) the holder of which has the right to require the transferee corporation to redeem on a date that is not later than 10 years after the date on which an election under this paragraph was made and pursuant to such election such stock was issued; and*

*"(iv) in respect of which, during the time such stock is outstanding, there is not*

*outstanding any equity interest in the corporation having any liquidation, redemption or dividend rights in the corporation which are superior to those of such stock.*

*"(E) INDEPENDENT MEMBER.—The term 'independent member' means a member of the board of directors of the issuer who (except for services as a member of such board) receives no compensation directly or indirectly—*

*"(i) for services performed in connection with such transferee corporation, or*

*"(ii) for services as a member of the board of directors or as an officer of such transferee corporation.*

*For purposes of clause (ii), the term 'officer' includes any individual having powers or responsibilities similar to those of officers.*

*"(F) COORDINATION WITH CERTAIN PRIVATE FOUNDATION TAXES.—For purposes of sections 4942 (relating to the excise tax on a failure to distribute income) and 4943 (relating to the excise tax on excess business holdings), the transferee corporation referred to in subparagraph (B) shall be treated as a functionally related business (within the meaning of section 4942(j)(4)) with*

*respect to the issuer during the period commencing with the date on which an election is made under this paragraph and ending on the date that is the earlier of—*

*"(i) the last day of the last taxable year for which more than 50 percent of the gross income of such transferee corporation is derived from, or more than 50 percent of the assets (by value) of such transferee corporation consists of, student loan notes incurred under the Higher Education Act of 1965; or*

*"(ii) the last day of the taxable year of the issuer during which occurs the date which is 10 years after the date on which the election under this paragraph is made.*

*"(G) ELECTION.—An election under this paragraph may be revoked only with the consent of the Secretary."*

*(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.*

***SEC. 11377. CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS TREATED AS UNRELATED BUSINESS TAXABLE INCOME.***

*(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:*

*"(18) TREATMENT OF CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS.—*

*"(A) IN GENERAL.—Notwithstanding paragraph (1), any amount included in gross income under section 951(a)(1)(A) shall be included as an item of gross income derived from an unrelated trade or business to the extent the amount so included is attributable to insurance income (as defined in section 953) which, if derived directly by the organization, would be treated as gross income from an unrelated trade or business. There shall be allowed all deductions directly connected with amounts included in gross income under the preceding sentence.*

*"(B) EXCEPTION.—Subparagraph (A) shall not apply to income attributable to a policy of insurance or reinsurance with respect to which the person (directly or indirectly) insured is—*

*"(i) such organization,*

*"(ii) an affiliate of such organization which is exempt from tax under section 501(a), or*

*"(iii) a director or officer of, or an individual who performs services for, such organization or affiliate but only if the insurance covers primarily risks associated with the performance of services for the benefit of such organization or affiliate.*

*For purposes of this subparagraph, the determination as to whether an entity is an affiliate of an organization shall be made under rules similar to the rules of section 168(h)(4)(B).*

*"(C) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations for the application of this paragraph in the case of income paid through 1 or more entities or between 2 or more chains of entities."*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts included in gross income in any taxable year beginning after December 31, 1995.*

***SEC. 11378. REPEAL OF FINANCIAL INSTITUTION TRANSITION RULE TO INTEREST ALLOCATION RULES.***

*(a) IN GENERAL.—Paragraph (5) of section 1215(c) of the Tax Reform Act of 1986 (Public Law 99–514, 100 Stat. 2548) is hereby repealed.*

*(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

***SEC. 11379. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.***

*(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is hereby repealed.*

*(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 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) Sections 595 and 596 are hereby repealed.*

*(8) 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.*

*(9) Paragraph (3) of section 992(d) is amended by striking "or 593".*

*(10) Section 1038 is amended by striking subsection (f).*

*(11) Clause (ii) of section 1042(c)(4)(B) is amended by striking "or 593".*

*(12) Subsection (c) of section 1277 is amended by striking "or to which section 593 applies".*

*(13) Subparagraph (B) of section 1361(b)(2) is amended by striking "or to which section 593 applies".*

*(14) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 593, 595, and 596.*

*(c) EFFECTIVE DATE.—*

*(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

*(2) REPEAL OF SECTION 595.—The repeal of section 595 under subsection (b)(7) shall apply to property acquired in taxable years beginning after December 31, 1995.*

*(d) 6-YEAR SPREAD OF ADJUSTMENTS.—*

*(1) IN GENERAL.—In the case of any taxpayer who is required by reason of the amendments made by this section 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 section 593(c)(1) of such Code (as in effect on the day before the date of the enactment of this Act) as of the close of the taxpayer's last taxable year beginning before January 1, 1996, over*

*(ii) the lesser of—*

*(I) the balance of such reserves as of the close of the taxpayer's last tax-*

*able year beginning before January 1, 1988, or*

*(II) the balance of the reserves described in subclause (I), reduce by an amount determined 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 of such Code) which is not a large bank (as defined in section 585(c)(2) of such Code) 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 reserve as of the close of its last taxable year beginning before January 1, 1996, if the additions to such reserve 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), (6), and (7).*

*(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 subparagraph (A)(ii) 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 a taxable year beginning after December 31, 1995, and before January 1, 1998—*

*(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) of such Code 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 before January 1, 1996.*

*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 December 31, 1995, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary of the Treasury or his delegate.*

*(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) of such Code, 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) of such Code) 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) of such Code, there shall be taken into account only the excess 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) of such Code—*

*(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) CONTINUED APPLICATION OF SECTION 593(e).—Notwithstanding the amendments made by this section, in the case of a taxpayer to which paragraph (1) of this subsection applies, section 593(e) of such Code (as in effect on the day before the date of the enactment of this Act) shall continue to apply to such taxpayer as if such taxpayer were a domestic building and loan association but the amount of the reserves taken into account under subparagraphs (B)*

*and (C) of section 593(e)(1) (as so in effect) shall be the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.*

*(7) CERTAIN ITEMS INCLUDED AS SECTION 381(c) ITEMS.—The balance of the applicable excess reserves, and the balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection, shall be treated as items described in section 381(c) of such Code.*

*(8) 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)(14)(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.*

*(9) REGULATIONS.—The Secretary of the Treasury or his delegate shall prescribe such regulations as may be necessary to carry out this subsection, including regulations providing for the application of para-*

*graphs (4) and (6) in the case of acquisitions, mergers, spin-offs, and other reorganizations.*

***SEC. 11380. NEWSPAPER DISTRIBUTORS TREATED AS DIRECT SELLERS.***

*(a) IN GENERAL.—Section 3508(b)(2)(A) in amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:*

> *"(iii) is engaged in the trade or business of the delivering or distribution of newspapers or shopping news (including any services directly related to such trade or business),".*

*(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed after December 31, 1995.*

# *Subtitle J—Tax Simplification*

## *CHAPTER 1—PROVISIONS RELATING TO INDIVIDUALS*

### *Subchapter A—Provisions Relating To Rollover of Gain on Sale of Principal Residence*

***SEC. 11401. MULTIPLE SALES WITHIN ROLLOVER PERIOD.***

*(a) GENERAL RULE.—*

*(1) Section 1034(d) (relating to limitation on rollover of gain on sale of principal residence), as amended by sections 11321 and 11322, is amended by striking paragraphs (1) and (2) and by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.*

*(2) Paragraph (4) of section 1034(c) is amended to read as follows:*

*"(4) If the taxpayer, during the period described in subsection (a), purchases more than 1 residence which is used by him as his principal residence at some time within 2 years after the date of the sale of the old residence, only the first of such residences so used by him after the date of such sale shall constitute the new residence."*

*(3) Subsections (h)(1) and (k) of section 1034 are each amended by striking "(other than the 2 years referred to in subsection (c)(4))".*

*(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.*

***SEC. 11402. SPECIAL RULES IN CASE OF DIVORCE.***

*(a) IN GENERAL.—Subsection (c) of section 1034 is amended by adding at the end the following new paragraph:*

*"(5) If—*

*"(A) a residence is sold by an individual pursuant to a divorce or marital separation, and*

*"(B) the taxpayer used such residence as his principal residence at any time during the 2-year period ending on the date of such sale,*

*for purposes of this section, such residence shall be treated as the taxpayer's principal residence at the time of such sale."*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.*

***SEC. 11403. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE FOR CERTAIN SPOUSES.***

*(a) IN GENERAL.—Paragraph (2) of section 121(b) (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended by adding at the end the following new sentence: "For purposes of applying the preceding sentence to individuals who are married to each other, an election by one individual with respect to a sale or exchange occurring before the marriage shall be disregarded for purposes of permitting an election with respect to property owned and used*

*by the other individual as his principal residence throughout the 3-year period ending on the date of the marriage.''*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining whether an election may be made under section 121 of the Internal Revenue Code of 1986 with respect to a sale or exchange occurring after September 13, 1995.*

## *Subchapter B—Other Provisions*

### *SEC. 11411. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.*

*(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:*

*''(o) TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.—*

*''(1) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route and who receives qualified reimbursements for the expenses incurred by such employee for the use of a vehicle in performing such services—*

*''(A) the amount allowable as a deduction under this chapter for the use of a vehicle in per-*

*forming such services shall be equal to the amount of such qualified reimbursements; and*

*"(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).*

*"(2) DEFINITION OF QUALIFIED REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified reimbursements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letter Carriers' Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991."*

*(b) TECHNICAL AMENDMENT.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

***SEC. 11412. TREATMENT OF TRAVELING EXPENSES OF CERTAIN FEDERAL EMPLOYEES ENGAGED IN CRIMINAL INVESTIGATIONS.***

*(a) IN GENERAL.—Subsection (a) of section 162 is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to any Federal employee during any period for which such employee is certified by the Attorney General (or the designee thereof) as traveling on behalf of the United States in temporary duty status to investigate, or provide support services for the investigation of, a Federal crime."*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.*

## *CHAPTER 2—PENSION SIMPLIFICATION*

### *Subchapter A—Simplified Distribution Rules*

#### *SEC. 11421. REPEAL OF 5-YEAR INCOME AVERAGING FOR LUMP-SUM DISTRIBUTIONS.*

*(a) IN GENERAL.—Subsection (d) of section 402 (relating to taxability of beneficiary of employees' trust) is amended to read as follows:*

*"(d) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).".*

*(b) CONFORMING AMENDMENTS.—*

*(1) Subparagraph (D) of section 402(e)(4) (relating to other rules applicable to exempt trusts) is amended to read as follows:*

*"(D) LUMP-SUM DISTRIBUTION.—For purposes of this paragraph—*

*"(i) IN GENERAL.—The term 'lump sum distribution' means the distribution or payment within one taxable year of the recipient of the balance to the credit of an em-*

*ployee which becomes payable to the recipient—*

*"(I) on account of the employee's death,*

*"(II) after the employee attains age 59½,*

*"(III) on account of the employee's separation from service, or*

*"(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),*

*from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Subclause (III) of this clause shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and subclause (IV) shall be applied only with respect to an employee within the meaning of section 401(c)(1). For purposes of this clause, a distribution to two or more trusts shall be treated as a distribution to one recipient. For purposes of this paragraph, the balance to the credit of the em-*

*ployee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).*

*"(ii) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under clause (i)—*

*"(I) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and*

*"(II) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.*

*"(iii) COMMUNITY PROPERTY LAWS.—The provisions of this paragraph shall be*

*applied without regard to community property laws.*

*"(iv) AMOUNTS SUBJECT TO PENALTY.—This paragraph shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.*

*"(v) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this paragraph, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).*

*"(vi) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning*

*of section 415(k)(2)) under a defined benefit plan.*

*"(vii) LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this paragraph, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this clause, the balance to the credit of the alternate payee shall not include any amount payable to the employee.".*

*(2) Section 402(c) (relating to rules applicable to rollovers from exempt trusts) is amended by striking paragraph (10).*

*(3) Paragraph (1) of section 55(c) (defining regular tax) is amended by striking "shall not include any tax imposed by section 402(d) and".*

*(4) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pen-*

*sion plans taxed under section 402(d)) is hereby repealed.*

*(5) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).*

*(6) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended to read as follows:*

*"(ii) LUMP-SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump-sum distribution' means any distribution of the balance to the credit of an employee immediately before the distribution.".*

*(7) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.*

*(8) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.*

*(9) Section 691(c) (relating to deduction for estate tax) is amended by striking paragraph (5).*

*(10) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "section 1, 55, or 402(d)(1)" and inserting "section 1 or 55".*

*(11) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "section 1, 55, or 402(d)(1)" and inserting "section 1 or 55".*

*(12) Section 4980A(c)(4) is amended—*

*(A) by striking "to which an election under section 402(d)(4)(B) applies" and inserting "(as defined in section 402(e)(4)(D)) with respect to which the individual elects to have this paragraph apply",*

*(B) by adding at the end the following new flush sentence:*

*"An individual may elect to have this paragraph apply to only one lump-sum distribution.", and*

*(C) by striking the heading and inserting:*

*"(4) SPECIAL ONE-TIME ELECTION.—".*

*(13) Section 402(e) is amended by striking paragraph (5).*

*(c) EFFECTIVE DATES.—*

*(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.*

*(2) RETENTION OF CERTAIN TRANSITION RULES.—Notwithstanding any other provision of this section, the amendments made by this section shall not apply to any distribution for which the taxpayer elects the benefits of section 1122 (h)(3) or (h)(5) of the Tax Reform Act of 1986. For purposes of the preceding sentence, the rules of sections 402(c)(10) and 402(d) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this Act) shall apply.*

***SEC. 11422. REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.***

*(a) IN GENERAL.—Subsection (b) of section 101 is hereby repealed.*

*(b) CONFORMING AMENDMENTS.—*

*(1) Subsection (c) of section 101 is amended by striking "subsection (a) or (b)" and inserting "subsection (a)".*

*(2) Sections 406(e) and 407(e) are each amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).*

*(3) Section 7701(a)(20) is amended by striking ", for the purposes of applying the provisions of section 101(b) with respect to employees' death benefits".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

***SEC. 11423. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.***

*(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:*

*"(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—*

*"(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—*

*"(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—*

*"(i) subsection (b) shall not apply, and*

*"(ii) the investment in the contract shall be recovered as provided in this paragraph.*

*"(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—*

*"(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer re-*

*tirement plan as does not exceed the amount obtained by dividing—*

*"(I) the investment in the contract (as of the annuity starting date), by*

*"(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).*

*"(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.*

*"(iii) NUMBER OF ANTICIPATED PAYMENTS.—*

| **"If the age of the primary annuitant on the annuity starting date is:** | **The number of anticipated payments is:** |
|---|---|
| *Not more than 55* | *360* |
| *More than 55 but not more than 60* | *310* |
| *More than 60 but not more than 65* | *260* |
| *More than 65 but not more than 70* | *210* |
| *More than 70* | *160.* |

*"(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be deter-*

*mined under subsection (c)(1) without regard to subsection (c)(2).*

*"(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If, in connection with the commencement of annuity payments under any qualified employer retirement plan, the taxpayer receives a lump sum payment—*

*"(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and*

*"(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.*

*"(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.*

*"(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to*

*take into account the period on the basis of which such payments are made.*

*"(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).*

*"(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract.".*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after December 31, 1995.*

***SEC. 11424. REQUIRED DISTRIBUTIONS.***

*(a) IN GENERAL.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:*

*"(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph—*

*"(i) IN GENERAL.—The term 'required beginning date' means April 1 of the calendar year following the later of—*

*"(I) the calendar year in which the employee attains age 70½, or*

*"(II) the calendar year in which the employee retires.*

*"(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply—*

*"(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70½, or*

*"(II) for purposes of section 408 (a)(6) or (b)(3).*

*"(iii) ACTUARIAL ADJUSTMENT.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70½, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan.*

*"(iv) EXCEPTION FOR GOVERNMENTAL AND CHURCH PLANS.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes*

*of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1995.*

## *Subchapter B—Increased Access to Pension Plans*

### *SEC. 11431. TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).*

*(a) IN GENERAL.—Subparagraph (B) of section 401(k)(4) is amended to read as follows:*

*"(B) ELIGIBILITY OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.—*

*"(i) GOVERNMENTS INELIGIBLE.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a State or local government or political subdivision thereof, or any agency*

*or instrumentality thereof. This clause shall not apply to a rural cooperative plan.*

*"(ii) TAX-EXEMPTS ELIGIBLE.—*

*"(I) IN GENERAL.—Any organization exempt from tax under this subtitle may include a qualified cash or deferred arrangement as part of a plan maintained by it.*

*"(II) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—An employer which is an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in part by any of the foregoing shall be treated as an organization exempt from tax under this subtitle for purposes of subclause (I).*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December*

*31, 1996, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.*

## *Subchapter C—Nondiscrimination Provisions*

### *SEC. 11441. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES; REPEAL OF FAMILY AGGREGATION.*

*(a) IN GENERAL.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:*

*"(1) IN GENERAL.—The term 'highly compensated employee' means any employee who—*

*"(A) was a 5-percent owner at any time during the year or the preceding year, or*

*"(B) for the preceding year had compensation from the employer in excess of $80,000 and was in the top-paid group of the employer.*

*The Secretary shall adjust the $80,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter ending September 30, 1996.".*

*(b) REPEAL OF FAMILY AGGREGATION RULES.—*

*(1) IN GENERAL.—Paragraph (6) of section 414(q) is hereby repealed.*

*(2) COMPENSATION LIMIT.—Paragraph (17)(A) of section 401(a) is amended by striking the last sentence.*

*(3) DEDUCTION.—Subsection (l) of section 404 is amended by striking the last sentence.*

*(c) CONFORMING AMENDMENTS.—*

*(1)(A) Subsection (q) of section 414 is amended by striking paragraphs (2), (5), (8), and (12) and by redesignating paragraphs (3), (4), (7), (9), (10), and (11) as paragraphs (2) through (7), respectively.*

*(B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii), 408(k)(2)(C), and 416(i)(1)(D) are each amended by striking "section 414(q)(7)" and inserting "section 414(q)(4)".*

*(C) Section 416(i)(1)(A) is amended by striking "section 414(q)(8)" and inserting "section 414(r)(9)".*

*(2)(A) Section 414(r) is amended by adding at the end the following new paragraph:*

*"(9) EXCLUDED EMPLOYEES.—For purposes of this subsection, the following employees shall be excluded:*

*"(A) Employees who have not completed 6 months of service.*

*"(B) Employees who normally work less than 17½ hours per week.*

*"(C) Employees who normally work not more than 6 months during any year.*

*"(D) Employees who have not attained the age of 21.*

*"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.*

*Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph.".*

*(B) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(8)" and inserting "paragraph (9)".*

*(3) Section 1114(c)(4) of the Tax Reform Act of 1986 is amended by adding at the end the following new sentence: "Any reference in this paragraph to section 414(q) shall be treated as a reference to such section as in effect on the day before the date of the*

*enactment of the Revenue Reconciliation Act of 1995.".*

*(d) EFFECTIVE DATE.—*

*(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1995, except that in determining whether an employee is a highly compensated employee for years beginning in 1996, such amendments shall be treated as having been in effect for years beginning in 1995.*

*(2) FAMILY AGGREGATION.—The amendments made by subsection (b) shall apply to years beginning after December 31, 1995.*

***SEC. 11442. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.***

*(a) GENERAL RULE.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:*

*"(A) IN GENERAL.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on each day of the plan year such trust benefits at least the lesser of—*

*"(i) 50 employees of the employer, or*

*"(ii) the greater of—*

*"(I) 40 percent of all employees of the employer, or*

*"(II) 2 employees (or if there is only 1 employee, such employee).".*

*(b) SEPARATE LINE OF BUSINESS TEST.—Section 401(a)(26)(G) (relating to separate line of business) is amended by striking "paragraph (7)" and inserting "paragraph (2)(A) or (7)".*

*(c) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.*

***SEC. 11443. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.***

*(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements), as amended by this Act, is amended by adding at the end the following new paragraph:*

*"(12) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—*

*"(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—*

*"(i) meets the contribution requirements of subparagraph (B) or (C), and*

*"(ii) meets the notice requirements of subparagraph (D).*

*"(B) MATCHING CONTRIBUTIONS.—*

*"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to—*

*"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and*

*"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.*

*"(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with*

*respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.*

*"(iii) ALTERNATIVE PLAN DESIGNS.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—*

*"(I) the level of an employer's matching contribution does not increase as an employee's elective contributions increase, and*

*"(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).*

*"(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.*

*"(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—*

*"(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and*

*"(ii) is written in a manner calculated to be understood by the average employee eligible to participate.*

*"(E) OTHER REQUIREMENTS.—*

*"(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to all employer contributions (including matching contributions).*

*"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.*

*"(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement.".*

*(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (re-*

*lating to nondiscrimination test for matching contributions and employee contributions), as amended by this Act, is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:*

*"(11) ALTERNATIVE METHOD OF SATISFYING TESTS.—*

*"(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—*

*"(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(12),*

*"(ii) meets the notice requirements of subsection (k)(12)(D), and*

*"(iii) meets the requirements of subparagraph (B).*

*"(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—*

*"(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elec-*

*tive deferrals in excess of 6 percent of the employee's compensation,*

*"(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and*

*"(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation is not greater than that with respect to an employee who is not a highly compensated employee.".*

*(c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED EMPLOYEE PERCENTAGE.—*

*(1) CASH OR DEFERRED ARRANGEMENTS.—Clause (ii) of section 401(k)(3)(A) is amended—*

*(A) by striking "such year" and inserting "the plan year",*

*(B) by striking "for such plan year" and inserting "the preceding plan year", and*

*(C) by adding at the end the following new sentence: "An arrangement may apply this clause by using the plan year rather than the preceding plan year if the employer so elects, ex-*

*cept that if such an election is made, it may not be changed except as provided by the Secretary.''.*

*(2) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—*

*(A) by inserting ''for such plan year'' after ''highly compensated employee'',*

*(B) by inserting ''for the preceding plan year'' after ''eligible employees'' each place it appears in clause (i) and clause (ii), and*

*(C) by adding at the end the following flush sentence: ''This subparagraph may be applied by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided the Secretary.''.*

*(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—*

*(1) Paragraph (3) of section 401(k) is amended by adding at the end the following new subparagraph:*

*''(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—*

*''(i) 3 percent, or*

*"(ii) if the employer makes an election under this subclause, the actual deferral percentage of nonhighly compensated employees determined for such first plan year.".*

*(2) Paragraph (3) of section 401(m) is amended by adding at the end the following: "Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.".*

*(e) DISTRIBUTION OF EXCESS CONTRIBUTIONS.—*

*(1) Subparagraph (C) of section 401(k)(8) (relating to arrangement not disqualified if excess contributions distributed) is amended by striking "on the basis of the respective portions of the excess contributions attributable to each of such employees" and inserting "on the basis of the amount of contributions by, or on behalf of, each of such employees".*

*(2) Subparagraph (C) of section 401(m)(6) (relating to method of distributing excess aggregate contributions) is amended by striking "on the basis of the respective portions of such amounts attributable to each of such employees" and inserting "on the basis of the amount of contributions on behalf of, or by, each such employee".*

*(f) EFFECTIVE DATES.—*

*(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1998.*

*(2) EXCESS CONTRIBUTIONS.—The amendments made by subsection (e) shall apply to years beginning after December 31, 1995.*

**SEC. 11444. DEFINITION OF COMPENSATION FOR SECTION 415 PURPOSES.**

*(a) GENERAL RULE.—Section 415(c)(3) (defining participant's compensation) is amended by adding at the end the following new subparagraph:*

*"(D) CERTAIN DEFERRALS INCLUDED.—The term 'participant's compensation' shall include—*

*"(i) any elective deferral (as defined in section 402(g)(3)), and*

*"(ii) any amount which is contributed by the employer at the election of the employee and which is not includible in the gross income of the employee under section 125 or 457.".*

*(b) CONFORMING AMENDMENTS.—*

*(1) Section 414(q)(4), as redesignated by section 11441, is amended to read as follows:*

*"(7) COMPENSATION.—For purposes of this subsection, the term 'compensation' has the meaning given such term by section 415(c)(3).".*

*(2) Section 414(s)(2) is amended by inserting "not" after "elect" in the text and heading thereof.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1997.*

## *Subchapter D—Miscellaneous Provisions*

### *SEC. 11451. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.*

*(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:*

*"(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established.".*

*(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.*

***SEC. 11452. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.***

*(a) IN GENERAL.—Paragraph (2) of section 411(a) (relating to minimum vesting standards) is amended—*

*(1) by striking "subparagraph (A), (B), or (C)" and inserting "subparagraph (A) or (B)"; and*

*(2) by striking subparagraph (C).*

*(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—*

*(1) the later of—*

*(A) January 1, 1996, or*

*(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or*

*(2) January 1, 1998.*

*Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.*

***SEC. 11453. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.***

*(a) DISTRIBUTIONS FOR HARDSHIP OR AFTER A CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end the following new subparagraph:*

*"(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) or of paragraph (2) merely by reason of a hardship distribution or a distribution to a participant after attainment of age 59½. For purposes of this section, the term 'hardship distribution' means a distribution described in paragraph (2)(B)(i)(IV) (without regard to the limitation of its application to profit-sharing or stock bonus plans)."*.

*(b) PUBLIC UTILITY DISTRICTS.—Clause (i) of section 401(k)(7)(B) (defining rural cooperative) is amended to read as follows:*

*"(i) any organization which—*

*"(I) is engaged primarily in providing electric service on a mutual or cooperative basis, or*

*"(II) is engaged primarily in providing electric service to the public in*

*its area of service and which is exempt from tax under this subtitle or which is a State or local government (or an agency or instrumentality thereof), other than a municipality (or an agency or instrumentality thereof).''*

*(c) EFFECTIVE DATES.—*

*(1) DISTRIBUTIONS.—The amendments made by subsection (a) shall apply to distributions after the date of the enactment of this Act.*

*(2) RURAL COOPERATIVE.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 1994.*

***SEC. 11454. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.***

*(a) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:*

*''(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply.''*

*(b) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—*

*(1) IN GENERAL.—Section 415 is amended by adding at the end the following new subsection:*

*"(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—*

*"(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.*

*"(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—*

*"(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and*

*"(B) the treatment of such amounts when so includible by the participant,*

*shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.*

*"(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—*

*"(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,*

*"(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and*

*"(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is main-*

*tained solely for the purpose of providing such benefits.''*

*(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end the following new paragraph:*

*''(15) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan.''*

*(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by inserting immediately thereafter the following new subparagraph:*

*''(E) a qualified governmental excess benefit arrangement described in section 415(m).''*

*(c) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end the following new subparagraph:*

*"(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (B) of paragraph (1), subparagraph (C) of this paragraph, and paragraph (5) shall not apply to—*

*"(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or*

*"(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee."*

*(d) REVOCATION OF GRANDFATHER ELECTION.—*

*(1) IN GENERAL.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end the following new clause:*

*"(ii) REVOCATION OF ELECTION.—An election under clause (i) may be revoked not later than the last day of the third plan year beginning after the date of the enactment of this clause. The revocation shall apply to all plan years to which the election*

*applied and to all subsequent plan years. Any amount paid by a plan in a taxable year ending after the revocation shall be includible in income in such taxable year under the rules of this chapter in effect for such taxable year, except that, for purposes of applying the limitations imposed by this section, any portion of such amount which is attributable to any taxable year during which the election was in effect shall be treated as received in such taxable year.''*

*(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 415(b)(10) is amended by striking ''This'' and inserting:*

*''(i) IN GENERAL.—This''.*

*(e) EFFECTIVE DATE.—*

*(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall apply to years beginning after December 31, 1994. The amendments made by subsection (d) shall apply with respect to revocations adopted after the date of the enactment of this Act.*

*(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—Nothing in the amendments made by this section shall be construed to infer that*

*a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) fails to satisfy the requirements of section 415 of such Code for any taxable year beginning before the date of the enactment of this Act.*

***SEC. 11455. UNIFORM RETIREMENT AGE.***

*(a) DISCRIMINATION TESTING.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end the following new subparagraph:*

*"(F) SOCIAL SECURITY RETIREMENT AGE.—For purposes of testing for discrimination under paragraph (4)—*

*"(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and*

*"(ii) subsidized early retirement benefits and joint and survivor annuities shall not be treated as being unavailable to employees on the same terms merely because such benefits or annuities are based in whole or in part on an employee's social security retirement age (as so defined)."*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.*

***SEC. 11456. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.***

*(a) ALL DISABLED PARTICIPANTS RECEIVING CONTRIBUTIONS.—Section 415(c)(3)(C) is amended by adding at the end the following: "If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii)."*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.*

***SEC. 11457. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.***

*(a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—Paragraph (9) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:*

*"(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—*

*"(A) TOTAL AMOUNT PAYABLE IS $3,500 OR LESS.—The total amount payable to a partici-*

*pant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant's consent) if—*

*"(i) such amount does not exceed $3,500, and*

*"(ii) such amount may be distributed only if—*

*"(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and*

*"(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.*

*A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.*

*"(B) ELECTION TO DEFER COMMENCEMENT OF DISTRIBUTIONS.—The total amount payable to a participant under the plan shall not be*

*treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—*

*"(i) such election is made after amounts may be available under the plan in accordance with subsection (d)(1)(A) and before commencement of such distributions, and*

*"(ii) the participant may make only 1 such election.".*

*(b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—Subsection (e) of section 457, as amended by section 11454(b)(2) (relating to governmental plans), is amended by adding at the end the following new paragraph:*

*"(16) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—The Secretary shall adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter ending September 30, 1994, and any increase under this paragraph which is not a multiple of $500 shall be rounded to the next lowest multiple of $500.".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

***SEC. 11458. TRUST REQUIREMENT FOR DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS.***

*(a) IN GENERAL.—Section 457 is amended by adding at the end the following new subsection:*

*"(g) GOVERNMENTAL PLANS MUST MAINTAIN SET ASIDES FOR EXCLUSIVE BENEFIT OF PARTICIPANTS.—*

*"(1) IN GENERAL.—A plan maintained by an eligible employer described in subsection (e)(1)(A) shall not be treated as an eligible deferred compensation plan unless all assets and income of the plan described in subsection (b)(6) are held in trust for the exclusive benefit of participants and their beneficiaries.*

*"(2) TAXABILITY OF TRUSTS AND PARTICIPANTS.—For purposes of this title—*

*"(A) a trust described in paragraph (1) shall be treated as an organization exempt from taxation under section 501(a), and*

*"(B) notwithstanding any other provision of this title, amounts in the trust shall be includible in the gross income of participants and*

*beneficiaries only to the extent, and at the time, provided in this section.*

*"(3) CUSTODIAL ACCOUNTS AND CONTRACTS.—For purposes of this subsection, custodial accounts and contracts described in section 401(f) shall be treated as trusts under rules similar to the rules under section 401(f)."*

*(b) CONFORMING AMENDMENT.—Paragraph (6) of section 457(b) is amended by inserting "except as provided in subsection (g)," before "which provides that".*

*(c) EFFECTIVE DATES.—*

*(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to assets and income described in section 457(b)(6) of the Internal Revenue Code of 1986 held by a plan on and after the date of the enactment of this Act.*

*(2) TRANSITION RULE.—In the case of assets and income described in paragraph (1) held by a plan before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature of the State in which the governmental entity maintaining the plan is located beginning after the date of the enactment of this Act, a trust need not be established by reason of the amend-*

*ments made by this section before such first day. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.*

***SEC. 11459. TRANSITION RULE FOR COMPUTING MAXIMUM BENEFITS UNDER SECTION 415 LIMITATIONS.***

*(a) IN GENERAL.—Subparagraph (A) of section 767(d)(3) of the Uruguay Round Agreements Act is amended to read as follows:*

*"(A) EXCEPTION.—A plan that was adopted and in effect before December 8, 1994, shall not be required to apply the amendments made by subsection (b) with respect to benefits accrued before the earlier of—*

*"(i) the later of the date a plan amendment applying such amendment is adopted or made effective, or*

*"(ii) the first day of the first limitation year beginning after December 31, 1999.*

*Determinations under section 415(b)(2)(E) of the Internal Revenue Code of 1986 shall be made with respect to such benefits on the basis of such section as in effect on December 7, 1994 (except*

*that the modification made by subsection (b) shall be taken into account), and the provisions of the plan as in effect on December 7, 1994, but only if such provisions of the plan meet the requirements of such section (as so in effect).''*

*(b) MODIFICATION OF CERTAIN ASSUMPTIONS FOR ADJUSTING BENEFITS OF DEFINED BENEFIT PLANS FOR EARLY RETIREES.—Subparagraph (E) of section 415(b)(2) (relating to limitation on certain assumptions) is amended—*

*(1) by striking ''Except as provided in clause (ii), for purposes of adjusting any benefit or limitation under subparagraph (B) or (C),'' in clause (i) and inserting ''For purposes of adjusting any limitation under subparagraph (C) and, except as provided in clause (ii), for purposes of adjusting any benefit under subparagraph (B),'', and*

*(2) by striking ''For purposes of adjusting the benefit or limitation of any form of benefit subject to section 417(e)(3),'' in clause (ii) and inserting ''For purposes of adjusting any benefit under subparagraph (B) for any form of benefit subject to section 417(e)(3),''.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of section 767 of the Uruguay Round Agreements Act.*

*(d) TRANSITIONAL RULE.—In the case of a plan that was adopted and in effect before December 8, 1994, if—*

*(1) a plan amendment was adopted or made effective on or before the date of the enactment of this Act applying the amendments made by section 767(b) of the Uruguay Round Agreements Act, and*

*(2) within 1 year after the date of the enactment of this Act, a plan amendment is adopted which repeals the amendment referred to in paragraph (1),*

*the amendment referred to in paragraph (1) shall not be taken into account in applying section 767(d)(3)(A) of the Uruguay Round Agreements Act, as amended by subsection (a).*

***SEC. 11460. MODIFICATIONS OF SECTION 403(b).***

*(a) MULTIPLE SALARY REDUCTION AGREEMENTS PERMITTED.—*

*(1) GENERAL RULE.—For purposes of section 403(b) of the Internal Revenue Code of 1986, the frequency that an employee is permitted to enter into a salary reduction agreement, the salary to which such an agreement may apply, and the ability to revoke such an agreement shall be determined under the rules*

*applicable to cash or deferred elections under section 401(k) of such Code.*

*(2) EFFECTIVE DATE.—This subsection shall apply to taxable years beginning after December 31, 1995.*

*(b) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—*

*(1) IN GENERAL.—In the case of any contract purchased in a plan year beginning before January 1, 1995, section 403(b) of the Internal Revenue Code of 1986 shall be applied as if any reference to an employer described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from tax under section 501 of such Code included a reference to an employer which is an Indian tribal government (as defined by section 7701(a)(40) of such Code), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in part by any of the foregoing.*

*(2) ROLLOVERS.—Solely for purposes of applying section 403(b)(8) of such Code to a contract to which paragraph (1) applies, a qualified cash or de-*

*ferred arrangement under section 401(k) of such Code shall be treated as if it were a plan or contract described in clause (ii) of section 403(b)(8)(A) of such Code.*

*(c) ELECTIVE DEFERRALS.—*

*(1) IN GENERAL.—Subparagraph (E) of section 403(b)(1) is amended to read as follows:*

*"(E) in the case of a contract purchased under a salary reduction agreement, the contract meets the requirements of section 401(a)(30),".*

*(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 1995.*

***SEC. 11461. WAIVER OF MINIMUM PERIOD FOR JOINT AND SURVIVOR ANNUITY EXPLANATION BEFORE ANNUITY STARTING DATE.***

*(a) GENERAL RULE.—For purposes of section 417(a)(3)(A) of the Internal Revenue Code of 1986 (relating to plan to provide written explanations), the minimum period prescribed by the Secretary of the Treasury between the date that the explanation referred to in such section is provided and the annuity starting date shall not apply if waived by the participant and, if applicable, the participant's spouse.*

*(b) EFFECTIVE DATE.—Subsection (a) shall apply to plan years beginning after December 31, 1995.*

***SEC. 11462. REPEAL OF LIMITATION IN CASE OF DEFINED BENEFIT PLAN AND DEFINED CONTRIBUTION PLAN FOR SAME EMPLOYEE; EXCESS DISTRIBUTIONS.***

*(a) IN GENERAL.—Section 415(e) is repealed.*

*(b) EXCESS DISTRIBUTIONS.—Section 4980A is amended by adding at the end the following new subsection:*

*"(g) LIMITATION ON APPLICATION.—This section shall not apply to distributions during years beginning after December 31, 1995, and before January 1, 1999, and such distributions shall be treated as made first from amounts not described in subsection (f)."*

*(c) CONFORMING AMENDMENTS.—*

*(1) Subparagraph (B) of section 415(b)(5) is amended by striking "and subsection (e)".*

*(2) Paragraph (1) of section 415(f) is amended by striking "subsections (b), (c), and (e)" and inserting "subsections (b) and (c)".*

*(3) Subsection (g) of section 415 is amended by striking "subsections (e) and (f)" in the last sentence and inserting "subsection (f)".*

*(4) Clause (i) of section 415(k)(2)(A) is amended to read as follows:*

*"(i) any contribution made directly by an employee under such an arrangement shall not be treated as an annual addition for purposes of subsection (c), and".*

*(5) Clause (ii) of section 415(k)(2)(A) is amended by striking "subsections (c) and (e)" and inserting "subsection (c)".*

*(6) Section 416 is amended by striking subsection (h).*

*(d) EFFECTIVE DATE.—*

*(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to limitation years beginning after December 31, 1998.*

*(2) EXCESS DISTRIBUTIONS.—The amendment made by subsection (b) shall apply to years beginning after December 31, 1995.*

***SEC. 11463. TAX ON PROHIBITED TRANSACTIONS.***

*(a) IN GENERAL.—Section 4975(a) is amended by striking "5 percent" and inserting "10 percent".*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to prohibited transactions occurring after December 31, 1995.*

***SEC. 11464. TREATMENT OF LEASED EMPLOYEES.***

*(a) GENERAL RULE.—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:*

*"(C) such services are performed under primary direction or control by the recipient.".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1995, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee.*

## ***CHAPTER 3—TREATMENT OF LARGE PARTNERSHIPS***

***SEC. 11471. SIMPLIFIED FLOW-THROUGH FOR ELECTING LARGE PARTNERSHIPS.***

*(a) GENERAL RULE.—Subchapter K (relating to partners and partnerships) is amended by adding at the end the following new part:*

***"PART IV—SPECIAL RULES FOR ELECTING LARGE PARTNERSHIPS***

*"Sec. 771. Application of subchapter to electing large partnerships.*
*"Sec. 772. Simplified flow-through.*
*"Sec. 773. Computations at partnership level.*
*"Sec. 774. Other modifications.*
*"Sec. 775. Electing large partnership defined.*

*"Sec. 776. Special rules for partnerships holding oil and gas properties.*
*"Sec. 777. Regulations.*

***"SEC. 771. APPLICATION OF SUBCHAPTER TO ELECTING LARGE PARTNERSHIPS.***

*"The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to an electing large partnership and its partners.*

***"SEC. 772. SIMPLIFIED FLOW-THROUGH.***

*"(a) GENERAL RULE.—In determining the income tax of a partner of an electing large partnership, such partner shall take into account separately such partner's distributive share of the partnership's—*

*"(1) taxable income or loss from passive loss limitation activities,*

*"(2) taxable income or loss from other activities,*

*"(3) net capital gain (or net capital loss)—*

*"(A) to the extent allocable to passive loss limitation activities, and*

*"(B) to the extent allocable to other activities,*

*"(4) tax-exempt interest,*

*"(5) applicable net AMT adjustment separately computed for—*

*"(A) passive loss limitation activities, and*

*"(B) other activities,*

*"(6) general credits,*

*"(7) low-income housing credit determined under section 42,*

*"(8) rehabilitation credit determined under section 47,*

*"(9) foreign income taxes,*

*"(10) the credit allowable under section 29, and*

*"(11) other items to the extent that the Secretary determines that the separate treatment of such items is appropriate.*

*"(b) SEPARATE COMPUTATIONS.—In determining the amounts required under subsection (a) to be separately taken into account by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner's distributive share of the items of income, gain, loss, deduction, or credit of the partnership.*

*"(c) TREATMENT AT PARTNER LEVEL.—*

*"(1) IN GENERAL.—Except as provided in this subsection, rules similar to the rules of section 702(b) shall apply to any partner's distributive share of the amounts referred to in subsection (a).*

*"(2) INCOME OR LOSS FROM PASSIVE LOSS LIMITATION ACTIVITIES.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(1) shall be treated as an*

*item of income or loss (as the case may be) from the conduct of a trade or business which is a single passive activity (as defined in section 469). A similar rule shall apply to a partner's distributive share of amounts referred to in paragraphs (3)(A) and (5)(A) of subsection (a).*

*"(3) INCOME OR LOSS FROM OTHER ACTIVITIES.—*

*"(A) IN GENERAL.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.*

*"(B) DEDUCTIONS FOR LOSS NOT SUBJECT TO SECTION 67.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.*

*"(4) TREATMENT OF NET CAPITAL GAIN OR LOSS.—For purposes of this chapter, any partner's distributive share of any gain or loss described in subsection (a)(3) shall be treated as a long-term capital gain or loss, as the case may be.*

*"(5) MINIMUM TAX TREATMENT.—In determining the alternative minimum taxable income of any partner, such partner's distributive share of any applicable net AMT adjustment shall be taken into account in lieu of making the separate adjustments provided in sections 56, 57, and 58 with respect to the items of the partnership. Except as provided in regulations, the applicable net AMT adjustment shall be treated, for purposes of section 53, as an adjustment or item of tax preference not specified in section 53(d)(1)(B)(ii).*

*"(6) GENERAL CREDITS.—A partner's distributive share of the amount referred to in paragraph (6) of subsection (a) shall be taken into account as a current year business credit.*

*"(d) OPERATING RULES.—For purposes of this section—*

*"(1) PASSIVE LOSS LIMITATION ACTIVITY.—The term 'passive loss limitation activity' means—*

*"(A) any activity which involves the conduct of a trade or business, and*

*"(B) any rental activity.*

*For purposes of the preceding sentence, the term 'trade or business' includes any activity treated as a*

*trade or business under paragraph (5) or (6) of section 469(c).*

*"(2) TAX-EXEMPT INTEREST.—The term 'tax-exempt interest' means interest excludable from gross income under section 103.*

*"(3) APPLICABLE NET AMT ADJUSTMENT.—*

*"(A) IN GENERAL.—The applicable net AMT adjustment is—*

*"(i) with respect to taxpayers other than corporations, the net adjustment determined by using the adjustments applicable to individuals, and*

*"(ii) with respect to corporations, the net adjustment determined by using the adjustments applicable to corporations.*

*"(B) NET ADJUSTMENT.—The term 'net adjustment' means the net adjustment in the items attributable to passive loss activities or other activities (as the case may be) which would result if such items were determined with the adjustments of sections 56, 57, and 58.*

*"(4) TREATMENT OF CERTAIN SEPARATELY STATED ITEMS.—*

*"(A) EXCLUSION FOR CERTAIN PURPOSES.—In determining the amounts referred to*

*in paragraphs (1) and (2) of subsection (a), any net capital gain or net capital loss (as the case may be), and any item referred to in subsection (a)(11), shall be excluded.*

*"(B) ALLOCATION RULES.—The net capital gain shall be treated—*

*"(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and*

*"(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).*

*A similar rule shall apply for purposes of allocating any net capital loss.*

*"(C) NET CAPITAL LOSS.—The term 'net capital loss' means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchange of capital assets.*

*"(5) GENERAL CREDITS.—The term 'general credits' means any credit other than the low-income*

*housing credit, the rehabilitation credit, the foreign tax credit, and the credit allowable under section 29.*

*"(6) FOREIGN INCOME TAXES.—The term 'foreign income taxes' means taxes described in section 901 which are paid or accrued to foreign countries and to possessions of the United States.*

*"(e) SPECIAL RULE FOR UNRELATED BUSINESS TAX.—In the case of a partner which is an organization subject to tax under section 511, such partner's distributive share of any items shall be taken into account separately to the extent necessary to comply with the provisions of section 512(c)(1).*

*"(f) SPECIAL RULES FOR APPLYING PASSIVE LOSS LIMITATIONS.—If any person holds an interest in an electing large partnership other than as a limited partner—*

*"(1) paragraph (2) of subsection (c) shall not apply to such partner, and*

*"(2) such partner's distributive share of the partnership items allocable to passive loss limitation activities shall be taken into account separately to the extent necessary to comply with the provisions of section 469.*

*The preceding sentence shall not apply to any items allocable to an interest held as a limited partner.*

***"SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.***

*"(a) GENERAL RULE.—*

*"(1) TAXABLE INCOME.—The taxable income of an electing large partnership shall be computed in the same manner as in the case of an individual except that—*

*"(A) the items described in section 772(a) shall be separately stated, and*

*"(B) the modifications of subsection (b) shall apply.*

*"(2) ELECTIONS.—All elections affecting the computation of the taxable income of an electing large partnership or the computation of any credit of an electing large partnership shall be made by the partnership; except that the election under section 901, and any election under section 108, shall be made by each partner separately.*

*"(3) LIMITATIONS, ETC.—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of an electing large partnership or the computation of any credit of an electing large partnership shall be applied at the partnership level (and not at the partner level).*

*"(B) CERTAIN LIMITATIONS APPLIED AT PARTNER LEVEL.—The following provisions shall be applied at the partner level (and not at the partnership level):*

*"(i) Section 68 (relating to overall limitation on itemized deductions).*

*"(ii) Sections 49 and 465 (relating to at risk limitations).*

*"(iii) Section 469 (relating to limitation on passive activity losses and credits).*

*"(iv) Any other provision specified in regulations.*

*"(4) COORDINATION WITH OTHER PROVISIONS.—Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.*

*"(b) MODIFICATIONS TO DETERMINATION OF TAXABLE INCOME.—In determining the taxable income of an electing large partnership—*

*"(1) CERTAIN DEDUCTIONS NOT ALLOWED.—The following deductions shall not be allowed:*

*"(A) The deduction for personal exemptions provided in section 151.*

*"(B) The net operating loss deduction provided in section 172.*

*"(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).*

*"(2) CHARITABLE DEDUCTIONS.—In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.*

*"(3) COORDINATION WITH SECTION 67.—In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.*

*"(c) SPECIAL RULES FOR INCOME FROM DISCHARGE OF INDEBTEDNESS.—If an electing large partnership has income from the discharge of any indebtedness—*

*"(1) such income shall be excluded in determining the amounts referred to in section 772(a), and*

*"(2) in determining the income tax of any partner of such partnership—*

*"(A) such income shall be treated as an item required to be separately taken into account under section 772(a), and*

*"(B) the provisions of section 108 shall be applied without regard to this part.*

***"SEC. 774. OTHER MODIFICATIONS.***

*"(a) TREATMENT OF CERTAIN OPTIONAL ADJUSTMENTS, ETC.—In the case of an electing large partnership—*

*"(1) computations under section 773 shall be made without regard to any adjustment under section 743(b) or 108(b), but*

*"(2) a partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) or 108(b) with respect to such partner.*

*"(b) CREDIT RECAPTURE DETERMINED AT PARTNERSHIP LEVEL.—*

*"(1) IN GENERAL.—In the case of an electing large partnership—*

*"(A) any credit recapture shall be taken into account by the partnership, and*

*"(B) the amount of such recapture shall be determined as if the credit with respect to which the recapture is made had been fully utilized to reduce tax.*

*"(2) METHOD OF TAKING RECAPTURE INTO ACCOUNT.—An electing large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent*

*thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.*

*"(3) DISPOSITIONS NOT TO TRIGGER RECAPTURE.—No credit recapture shall be required by reason of any transfer of an interest in an electing large partnership.*

*"(4) CREDIT RECAPTURE.—For purposes of this subsection, the term 'credit recapture' means any increase in tax under section 42(j) or 50(a).*

*"(c) PARTNERSHIP NOT TERMINATED BY REASON OF CHANGE IN OWNERSHIP.—Subparagraph (B) of section 708(b)(1) shall not apply to an electing large partnership.*

*"(d) PARTNERSHIP ENTITLED TO CERTAIN CREDITS.—The following shall be allowed to an electing large partnership and shall not be taken into account by the partners of such partnership:*

*"(1) The credit provided by section 34.*

*"(2) Any credit or refund under section 852(b)(3)(D).*

*"(e) TREATMENT OF REMIC RESIDUALS.—For purposes of applying section 860E(e)(6) to any electing large partnership—*

*"(1) all interests in such partnership shall be treated as held by disqualified organizations,*

*"(2) in lieu of applying subparagraph (C) of section 860E(e)(6), the amount subject to tax under section 860E(e)(6) shall be excluded from the gross income of such partnership, and*

*"(3) subparagraph (D) of section 860E(e)(6) shall not apply.*

*"(f) SPECIAL RULES FOR APPLYING CERTAIN INSTALLMENT SALE RULES.—In the case of an electing large partnership—*

*"(1) the provisions of sections 453(l)(3) and 453A shall be applied at the partnership level, and*

*"(2) in determining the amount of interest payable under such sections, such partnership shall be treated as subject to tax under this chapter at the highest rate of tax in effect under section 1 or 11.*

***"SEC. 775. ELECTING LARGE PARTNERSHIP DEFINED.***

*"(a) GENERAL RULE.—For purposes of this part—*

*"(1) IN GENERAL.—The term 'electing large partnership' means, with respect to any partnership taxable year, any partnership if—*

*"(A) the number of persons who were partners in such partnership in the preceding partnership taxable year equaled or exceeded 100, and*

*"(B) such partnership elects the application of this part.*

*To the extent provided in regulations, a partnership shall cease to be treated as an electing large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.*

*"(2) ELECTION.—The election under this subsection shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.*

*"(b) SPECIAL RULES FOR CERTAIN SERVICE PARTNERSHIPS.—*

*"(1) CERTAIN PARTNERS NOT COUNTED.—For purposes of this section, the term 'partner' does not include any individual performing substantial services in connection with the activities of the partnership and holding an interest in such partnership, or an individual who formerly performed substantial services in connection with such activities and who held an interest in such partnership at the time the individual performed such services.*

*"(2) EXCLUSION.—For purposes of this part, an election under subsection (a) shall not be effective*

*with respect to any partnership if substantially all the partners of such partnership—*

*"(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)) the owner-employees (as defined in section 269A(b)) of which perform such substantial services,*

*"(B) are retired partners who had performed such substantial services, or*

*"(C) are spouses of partners who are performing (or had previously performed) such substantial services.*

*"(3) SPECIAL RULE FOR LOWER TIER PARTNERSHIPS.—For purposes of this subsection, the activities of a partnership shall include the activities of any other partnership in which the partnership owns directly an interest in the capital and profits of at least 80 percent.*

*"(c) EXCLUSION OF COMMODITY POOLS.—For purposes of this part, an election under subsection (a) shall not be effective with respect to any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to such commodities.*

*"(d) SECRETARY MAY RELY ON TREATMENT ON RETURN.—If, on the partnership return of any partnership, such partnership is treated as an electing large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.*

***"SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING OIL AND GAS PROPERTIES.***

*"(a) EXCEPTION FOR PARTNERSHIPS HOLDING SIGNIFICANT OIL AND GAS PROPERTIES.—*

*"(1) IN GENERAL.—For purposes of this part, an election under section 775(a) shall not be effective with respect to any partnership if the average percentage of assets (by value) held by such partnership during the taxable year which are oil or gas properties is at least 25 percent. For purposes of the preceding sentence, any interest held by a partnership in another partnership shall be disregarded, except that the partnership shall be treated as holding its proportionate share of the assets of such other partnership.*

*"(2) ELECTION TO WAIVE EXCEPTION.—Any partnership may elect to have paragraph (1) not apply. Such an election shall apply to the partnership taxable year for which made and all subsequent partnership taxable years unless revoked with the consent of the Secretary.*

*"(b) SPECIAL RULES WHERE PART APPLIES.—*

*"(1) COMPUTATION OF PERCENTAGE DEPLETION.—In the case of an electing large partnership, except as provided in paragraph (2)—*

*"(A) the allowance for depletion under section 611 with respect to any partnership oil or gas property shall be computed at the partnership level without regard to any provision of section 613A requiring such allowance to be computed separately by each partner,*

*"(B) such allowance shall be determined without regard to the provisions of section 613A(c) limiting the amount of production for which percentage depletion is allowable and without regard to paragraph (1) of section 613A(d), and*

*"(C) paragraph (3) of section 705(a) shall not apply.*

*"(2) TREATMENT OF CERTAIN PARTNERS.—*

*"(A) IN GENERAL.—In the case of a disqualified person, the treatment under this chapter of such person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property shall be determined without regard to this*

*part. Such person's distributive share of any such items shall be excluded for purposes of making determinations under sections 772 and 773.*

*"(B) DISQUALIFIED PERSON.—For purposes of subparagraph (A), the term 'disqualified person' means, with respect to any partnership taxable year—*

*"(i) any person referred to in paragraph (2) or (4) of section 613A(d) for such person's taxable year in which such partnership taxable year ends, and*

*"(ii) any other person if such person's average daily production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends exceeds 500 barrels.*

*"(C) AVERAGE DAILY PRODUCTION.—For purposes of subparagraph (B), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 613A(c)(2)—*

*"(i) by taking into account all production of domestic crude oil and natural gas (including such person's proportionate share of any production of a partnership),*

*"(ii) by treating 6,000 cubic feet of natural gas as a barrel of crude oil, and*

*"(iii) by treating as 1 person all persons treated as 1 taxpayer under section 613A(c)(8) or among whom allocations are required under such section.*

***"SEC. 777. REGULATIONS.***

*"The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part."*

*(b) CLERICAL AMENDMENT.—The table of parts for subchapter K of chapter 1 is amended by adding at the end the following new item:*

*"Part IV. Special rules for electing large partnerships."*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1995.*

***SEC. 11472. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.***

*(a) IN GENERAL.—Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end the following new sentence:*

*"Notwithstanding the preceding sentence, the Secretary shall require partnerships having more than 100 partners to file returns on magnetic media."*

*(b) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1995.*

## *CHAPTER 4—FOREIGN PROVISIONS*

### *Subchapter A—Modifications to Treatment of Passive Foreign Investment Companies*

#### *SEC. 11481. UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS NOT SUBJECT TO PFIC INCLUSION.*

*Section 1296 is amended by adding at the end the following new subsection:*

*"(e) EXCEPTION FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—*

*"(1) IN GENERAL.—For purposes of this part, a corporation shall not be treated with respect to a shareholder as a passive foreign investment company during the qualified portion of such shareholder's holding period with respect to stock in such corporation.*

*"(2) QUALIFIED PORTION.—For purposes of this subsection, the term 'qualified portion' means the portion of the shareholder's holding period—*

*"(A) which is after December 31, 1995, and*

*"(B) during which the shareholder is a United States shareholder (as defined in section*

*951(b)) of the corporation and the corporation is a controlled foreign corporation.*

*"(3) NEW HOLDING PERIOD IF QUALIFIED PORTION ENDS.—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), if the qualified portion of a shareholder's holding period with respect to any stock ends after December 31, 1995, solely for purposes of this part, the shareholder's holding period with respect to such stock shall be treated as beginning as of the first day following such period.*

*"(B) EXCEPTION.—Subparagraph (A) shall not apply if such stock was, with respect to such shareholder, stock in a passive foreign investment company at any time before the qualified portion of the shareholder's holding period with respect to such stock and no election under section 1298(b)(1) is made."*

***SEC. 11482. ELECTION OF MARK TO MARKET FOR MARKETABLE STOCK IN PASSIVE FOREIGN INVESTMENT COMPANY.***

*(a) IN GENERAL.—Part VI of subchapter P of chapter 1 is amended by redesignating subpart C as subpart D, by redesignating sections 1296 and 1297 as sections 1297 and*

*1298, respectively, and by inserting after subpart B the following new subpart:*

### *"Subpart C—Election of Mark to Market For Marketable Stock*

*"Sec. 1296. Election of mark to market for marketable stock.*

#### *"SEC. 1296. ELECTION OF MARK TO MARKET FOR MARKETABLE STOCK.*

*"(a) GENERAL RULE.—In the case of marketable stock in a passive foreign investment company which is owned (or treated under subsection (g) as owned) by a United States person at the close of any taxable year of such person, at the election of such person—*

*"(1) If the fair market value of such stock as of the close of such taxable year exceeds its adjusted basis, such United States person shall include in gross income for such taxable year an amount equal to the amount of such excess.*

*"(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—*

*"(A) the amount of such excess, or*

*"(B) the unreversed inclusions with respect to such stock.*

*"(b) BASIS ADJUSTMENTS.—*

*"(1) IN GENERAL.—The adjusted basis of stock in a passive foreign investment company—*

*"(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock, and*

*"(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.*

*"(2) SPECIAL RULE FOR STOCK CONSTRUCTIVELY OWNED.—In the case of stock in a passive foreign investment company which the United States person is treated as owning under subsection (g)—*

*"(A) the adjustments under paragraph (1) shall apply to such stock in the hands of the person actually holding such stock but only for purposes of determining the subsequent treatment under this chapter of the United States person with respect to such stock, and*

*"(B) similar adjustments shall be made to the adjusted basis of the property by reason of which the United States person is treated as owning such stock.*

*"(c) CHARACTER AND SOURCE RULES.—*

*"(1) ORDINARY TREATMENT.—*

*"(A) GAIN.—Any amount included in gross income under subsection (a)(1), and any gain on the sale or other disposition of marketable stock in a passive foreign investment company (with respect to which an election under this section is in effect), shall be treated as ordinary income.*

*"(B) LOSS.—Any—*

*"(i) amount allowed as a deduction under subsection (a)(2), and*

*"(ii) loss on the sale or other disposition of marketable stock in a passive foreign investment company (with respect to which an election under this section is in effect) to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to such stock,*

*shall be treated as an ordinary loss. The amount so treated shall be treated as a deduction allowable in computing adjusted gross income.*

*"(2) SOURCE.—The source of any amount included in gross income under subsection (a)(1) (or allowed as a deduction under subsection (a)(2)) shall be determined in the same manner as if such amount*

*were gain or loss (as the case may be) from the sale of stock in the passive foreign investment company.*

*"(d) UNREVERSED INCLUSIONS.—For purposes of this section, the term 'unreversed inclusions' means, with respect to any stock in a passive foreign investment company, the excess (if any) of—*

*"(1) the amount included in gross income of the taxpayer under subsection (a)(1) with respect to such stock for prior taxable years, over*

*"(2) the amount allowed as a deduction under subsection (a)(2) with respect to such stock for prior taxable years.*

*The amount referred to in paragraph (1) shall include any amount which would have been included in gross income under subsection (a)(1) with respect to such stock for any prior taxable year but for section 1291.*

*"(e) MARKETABLE STOCK.—For purposes of this section—*

*"(1) IN GENERAL.—The term 'marketable stock' means—*

*"(A) any stock which is regularly traded on—*

*"(i) a national securities exchange which is registered with the Securities and Exchange Commission or the national mar-*

*ket system established pursuant to section 11A of the Securities and Exchange Act of 1934, or*

*"(ii) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part,*

*"(B) to the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, and*

*"(C) to the extent provided in regulations, any option on stock described in subparagraph (A) or (B).*

*"(2) SPECIAL RULE FOR REGULATED INVESTMENT COMPANIES.—In the case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, all stock in a passive foreign investment company which it owns directly or indirectly shall be treated as marketable stock for purposes of this section. Except as provided in regulations, similar treatment as marketable*

*stock shall apply in the case of any other regulated investment company which publishes net asset valuations at least annually.*

*"(f) TREATMENT OF CONTROLLED FOREIGN CORPORATIONS WHICH ARE SHAREHOLDERS IN PASSIVE FOREIGN INVESTMENT COMPANIES.—In the case of a foreign corporation which is a controlled foreign corporation and which owns (or is treated under subsection (g) as owning) stock in a passive foreign investment company—*

*"(1) this section (other than subsection (c)(2)) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and*

*"(2) for purposes of subpart F of part III of subchapter N—*

*"(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and*

*"(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.*

*"(g) STOCK OWNED THROUGH CERTAIN FOREIGN ENTITIES.—Except as provided in regulations—*

*"(1) IN GENERAL.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate shall be considered as being owned proportionately by its partners or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.*

*"(2) TREATMENT OF CERTAIN DISPOSITIONS.—In any case in which a United States person is treated as owning stock in a passive foreign investment company by reason of paragraph (1)—*

*"(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and*

*"(B) any disposition by the person owning such stock,*

*shall be treated as a disposition by the United States person of the stock in the passive foreign investment company.*

*"(h) COORDINATION WITH SECTION 851(b).—For purposes of paragraphs (2) and (3) of section 851(b), any*

*amount included in gross income under subsection (a) shall be treated as a dividend.*

*"(i) STOCK ACQUIRED FROM A DECEDENT.—In the case of stock of a passive foreign investment company which is acquired by bequest, devise, or inheritance (or by the decedent's estate) and with respect to which an election under this section was in effect as of the date of the decedent's death, notwithstanding section 1014, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately before his death (or, if lesser, the basis which would have been determined under section 1014 without regard to this subsection).*

*"(j) COORDINATION WITH SECTION 1291 FOR FIRST YEAR OF ELECTION.—*

*"(1) TAXPAYERS OTHER THAN REGULATED INVESTMENT COMPANIES.—*

*"(A) IN GENERAL.—If the taxpayer elects the application of this section with respect to any marketable stock in a corporation after the beginning of the taxpayer's holding period in such stock, and if the requirements of subparagraph (B) are not satisfied, section 1291 shall apply to—*

*"(i) any distributions with respect to, or disposition of, such stock in the first taxable year of the taxpayer for which such election is made, and*

*"(ii) any amount which, but for section 1291, would have been included in gross income under subsection (a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.*

*"(B) REQUIREMENTS.—The requirements of this subparagraph are met if, with respect to each of such corporation's taxable years for which such corporation was a passive foreign investment company and which begin after December 31, 1986, and included any portion of the taxpayer's holding period in such stock, such corporation was treated as a qualified electing fund under this part with respect to the taxpayer.*

*"(2) SPECIAL RULES FOR REGULATED INVESTMENT COMPANIES.—*

*"(A) IN GENERAL.—If a regulated investment company elects the application of this section with respect to any marketable stock in a corporation after the beginning of the taxpayer's*

*holding period in such stock, then, with respect to such company's first taxable year for which such company elects the application of this section with respect to such stock—*

*"(i) section 1291 shall not apply to such stock with respect to any distribution or disposition during, or amount included in gross income under this section for, such first taxable year, but*

*"(ii) such regulated investment company's tax under this chapter for such first taxable year shall be increased by the aggregate amount of interest which would have been determined under section 1291(c)(3) if section 1291 were applied without regard to this subparagraph.*

*Clause (ii) shall not apply if for the preceding taxable year the company elected to mark to market the stock held by such company as of the last day of such preceding taxable year.*

*"(B) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed to any regulated investment company for the increase in tax under subparagraph (A)(ii).*

*"(k) ELECTION.—This section shall apply to marketable stock in a passive foreign investment company which is held by a United States person only if such person elects to apply this section with respect to such stock. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless—*

*"(1) such stock ceases to be marketable stock, or*

*"(2) the Secretary consents to the revocation of such election.*

*"(l) TRANSITION RULE FOR INDIVIDUALS BECOMING SUBJECT TO UNITED STATES TAX.—If any individual becomes a United States person in a taxable year beginning after December 31, 1995, solely for purposes of this section, the adjusted basis (before adjustments under subsection (b)) of any marketable stock in a passive foreign investment company owned by such individual on the first day of such taxable year shall be treated as being the greater of its fair market value on such first day or its adjusted basis on such first day."*

*(b) COORDINATION WITH INTEREST CHARGE, ETC.—*

*(1) Paragraph (1) of section 1291(d) is amended by adding at the end the following new flush sentence: "Except as provided in section 1296(j), this section also shall not apply if an election under section 1296(k) is in effect for the taxpayer's taxable year."*

*(2) The subsection heading for subsection (d) of section 1291 is amended by striking "SUBPART B" and inserting "SUBPARTS B AND C".*

*(3) Subparagraph (A) of section 1291(a)(3) is amended to read as follows:*

*"(A) HOLDING PERIOD.—The taxpayer's holding period shall be determined under section 1223; except that—*

*"(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and*

*"(ii) if section 1296 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1296 so applied."*

*(c) CONFORMING AMENDMENTS.—*

*(1) Sections 532(b)(4) and 542(c)(10) are each amended by striking "section 1296" and inserting "section 1297".*

*(2) Subsection (f) of section 551 is amended by striking "section 1297(b)(5)" and inserting "section 1298(b)(5)"*

*(3) Subsections (a)(1) and (d) of section 1293 are each amended by striking "section 1297(a)" and inserting "section 1298(a)".*

*(4) Paragraph (3) of section 1297(b), as redesignated by subsection (a), is hereby repealed.*

*(5) The table of sections for subpart D of part VI of subchapter P of chapter 1, as redesignated by subsection (a), is amended to read as follows:*

*"Sec. 1297. Passive foreign investment company.*
*"Sec. 1298. Special rules."*

*(6) The table of subparts for part VI of subchapter P of chapter 1 is amended by striking the last item and inserting the following new items:*

*"Subpart C. Election of mark to market for marketable stock.*
*"Subpart D. General provisions."*

*(d) CLARIFICATION OF GAIN RECOGNITION ELECTION.—The last sentence of section 1298(b)(1), as so redesignated, is amended by inserting "(determined without regard to the preceding sentence)" after "investment company".*

***SEC. 11483. MODIFICATIONS TO DEFINITION OF PASSIVE INCOME.***

*(a) EXCEPTION FOR SAME COUNTRY INCOME NOT TO APPLY.—Paragraph (1) of section 1297(b) (defining passive*

*income), as redesignated by section 11482, is amended by inserting before the period "without regard to paragraph (3) thereof".*

*(b) PASSIVE INCOME NOT TO INCLUDE FSC INCOME.—Paragraph (2) of section 1297(b), as so redesignated, is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by inserting after subparagraph (C) the following new subparagraph:*

*"(D) any foreign trade income of a FSC."*

***SEC. 11484. EFFECTIVE DATE.***

*The amendments made by this subchapter shall apply to—*

*(1) taxable years of United States persons beginning after December 31, 1995, and*

*(2) taxable years of foreign corporations ending with or within such taxable years of United States persons.*

## *Subchapter B—Treatment of Controlled Foreign Corporations*

### *SEC. 11486. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.*

*(a) GENERAL RULE.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end the following new subsection:*

*"(e) GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.—*

*"(1) IN GENERAL.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.*

*"(2) SAME COUNTRY EXCEPTION NOT APPLICABLE.—Clause (i) of section 954(c)(3)(A) shall not*

*apply to any amount treated as a dividend by reason of paragraph (1).*

*"(3) CLARIFICATION OF DEEMED SALES.—For purposes of this subsection, a controlled foreign corporation shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock."*

*(b) AMENDMENT OF SECTION 904(d).—Clause (i) of section 904(d)(2)(E) is amended by striking "and except as provided in regulations, the taxpayer was a United States shareholder in such corporation".*

*(c) EFFECTIVE DATES.—*

*(1) The amendment made by subsection (a) shall apply to gain recognized on transactions occurring after the date of the enactment of this Act.*

*(2) The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act.*

***SEC. 11487. MISCELLANEOUS MODIFICATIONS TO SUBPART F.***

*(a) SECTION 1248 GAIN TAKEN INTO ACCOUNT IN DETERMINING PRO RATA SHARE.—*

*(1) IN GENERAL.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F income)*

*is amended by adding at the end the following new sentence: "For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved."*

*(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dispositions after the date of the enactment of this Act.*

*(b) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—*

*(1) IN GENERAL.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end the following new subsection:*

*"(c) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the*

*gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations).''*

*(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply for purposes of determining inclusions for taxable years of United States shareholders beginning after December 31, 1995.*

*(c) DETERMINATION OF PREVIOUSLY TAXED INCOME IN SECTION 304 DISTRIBUTIONS, ETC.—*

*(1) IN GENERAL.—Section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end the following new subsection:*

*''(g) ADJUSTMENTS FOR CERTAIN TRANSACTIONS.—If by reason of—*

*''(1) a transaction to which section 304 applies,*

*''(2) the structure of a United States shareholder's holdings in controlled foreign corporations, or*

*''(3) other circumstances,*

*there would be a multiple inclusion of any item in income (or an inclusion or exclusion without an appropriate basis*

*adjustment) by reason of this subpart, the Secretary may prescribe regulations providing such modifications in the application of this subpart as may be necessary to eliminate such multiple inclusion or provide such basis adjustment, as the case may be.''*

*(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.*

*(d) CLARIFICATION OF TREATMENT OF BRANCH TAX EXEMPTIONS OR REDUCTIONS.—*

*(1) IN GENERAL.—Subsection (b) of section 952 is amended by adding at the end the following new sentence: ''For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account.''.*

*(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.*

***SEC. 11488. INDIRECT FOREIGN TAX CREDIT ALLOWED FOR CERTAIN LOWER TIER COMPANIES.***

*(a) SECTION 902 CREDIT.—*

*(1) IN GENERAL.—Subsection (b) of section 902 (relating to deemed taxes increased in case of certain 2nd and 3rd tier foreign corporations) is amended to read as follows:*

*"(b) DEEMED TAXES INCREASED IN CASE OF CERTAIN LOWER TIER CORPORATIONS.—*

*"(1) IN GENERAL.—If—*

*"(A) any foreign corporation is a member of a qualified group, and*

*"(B) such foreign corporation owns 10 percent or more of the voting stock of another member of such group from which it receives dividends in any taxable year,*

*such foreign corporation shall be deemed to have paid the same proportion of such other member's post-1986 foreign income taxes as would be determined under subsection (a) if such foreign corporation were a domestic corporation.*

*"(2) QUALIFIED GROUP.—For purposes of paragraph (1), the term 'qualified group' means—*

*"(A) the foreign corporation described in subsection (a), and*

*"(B) any other foreign corporation if—*

*"(i) the domestic corporation owns at least 5 percent of the voting stock of such other foreign corporation indirectly through a chain of foreign corporations connected through stock ownership of at least 10 percent of their voting stock,*

*"(ii) the foreign corporation described in subsection (a) is the first tier corporation in such chain, and*

*"(iii) such other corporation is not below the sixth tier in such chain.*

*The term 'qualified group' shall not include any foreign corporation below the third tier in the chain referred to in clause (i) unless such foreign corporation is a controlled foreign corporation (as defined in section 957) and the domestic corporation is a United States shareholder (as defined in section 951(b)) in such foreign corporation. Paragraph (1) shall apply to those taxes paid by a member of the qualified group below the third tier only with respect to periods during which it was a controlled foreign corporation."*

*(2) CONFORMING AMENDMENTS.—*

*(A) Subparagraph (B) of section 902(c)(3) is amended by adding "or" at the end of clause (i) and by striking clauses (ii) and (iii) and inserting the following new clause:*

*"(ii) the requirements of subsection (b)(2) are met with respect to such foreign corporation."*

*(B) Subparagraph (B) of section 902(c)(4) is amended by striking "3rd foreign corporation" and inserting "sixth tier foreign corporation".*

*(C) The heading for paragraph (3) of section 902(c) is amended by striking "WHERE DOMESTIC CORPORATION ACQUIRES 10 PERCENT OF FOREIGN CORPORATION" and inserting "WHERE FOREIGN CORPORATION FIRST QUALIFIES".*

*(D) Paragraph (3) of section 902(c) is amended by striking "ownership" each place it appears.*

*(b) SECTION 960 CREDIT.—Paragraph (1) of section 960(a) (relating to special rules for foreign tax credits) is amended to read as follows:*

*"(1) DEEMED PAID CREDIT.—For purposes of subpart A of this part, if there is included under section 951(a) in the gross income of a domestic corporation any amount attributable to earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, then, except to the extent provided in regulations, section 902 shall be applied as if the amount so included were a dividend paid by such foreign corporation (determined by ap-*

*plying section 902(c) in accordance with section 904(d)(3)(B)).”*

*(c) EFFECTIVE DATE.—*

*(1) IN GENERAL.—The amendments made by this section shall apply to taxes of foreign corporations for taxable years of such corporations beginning after the date of enactment of this Act.*

*(2) SPECIAL RULE.—In the case of any chain of foreign corporations described in clauses (i) and (ii) of section 902(b)(2)(B) of the Internal Revenue Code of 1986 (as amended by this section), no liquidation, reorganization, or similar transaction in a taxable year beginning after the date of the enactment of this Act shall have the effect of permitting taxes to be taken into account under section 902 of the Internal Revenue Code of 1986 which could not have been taken into account under such section but for such transaction.*

***SEC. 11489. REPEAL OF INCLUSION OF CERTAIN EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.***

*(a) IN GENERAL.—*

*(1) REPEAL OF INCLUSION.—Paragraph (1) of section 951(a) (relating to amounts included in gross income of United States shareholders) is amended by striking subparagraph (C), by striking “; and” at the*

*end of subparagraph (B) and inserting a period, and by adding "and" at the end of subparagraph (A).*

*(2) REPEAL OF INCLUSION AMOUNT.—Section 956A (relating to earnings invested in excess passive assets) is repealed.*

*(b) CONFORMING AMENDMENTS.—*

*(1) Paragraph (1) of section 956(b) is amended to read as follows:*

*"(1) APPLICABLE EARNINGS.—For purposes of this section, the term 'applicable earnings' means, with respect to any controlled foreign corporation, the sum of—*

*"(A) the amount (not including a deficit) referred to in section 316(a)(1), and*

*"(B) the amount referred to in section 316(a)(2),*

*but reduced by distributions made during the taxable year."*

*(2) Paragraph (3) of section 956(b) is amended to read as follows:*

*"(3) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION.—If any foreign corporation ceases to be a controlled foreign corporation during any taxable year—*

*"(A) the determination of any United States shareholder's pro rata share shall be made on the basis of stock owned (within the meaning of section 958(a)) by such shareholder on the last day during the taxable year on which the foreign corporation is a controlled foreign corporation,*

*"(B) the average referred to in subsection (a)(1)(A) for such taxable year shall be determined by only taking into account quarters ending on or before such last day, and*

*"(C) in determining applicable earnings, the amount taken into account by reason of being described in paragraph (2) of section 316(a) shall be the portion of the amount so described which is allocable (on a pro rata basis) to the part of such year during which the corporation is a controlled foreign corporation."*

*(3) Subsection (a) of section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding "or" at the end of paragraph (1), by striking "or" at the end of paragraph (2), and by striking paragraph (3).*

*(4) Subsection (a) of section 959 is amended by striking "paragraphs (2) and (3)" in the last sentence and inserting "paragraph (2)".*

*(5) Subsection (c) of section 959 is amended by adding at the end the following flush sentence:*

*"References in this subsection to section 951(a)(1)(C) and subsection (a)(3) shall be treated as references to such provisions as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1995."*

*(6) Paragraph (1) of section 959(f) is amended to read as follows:*

*"(1) IN GENERAL.—For purposes of this section, amounts that would be included under subparagraph (B) of section 951(a)(1) (determined without regard to this section) shall be treated as attributable first to earnings described in subsection (c)(2), and then to earnings described in subsection (c)(3)."*

*(7) Paragraph (2) of section 959(f) is amended by striking "subparagraphs (B) and (C) of section 951(a)(1)" and inserting "section 951(a)(1)(B)".*

*(8) Subsection (b) of section 989 is amended by striking "subparagraph (B) or (C) of section 951(a)(1)" and inserting "section 951(a)(1)(B)".*

*(9) Paragraph (9) of section 1298(b), as redesignated by section 11482, is amended by striking "subparagraph (B) or (C) of section 951(a)(1)" and inserting "section 951(a)(1)(B)".*

*(10) Subsections (d)(3)(B) and (e)(2)(B)(ii) of section 1298, as redesignated by section 11482, are each amended by striking "or section 956A".*

*(c) CLERICAL AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking the item relating to section 956A.*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after September 30, 1995, and to taxable years of United States shareholders within which or with which such taxable years of foreign corporations end.*

## CHAPTER 5—OTHER INCOME TAX PROVISIONS

### Subchapter A—Provisions Relating to S Corporations

#### SEC. 11501. S CORPORATIONS PERMITTED TO HAVE 75 SHAREHOLDERS.

*Subparagraph (A) of section 1361(b)(1) (defining small business corporation) is amended by striking "35 shareholders" and inserting "75 shareholders".*

#### SEC. 11502. ELECTING SMALL BUSINESS TRUSTS.

*(a) GENERAL RULE.—Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended by inserting after clause (iv) the following new clause:*

*"(v) An electing small business trust."*

*(b) CURRENT BENEFICIARIES TREATED AS SHAREHOLDERS.—Subparagraph (B) of section 1361(c)(2) is amended by adding at the end the following new clause:*

*"(v) In the case of a trust described in clause (v) of subparagraph (A), each potential current beneficiary of such trust shall be treated as a shareholder; except that, if for any period there is no potential current beneficiary of such trust, such trust shall be treated as the shareholder during such period."*

*(c) ELECTING SMALL BUSINESS TRUST DEFINED.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:*

*"(e) ELECTING SMALL BUSINESS TRUST DEFINED.—*

*"(1) ELECTING SMALL BUSINESS TRUST.—For purposes of this section—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'electing small business trust' means any trust if—*

*"(i) such trust does not have as a beneficiary any person other than (I) an individual, (II) an estate, or (III) an organization described in paragraph (2), (3), (4), or*

*(5) of section 170(c) which holds a contingent interest and is not a potential current beneficiary,*

*"(ii) no interest in such trust was acquired by purchase, and*

*"(iii) an election under this subsection applies to such trust.*

*"(B) CERTAIN TRUSTS NOT ELIGIBLE.—The term 'electing small business trust' shall not include—*

*"(i) any qualified subchapter S trust (as defined in subsection (d)(3)) if an election under subsection (d)(2) applies to any corporation the stock of which is held by such trust, and*

*"(ii) any trust exempt from tax under this subtitle.*

*"(C) PURCHASE.—For purposes of subparagraph (A), the term 'purchase' means any acquisition if the basis of the property acquired is determined under section 1012.*

*"(2) POTENTIAL CURRENT BENEFICIARY.—For purposes of this section, the term 'potential current beneficiary' means, with respect to any period, any person who at any time during such period is entitled*

*to, or at the discretion of any person may receive, a distribution from the principal or income of the trust. If a trust disposes of all of the stock which it holds in an S corporation, then, with respect to such corporation, the term 'potential current beneficiary' does not include any person who first met the requirements of the preceding sentence during the 60-day period ending on the date of such disposition.*

*"(3) ELECTION.—An election under this subsection shall be made by the trustee. Any such election shall apply to the taxable year of the trust for which made and all subsequent taxable years of such trust unless revoked with the consent of the Secretary.*

*"(4) CROSS REFERENCE.—*

***"For special treatment of electing small business trusts, see section 641(d)."***

*(d) TAXATION OF ELECTING SMALL BUSINESS TRUSTS.—Section 641 (relating to imposition of tax on trusts) is amended by adding at the end the following new subsection:*

*"(d) SPECIAL RULES FOR TAXATION OF ELECTING SMALL BUSINESS TRUSTS.—*

*"(1) IN GENERAL.—For purposes of this chapter—*

*"(A) the portion of any electing small business trust which consists of stock in 1 or more*

*S corporations shall be treated as a separate trust, and*

*"(B) the amount of the tax imposed by this chapter on such separate trust shall be determined with the modifications of paragraph (2).*

*"(2) MODIFICATIONS.—For purposes of paragraph (1), the modifications of this paragraph are the following:*

*"(A) Except as provided in section 1(h), the amount of the tax imposed by section 1(e) shall be determined by using the highest rate of tax set forth in section 1(e).*

*"(B) The exemption amount under section 55(d) shall be zero.*

*"(C) The only items of income, loss, deduction, or credit to be taken into account are the following:*

*"(i) The items required to be taken into account under section 1366.*

*"(ii) Any gain or loss from the disposition of stock in an S corporation.*

*"(iii) To the extent provided in regulations, State or local income taxes or administrative expenses to the extent allocable to items described in clauses (i) and (ii).*

*No deduction or credit shall be allowed for any amount not described in this paragraph, and no item described in this paragraph shall be apportioned to any beneficiary.*

*"(D) No amount shall be allowed under paragraph (1) or (2) of section 1211(b).*

*"(3) TREATMENT OF REMAINDER OF TRUST AND DISTRIBUTIONS.—For purposes of determining—*

*"(A) the amount of the tax imposed by this chapter on the portion of any electing small business trust not treated as a separate trust under paragraph (1), and*

*"(B) the distributable net income of the entire trust,*

*the items referred to in paragraph (2)(C) shall be excluded. Except as provided in the preceding sentence, this subsection shall not affect the taxation of any distribution from the trust.*

*"(4) TREATMENT OF UNUSED DEDUCTIONS WHERE TERMINATION OF SEPARATE TRUST.—If a portion of an electing small business trust ceases to be treated as a separate trust under paragraph (1), any carryover or excess deduction of the separate trust which is referred to in section 642(h) shall be taken into account by the entire trust.*

*"(5) ELECTING SMALL BUSINESS TRUST.—For purposes of this subsection, the term 'electing small business trust' has the meaning given such term by section 1361(e)(1)."*

*(e) TECHNICAL AMENDMENT.—Paragraph (1) of section 1366(a) is amended by inserting ", or of a trust or estate which terminates," after "who dies".*

**SEC. 11503. EXPANSION OF POST-DEATH QUALIFICATION FOR CERTAIN TRUSTS.**

*Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended—*

*(1) by striking "60-day period" each place it appears in clauses (ii) and (iii) and inserting "2-year period", and*

*(2) by striking the last sentence in clause (ii).*

**SEC. 11504. FINANCIAL INSTITUTIONS PERMITTED TO HOLD SAFE HARBOR DEBT.**

*Clause (iii) of section 1361(c)(5)(B) (defining straight debt) is amended by striking "or a trust described in paragraph (2)" and inserting "a trust described in paragraph (2), or a person which is actively and regularly engaged in the business of lending money."*

***SEC. 11505. RULES RELATING TO INADVERTENT TERMINATIONS AND INVALID ELECTIONS.***

*(a) GENERAL RULE.—Subsection (f) of section 1362 (relating to inadvertent terminations) is amended to read as follows:*

*"(f) INADVERTENT INVALID ELECTIONS OR TERMINATIONS.—If—*

*"(1) an election under subsection (a) by any corporation—*

*"(A) was not effective for the taxable year for which made (determined without regard to subsection (b)(2)) by reason of a failure to meet the requirements of section 1361(b) or to obtain shareholder consents, or*

*"(B) was terminated under paragraph (2) or (3) of subsection (d),*

*"(2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent,*

*"(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness or termination, steps were taken—*

*"(A) so that the corporation is a small business corporation, or*

*"(B) to acquire the required shareholder consents, and*

*"(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period,*

*then, notwithstanding the circumstances resulting in such ineffectiveness or termination, such corporation shall be treated as an S corporation during the period specified by the Secretary."*

*(b) LATE ELECTIONS.—Subsection (b) of section 1362 is amended by adding at the end the following new paragraph:*

*"(5) AUTHORITY TO TREAT LATE ELECTIONS AS TIMELY.—If—*

*"(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3)) after the date prescribed by this subsection for making such election for such taxable year, and*

*"(B) the Secretary determines that there was reasonable cause for the failure to timely make such election,*

*the Secretary may treat such election as timely made for such taxable year (and paragraph (3) shall not apply).''*

*(c) EFFECTIVE DATE.—The amendments made by subsection (a) and (b) shall apply with respect to elections for taxable years beginning after December 31, 1982.*

***SEC. 11506. AGREEMENT TO TERMINATE YEAR.***

*Paragraph (2) of section 1377(a) (relating to pro rata share) is amended to read as follows:*

*''(2) ELECTION TO TERMINATE YEAR.—*

*''(A) IN GENERAL.—If any shareholder terminates the shareholder's interest in the corporation during the taxable year and all affected shareholders and the corporation agree to the application of this paragraph, paragraph (1) shall be applied to the affected shareholders as if the taxable year consisted of 2 taxable years the first of which ends on the date of the termination.*

*''(B) AFFECTED SHAREHOLDERS.—For purposes of subparagraph (A), the term 'affected shareholders' means the shareholder whose interest is terminated and all shareholders to whom such shareholder has transferred shares during the taxable year. If such shareholder has transferred shares to the corporation, the term 'af-*

*fected shareholders' shall include all persons who are shareholders during the taxable year."*

***SEC. 11507. EXPANSION OF POST-TERMINATION TRANSITION PERIOD.***

*(a) IN GENERAL.—Paragraph (1) of section 1377(b) (relating to post-termination transition period) is amended by striking "and" at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:*

*"(B) the 120-day period beginning on the date of any determination pursuant to an audit of the taxpayer which follows the termination of the corporation's election and which adjusts a subchapter S item of income, loss, or deduction of the corporation arising during the S period (as defined in section 1368(e)(2)), and".*

*(b) DETERMINATION DEFINED.—Paragraph (2) of section 1377(b) is amended by striking subparagraphs (A) and (B), by redesignating subparagraph (C) as subparagraph (B), and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:*

*"(A) a determination as defined in section 1313(a), or".*

*(c) REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.—*

*(1) GENERAL RULE.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed.*

*(2) CONSISTENT TREATMENT REQUIRED.—Section 6037 (relating to return of S corporation) is amended by adding at the end the following new subsection:*

*"(c) SHAREHOLDER'S RETURN MUST BE CONSISTENT WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—*

*"(1) IN GENERAL.—A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.*

*"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—*

*"(A) IN GENERAL.—In the case of any subchapter S item, if—*

*"(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the*

*treatment of the item on the corporate return, or*

*"(II) the corporation has not filed a return, and*

*"(ii) the shareholder files with the Secretary a statement identifying the inconsistency,*

*paragraph (1) shall not apply to such item.*

*"(B) SHAREHOLDER RECEIVING INCORRECT INFORMATION.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—*

*"(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and*

*"(ii) elects to have this paragraph apply with respect to that item.*

*"(3) EFFECT OF FAILURE TO NOTIFY.—In any case—*

*"(A) described in subparagraph (A)(i)(I) of paragraph (2), and*

*"(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2), any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.*

*"(4) SUBCHAPTER S ITEM.—For purposes of this subsection, the term 'subchapter S item' means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.*

*"(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—*

***"For addition to tax in the case of a shareholder's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68."***

*(3) CONFORMING AMENDMENTS.—*

*(A) Section 1366 is amended by striking subsection (g).*

*(B) Subsection (b) of section 6233 is amended to read as follows:*

*"(b) SIMILAR RULES IN CERTAIN CASES.—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply."*

*(C) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.*

***SEC. 11508. S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.***

*(a) IN GENERAL.—Paragraph (2) of section 1361(b) (defining ineligible corporation) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.*

*(b) TREATMENT OF CERTAIN WHOLLY OWNED S CORPORATION SUBSIDIARIES.—Section 1361(b) (defining small business corporation) is amended by adding at the end the following new paragraph:*

*"(3) TREATMENT OF CERTAIN WHOLLY OWNED SUBSIDIARIES.—*

*"(A) IN GENERAL.—For purposes of this title—*

*"(i) a corporation which is a qualified subchapter S subsidiary shall not be treated as a separate corporation, and*

*"(ii) all assets, liabilities, and items of income, deduction, and credit of a qualified subchapter S subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the S corporation.*

*"(B) QUALIFIED SUBCHAPTER S SUBSIDIARY.—For purposes of this paragraph, the term 'qualified subchapter S subsidiary' means any domestic corporation which is not an ineligible corporation (as defined in paragraph (2)), if—*

*"(i) 100 percent of the stock of such corporation is held by the S corporation, and*

*"(ii) the S corporation elects to treat such corporation as a qualified subchapter S subsidiary.*

*"(C) TREATMENT OF TERMINATIONS OF QUALIFIED SUBCHAPTER S SUBSIDIARY STATUS.—For purposes of this title, if any corporation which was a qualified subchapter S subsidiary ceases to meet the requirements of subparagraph (B), such corporation shall be treated as*

*a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the S corporation in exchange for its stock.''*

*(c) CERTAIN DIVIDENDS NOT TREATED AS PASSIVE INVESTMENT INCOME.—Paragraph (3) of section 1362(d) is amended by adding at the end the following new subparagraph:*

*''(F) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.''*

*(d) CONFORMING AMENDMENTS.—*

*(1) Subsection (c) of section 1361 is amended by striking paragraph (6).*

*(2) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end the following new paragraph:*

*''(8) An S corporation.''*

***SEC. 11509. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.***

*(a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO ACCOUNT BEFORE LOSSES.—*

*(1) Subparagraph (A) of section 1366(d)(1) (relating to losses and deductions cannot exceed shareholder's basis in stock and debt) is amended by striking "paragraph (1)" and inserting "paragraphs (1) and (2)(A)".*

*(2) Subsection (d) of section 1368 (relating to certain adjustments taken into account) is amended by adding at the end the following new sentence:*

*"In the case of any distribution made during any taxable year, the adjusted basis of the stock shall be determined with regard to the adjustments provided in paragraph (1) of section 1367(a) for the taxable year."*

*(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Paragraph (1) of section 1368(e) (relating to accumulated adjustments account) is amended by adding at the end the following new subparagraph:*

*"(C) NET LOSS FOR YEAR DISREGARDED.—*

*"(i) IN GENERAL.—In applying this section to distributions made during any taxable year, the amount in the accumulated adjustments account as of the close of such taxable year shall*

*be determined without regard to any net negative adjustment for such taxable year.*

*"(ii) NET NEGATIVE ADJUSTMENT.—For purposes of clause (i), the term 'net negative adjustment' means, with respect to any taxable year, the excess (if any) of—*

*"(I) the reductions in the account for the taxable year (other than for distributions), over*

*"(II) the increases in such account for such taxable year."*

*(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 1368(e)(1) is amended—*

*(1) by striking "as provided in subparagraph (B)" and inserting "as otherwise provided in this paragraph", and*

*(2) by striking "section 1367(b)(2)(A)" and inserting "section 1367(a)(2)".*

***SEC. 11510. TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.***

*Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:*

*"(a) APPLICATION OF SUBCHAPTER C RULES.—Except as otherwise provided in this title, and except to the*

*extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders.''*

***SEC. 11511. ELIMINATION OF CERTAIN EARNINGS AND PROFITS.***

*(a) IN GENERAL.—If—*

*(1) a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and*

*(2) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1995,*

*the amount of such corporation's accumulated earnings and profits (as of the beginning of such first taxable year) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.*

*(b) CONFORMING AMENDMENTS.—*

*(1) Paragraph (3) of section 1362(d) is amended—*

*(A) by striking ''SUBCHAPTER C'' in the paragraph heading and inserting ''ACCUMULATED'',*

*(B) by striking "subchapter C" in subparagraph (A)(i)(I) and inserting "accumulated", and*

*(C) by striking subparagraph (B) and redesignating the following subparagraphs accordingly.*

*(2)(A) Subsection (a) of section 1375 is amended by striking "subchapter C" in paragraph (1) and inserting "accumulated".*

*(B) Paragraph (3) of section 1375(b) is amended to read as follows:*

*"(3) PASSIVE INVESTMENT INCOME, ETC.—The terms 'passive investment income' and 'gross receipts' have the same respective meanings as when used in paragraph (3) of section 1362(d)."*

*(C) The section heading for section 1375 is amended by striking "**subchapter c**" and inserting "**accumulated**".*

*(D) The table of sections for part III of subchapter S of chapter 1 is amended by striking "subchapter C" in the item relating to section 1375 and inserting "accumulated".*

*(3) Clause (i) of section 1042(c)(4)(A) is amended by striking "section 1362(d)(3)(D)" and inserting "section 1362(d)(3)(C)".*

***SEC. 11512. CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS UNDER AT-RISK RULES ALLOWED.***

*Paragraph (3) of section 1366(d) (relating to carryover of disallowed losses and deductions to post-termination transition period) is amended by adding at the end the following new subparagraph:*

*"(D) AT-RISK LIMITATIONS.—To the extent that any increase in adjusted basis described in subparagraph (B) would have increased the shareholder's amount at risk under section 465 if such increase had occurred on the day preceding the commencement of the post-termination transition period, rules similar to the rules described in subparagraphs (A) through (C) shall apply to any losses disallowed by reason of section 465(a)."*

***SEC. 11513. ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME.***

*(a) IN GENERAL.—Subsection (b) of section 1367 (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new paragraph:*

*"(4) ADJUSTMENTS IN CASE OF INHERITED STOCK.—*

*"(A) IN GENERAL.—If any person acquires stock in an S corporation by reason of the death of a decedent or by bequest, devise, or inheritance, section 691 shall be applied with respect to any item of income of the S corporation in the same manner as if the decedent had held directly his pro rata share of such item.*

*"(B) ADJUSTMENTS TO BASIS.—The basis determined under section 1014 of any stock in an S corporation shall be reduced by the portion of the value of the stock which is attributable to items constituting income in respect of the decedent."*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of decedents dying after the date of the enactment of this Act.*

***SEC. 11514. S CORPORATIONS ELIGIBLE FOR RULES APPLICABLE TO REAL PROPERTY SUBDIVIDED FOR SALE BY NONCORPORATE TAXPAYERS.***

*(a) IN GENERAL.—Subsection (a) of section 1237 (relating to real property subdivided for sale) is amended by striking "other than a corporation" in the material preceding paragraph (1) and inserting "other than a C corporation".*

*(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 1237(a)(2) is amended by inserting "an S corporation which included the taxpayer as a shareholder," after "controlled by the taxpayer,".*

***SEC. 11515. EFFECTIVE DATE.***

*(a) IN GENERAL.—Except as otherwise provided in this subchapter, the amendments made by this subchapter shall apply to taxable years beginning after December 31, 1995.*

*(b) TREATMENT OF CERTAIN ELECTIONS UNDER PRIOR LAW.—For purposes of section 1362(g) of the Internal Revenue Code of 1986 (relating to election after termination), any termination under section 1362(d) of such Code in a taxable year beginning before January 1, 1996, shall not be taken into account.*

## *Subchapter B—Repeal of 30-Percent Gross Income Limitation on Regulated Investment Companies*

***SEC. 11521. REPEAL OF 30-PERCENT GROSS INCOME LIMITATION.***

*(a) GENERAL RULE.—Subsection (b) of section 851 (relating to limitations) is amended by striking paragraph (3), by adding "and" at the end of paragraph (2), and by redesignating paragraph (4) as paragraph (3).*

*(b) TECHNICAL AMENDMENTS.—*

*(1) The material following paragraph (3) of section 851(b) (as redesignated by subsection (a)) is amended—*

*(A) by striking out "paragraphs (2) and (3)" and inserting "paragraph (2)", and*

*(B) by striking out the last sentence thereof.*

*(2) Subsection (c) of section 851 is amended by striking "subsection (b)(4)" each place it appears (including the heading) and inserting "subsection (b)(3)".*

*(3) Subsection (d) of section 851 is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".*

*(4) Paragraph (1) of section 851(e) is amended by striking "subsection (b)(4)" and inserting "subsection (b)(3)".*

*(5) Paragraph (4) of section 851(e) is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".*

*(6) Section 851 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).*

*(7) Subsection (g) of section 851 (as redesignated by paragraph (6)) is amended by striking paragraph (3).*

*(8) Section 817(h)(2) is amended—*

*(A) by striking "851(b)(4)" in subparagraph (A) and inserting "851(b)(3)", and*

*(B) by striking "851(b)(4)(A)(i)" in subparagraph (B) and inserting "851(b)(3)(A)(i)".*

*(9) Section 1092(f)(2) is amended by striking "Except for purposes of section 851(b)(3), the" and inserting "The".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.*

## *Subchapter C—Accounting Provisions*

### *SEC. 11551. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.*

*(a) LOOK-BACK METHOD NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end the following new paragraph:*

*"(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—*

*"(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—*

*"(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within*

*"(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).*

*"(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—*

*"(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within*

*"(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.*

*"(C) DEFINITIONS.—For purposes of this paragraph—*

*"(i) CONTRACT YEAR.—The term 'contract year' means any taxable year for which income is taken into account under the contract.*

*"(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.*

*"(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).*

*"(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which election is made or during any subsequent taxable year."*

*(b) MODIFICATION OF INTEREST RATE.—*

*(1) IN GENERAL.—Subparagraph (C) of section 460(b)(2) is amended by striking "the overpayment rate established by section 6621" and inserting "the*

*adjusted overpayment rate (as defined in paragraph (7))".*

*(2) ADJUSTED OVERPAYMENT RATE.—Subsection (b) of section 460 is amended by adding at the end the following new paragraph:*

*"(7) ADJUSTED OVERPAYMENT RATE.—*

*"(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.*

*"(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term 'interest accrual period' means the period—*

*"(i) beginning on the day after the return due date for any taxable year of the taxpayer, and*

*"(ii) ending on the return due date for the following taxable year.*

*For purposes of the preceding sentence, the term 'return due date' means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions)."*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.*

***SEC. 11552. APPLICATION OF MARK TO MARKET ACCOUNTING METHOD TO TRADERS IN SECURITIES.***

*(a) IN GENERAL.—Section 475 (relating to mark to market accounting method for dealers in securities) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:*

*"(e) AUTHORITY TO EXTEND METHOD TO TRADERS IN SECURITIES.—*

*"(1) IN GENERAL.—A trader in securities may elect to have the provisions of this section (other than subsection (d)(3)) apply to securities held by the trader. Such election may be made only with the consent of the Secretary.*

*"(2) TRADER IN SECURITIES.—For purposes of this subsection, the term 'trader in securities' means a taxpayer who is regularly engaged in trading securities."*

*(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on and after December 31, 1995.*

***SEC. 11553. MODIFICATION OF RULING AMOUNTS FOR NUCLEAR DECOMMISSIONING COSTS.***

*(a) IN GENERAL.—Section 468A(d) (relating to ruling amount) is amended by adding at the end the following new paragraph:*

*"(4) NONSUBSTANTIAL MODIFICATIONS.—A taxpayer may modify a schedule of ruling amounts under paragraph (1) without a review under paragraph (3) if such modification does not substantially modify the ruling amount. The taxpayer shall notify the Secretary of any such modification."*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to modifications after the date of the enactment of this Act.*

## *Subchapter D—Tax-Exempt Bond Provision*

***SEC. 11561. REPEAL OF DEBT SERVICE-BASED LIMITATION ON INVESTMENT IN CERTAIN NONPURPOSE INVESTMENTS.***

*(a) IN GENERAL.—Subsection (d) of section 148 (relating to special rules for reasonably required reserve or replacement fund) is amended by striking paragraph (3).*

*(b) EFFECTIVE DATE.—The amendments made by this part shall apply to bonds issued after the date of the enactment of this Act.*

## *Subchapter E—INSURANCE PROVISIONS*

### *SEC. 11571. TREATMENT OF CERTAIN INSURANCE CONTRACTS ON RETIRED LIVES.*

*(a) GENERAL RULE.—*

*(1) Paragraph (2) of section 817(d) (defining variable contract) is amended by striking "or" at the end of subparagraph (A), by striking "and" at the end of subparagraph (B) and inserting "or", and by inserting after subparagraph (B) the following new subparagraph:*

*"(C) provides for funding of insurance on retired lives as described in section 807(c)(6), and".*

*(2) Paragraph (3) of section 817(d) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:*

*"(C) in the case of funds held under a contract described in paragraph (2)(C), the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account.".*

*(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

***SEC. 11572. TREATMENT OF MODIFIED GUARANTEED CONTRACTS.***

*(a) GENERAL RULE.—Subpart E of part I of subchapter L of chapter 1 (relating to definitions and special rules) is amended by inserting after section 817 the following new section:*

***"SEC. 817A. SPECIAL RULES FOR MODIFIED GUARANTEED CONTRACTS.***

*"(a) COMPUTATION OF RESERVES.—In the case of a modified guaranteed contract, clause (ii) of section 807(e)(1)(A) shall not apply.*

*"(b) SEGREGATED ASSETS UNDER MODIFIED GUARANTEED CONTRACTS MARKED TO MARKET.—*

*"(1) IN GENERAL.—In the case of any life insurance company, for purposes of this subtitle—*

*"(A) Any gain or loss with respect to a segregated asset shall be treated as ordinary income or loss, as the case may be.*

*"(B) If any segregated asset is held by such company as of the close of any taxable year—*

*"(i) such company shall recognize gain or loss as if such asset were sold for its fair*

*market value on the last business day of such taxable year, and*

*"(ii) any such gain or loss shall be taken into account for such taxable year.*

*Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this subparagraph at times other than the times provided in this subparagraph.*

*"(2) SEGREGATED ASSET.—For purposes of paragraph (1), the term 'segregated asset' means any asset held as part of a segregated account referred to in subsection (d)(1) under a modified guaranteed contract.*

*"(c) SPECIAL RULE IN COMPUTING LIFE INSURANCE RESERVES.—For purposes of applying section 816(b)(1)(A) to any modified guaranteed contract, an assumed rate of interest shall include a rate of interest determined, from time to time, with reference to a market rate of interest.*

*"(d) MODIFIED GUARANTEED CONTRACT DEFINED.—For purposes of this section, the term 'modified guaranteed contract' means a contract not described in section 817—*

*"(1) all or part of the amounts received under which are allocated to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company and is valued from time to time with reference to market values,*

*"(2) which—*

*"(A) provides for the payment of annuities,*

*"(B) is a life insurance contract, or*

*"(C) is a pension plan contract which is not a life, accident, or health, property, casualty, or liability contract,*

*"(3) for which reserves are valued at market for annual statement purposes, and*

*"(4) which provides for a net surrender value or a policyholder's fund (as defined in section 807(e)(1)). If only a portion of a contract is not described in section 817, such portion shall be treated for purposes of this section as a separate contract.*

*"(e) REGULATIONS.—The Secretary may prescribe regulations—*

*"(1) to provide for the treatment of market value adjustments under sections 72, 7702, 7702A, and 807(e)(1)(B),*

*"(2) to determine the interest rates applicable under sections 807(c)(3), 807(d)(2)(B), and 812 with*

*respect to a modified guaranteed contract annually, in a manner appropriate for modified guaranteed contracts and, to the extent appropriate for such a contract, to modify or waive the applicability of section 811(d),*

*"(3) to provide rules to limit ordinary gain or loss treatment to assets constituting reserves for modified guaranteed contracts (and not other assets) of the company,*

*"(4) to provide appropriate treatment of transfers of assets to and from the segregated account, and*

*"(5) as may be necessary or appropriate to carry out the purposes of this section.".*

*(b) CLERICAL AMENDMENT.—The table of sections for subpart E of part I of subchapter L of chapter 1 is amended by inserting after the item relating to section 817 the following new item:*

*"Sec. 817A. Special rules for modified guaranteed contracts.".*

*(c) EFFECTIVE DATE.—*

*(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

*(2) TREATMENT OF NET ADJUSTMENTS.—In the case of any taxpayer required by the amendments made by this section to change its calculation of reserves to take into account market value adjustments*

*and to mark segregated assets to market for any taxable year—*

*(A) such changes shall be treated as a change in method of accounting initiated by the taxpayer,*

*(B) such changes shall be treated as made with the consent of the Secretary, and*

*(C) the adjustments required by reason of section 481 of the Internal Revenue Code of 1986 shall be taken into account as ordinary income or loss by the taxpayer for the taxpayer's first taxable year beginning after December 31, 1995.*

## *Subchapter F—Other Provisions*

### *SEC. 11581. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER, ETC.*

*(a) GENERAL RULE.—Subparagraph (A) of section 706(c)(2) (relating to disposition of entire interest) is amended to read as follows:*

*"(A) DISPOSITION OF ENTIRE INTEREST.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or otherwise)."*

*(b) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 706(c) is amended to read as follows:*

*"(2) TREATMENT OF DISPOSITIONS.—".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1995.*

***SEC. 11582. CREDIT FOR SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.***

*(a) REPORTING REQUIREMENT NOT CONSIDERED.—Subparagraph (A) of section 45B(b)(1) (relating to excess employer social security tax) is amended by inserting "(without regard to whether such tips are reported under section 6053)" after "section 3121(q)".*

*(b) TAXES PAID.—Subsection (d) of section 13443 of the Revenue Reconciliation Act of 1993 is amended by inserting ", with respect to services performed before, on, or after such date" after "1993".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by, and the provisions of, section 13443 of the Revenue Reconciliation Act of 1993.*

***SEC. 11583. DUE DATE FOR FIRST QUARTER ESTIMATED TAX PAYMENTS BY PRIVATE FOUNDATIONS.***

*(a) IN GENERAL.—Paragraph (3) of section 6655(g) is amended by inserting after subparagraph (C) the following new subparagraph:*

*"(D) In the case of any private foundation, subsection (c)(2) shall be applied by substituting 'May 15' for 'April 15' ".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.*

## *CHAPTER 6—ESTATES AND TRUSTS*

### *Subchapter A—Income Tax Provisions*

***SEC. 11601. CERTAIN REVOCABLE TRUSTS TREATED AS PART OF ESTATE.***

*(a) IN GENERAL.—Subpart A of part I of subchapter J (relating to estates, trusts, beneficiaries, and decedents) is amended by adding at the end the following new section:*

***"SEC. 646. CERTAIN REVOCABLE TRUSTS TREATED AS PART OF ESTATE.***

*"(a) GENERAL RULE.—For purposes of this subtitle, if both the executor (if any) of an estate and the trustee of a qualified revocable trust elect the treatment provided in this section, such trust shall be treated and taxed as part of such estate (and not as a separate trust) for all taxable*

*years of the estate ending after the date of the decedent's death and before the applicable date.*

*"(b) DEFINITIONS.—For purposes of subsection (a)—*

*"(1) QUALIFIED REVOCABLE TRUST.—The term 'qualified revocable trust' means any trust (or portion thereof) which was treated under section 676 as owned by the decedent of the estate referred to in subsection (a) by reason of a power in the grantor (determined without regard to section 672(e)).*

*"(2) APPLICABLE DATE.—The term 'applicable date' means—*

*"(A) if no return of tax imposed by chapter 11 is required to be filed, the date which is 2 years after the date of the decedent's death, and*

*"(B) if such a return is required to be filed, the date which is 6 months after the date of the final determination of the liability for tax imposed by chapter 11.*

*"(c) ELECTION.—The election under subsection (a) shall be made not later than the time prescribed for filing the return of tax imposed by this chapter for the first taxable year of the estate (determined with regard to extensions) and, once made, shall be irrevocable."*

*(b) COMPARABLE TREATMENT UNDER GENERATION-SKIPPING TAX.—Paragraph (1) of section 2652(b) is*

*amended by adding at the end the following new sentence: "Such term shall not include any trust during any period the trust is treated as part of an estate under section 646."*

*(c) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by adding at the end the following new item:*

*"Sec. 646. Certain revocable trusts treated as part of estate."*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to estates of decedents dying after the date of the enactment of this Act.*

***SEC. 11602. DISTRIBUTIONS DURING FIRST 65 DAYS OF TAXABLE YEAR OF ESTATE.***

*(a) IN GENERAL.—Subsection (b) of section 663 (relating to distributions in first 65 days of taxable year) is amended by inserting "an estate or" before "a trust" each place it appears.*

*(b) CONFORMING AMENDMENT.—Paragraph (2) of section 663(b) is amended by striking "the fiduciary of such trust" and inserting "the executor of such estate or the fiduciary of such trust (as the case may be)".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.*

***SEC. 11603. SEPARATE SHARE RULES AVAILABLE TO ESTATES.***

*(a) IN GENERAL.—Subsection (c) of section 663 (relating to separate shares treated as separate trusts) is amended—*

*(1) by inserting before the last sentence the following new sentence: "Rules similar to the rules of the preceding provisions of this subsection shall apply to treat substantially separate and independent shares of different beneficiaries in an estate having more than 1 beneficiary as separate estates.", and*

*(2) by inserting "or estates" after "trusts" in the last sentence.*

*(b) CONFORMING AMENDMENT.—The subsection heading of section 663(c) is amended by inserting "ESTATES OR" before "TRUSTS".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.*

***SEC. 11604. EXECUTOR OF ESTATE AND BENEFICIARIES TREATED AS RELATED PERSONS FOR DISALLOWANCE OF LOSSES, ETC.***

*(a) DISALLOWANCE OF LOSSES.—Subsection (b) of section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended by striking "or" at the end of paragraph (11), by striking*

*the period at the end of paragraph (12) and inserting "; or", and by adding at the end the following new paragraph:*

*"(13) Except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate."*

*(b) ORDINARY INCOME FROM GAIN FROM SALE OF DEPRECIABLE PROPERTY.—Subsection (b) of section 1239 is amended by striking the period at the end of paragraph (2) and inserting ", and" and by adding at the end the following new paragraph:*

*"(3) except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate."*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.*

***SEC. 11605. LIMITATION ON TAXABLE YEAR OF ESTATES.***

*(a) IN GENERAL.—Section 645 (relating to taxable year of trusts) is amended to read as follows:*

***"SEC. 645. TAXABLE YEAR OF ESTATES AND TRUSTS.***

*"(a) ESTATES.—For purposes of this subtitle, the taxable year of an estate shall be a year ending on October 31, November 30, or December 31.*

*"(b) TRUSTS.—*

*"(1) IN GENERAL.—For purposes of this subtitle, the taxable year of any trust shall be the calendar year.*

*"(2) EXCEPTION FOR TRUSTS EXEMPT FROM TAX AND CHARITABLE TRUSTS.—Paragraph (1) shall not apply to a trust exempt from taxation under section 501(a) or to a trust described in section 4947(a)(1)."*

*(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part I of subchapter J of chapter 1 is amended by striking the item relating to section 645 and inserting the following new item:*

*"Sec. 645. Taxable year of estates and trusts."*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.*

***SEC. 11606. TREATMENT OF FUNERAL TRUSTS.***

*(a) IN GENERAL.—Subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new section:*

***"SEC. 684. TREATMENT OF FUNERAL TRUSTS.***

*"(a) IN GENERAL.—In the case of a qualified funeral trust—*

*"(1) subparts B, C, D, and E shall not apply, and*

*"(2) no deduction shall be allowed by section 642(b).*

*"(b) QUALIFIED FUNERAL TRUST.—For purposes of this subsection, the term 'qualified funeral trust' means any trust (other than a foreign trust) if—*

*"(1) the trust arises as a result of a contract with a person engaged in the trade or business of providing funeral or burial services or property necessary to provide such services,*

*"(2) the sole purpose of the trust is to hold, invest, and reinvest funds in the trust and to use such funds solely to make payments for such services or property for the benefit of the beneficiaries of the trust,*

*"(3) the only beneficiaries of such trust are individuals who have entered into contracts described in paragraph (1) to have such services or property provided at their death,*

*"(4) the only contributions to the trust are contributions by or for the benefit of such beneficiaries,*

*"(5) the trustee elects the application of this subsection, and*

*"(6) the trust would (but for the election described in paragraph (5)) be treated as owned by the beneficiaries under subpart E.*

*"(c) DOLLAR LIMITATION ON CONTRIBUTIONS.—*

*"(1) IN GENERAL.—The term 'qualified funeral trust' shall not include any trust which accepts aggregate contributions by or for the benefit of an individual in excess of $7,000.*

*"(2) RELATED TRUSTS.—For purposes of paragraph (1), all trusts having trustees which are related persons shall be treated as 1 trust. For purposes of the preceding sentence, persons are related if—*

*"(A) the relationship between such persons would result in the disallowance of losses under section 267 or 707(b),*

*"(B) such persons are treated as a single employer under subsection (a) or (b) of section 52, or*

*"(C) the Secretary determines that treating such persons as related is necessary to prevent avoidance of the purposes of this section.*

*"(3) INFLATION ADJUSTMENT.—In the case of any contract referred to in subsection (b)(1) which is entered into during any calendar year after 1996, the dollar amount referred to paragraph (1) shall be increased by an amount equal to—*

*"(A) such dollar amount, multiplied by*

*"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar*

*year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.*

*If any dollar amount after being increased under the preceding sentence is not a multiple of $100, such dollar amount shall be rounded to the nearest multiple of $100.*

*"(d) APPLICATION OF RATE SCHEDULE.—Section 1(e) shall be applied to each qualified funeral trust by treating each beneficiary's interest in each such trust as a separate trust.*

*"(e) TREATMENT OF AMOUNTS REFUNDED TO BENEFICIARY ON CANCELLATION.—No gain or loss shall be recognized to a beneficiary described in subsection (b)(3) of any qualified funeral trust by reason of any payment from such trust to such beneficiary by reason of cancellation of a contract referred to in subsection (b)(1). If any payment referred to in the preceding sentence consists of property other than money, the basis of such property in the hands of such beneficiary shall be the same as the trust's basis in such property immediately before the payment.*

*"(f) SIMPLIFIED REPORTING.—The Secretary may prescribe rules for simplified reporting of all trusts having a single trustee."*

*(b) CLERICAL AMENDMENT.—The table of sections for subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new item:*

*"Sec. 684. Treatment of funeral trusts."*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.*

## *Subchapter B—Estate and Gift Tax Provisions*

### *SEC. 11611. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS OF RECOVERY.*

*(a) AMENDMENT TO SECTION 2207A.—Paragraph (2) of section 2207A(a) (relating to right of recovery in the case of certain marital deduction property) is amended to read as follows:*

*"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property."*

*(b) AMENDMENT TO SECTION 2207B.—Paragraph (2) of section 2207B(a) (relating to right of recovery where decedent retained interest) is amended to read as follows:*

*"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or*

*a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property.''*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.*

***SEC. 11612. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.***

*(a) GENERAL RULE.—Section 2035 is amended to read as follows:*

***''SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.***

*''(a) INCLUSION OF CERTAIN PROPERTY IN GROSS ESTATE.—If—*

*''(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and*

*''(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death,*

*the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.*

*"(b) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.*

*"(c) OTHER RULES RELATING TO TRANSFERS WITHIN 3 YEARS OF DEATH.—*

*"(1) IN GENERAL.—For purposes of—*

*"(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),*

*"(B) section 2032A (relating to special valuation of certain farms, etc., real property), and*

*"(C) subchapter C of chapter 64 (relating to lien for taxes),*

*the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.*

*"(2) COORDINATION WITH SECTION 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).*

*"(3) MARITAL AND SMALL TRANSFERS.—Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(2)) to file any gift tax return for such year with respect to transfers to such donee.*

*"(d) EXCEPTION.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth.*

*"(e) TREATMENT OF CERTAIN TRANSFERS FROM REVOCABLE TRUSTS.—For purposes of this section and section 2038, any transfer from any portion of a trust during any period that such portion was treated under section 676 as owned by the decedent by reason of a power in the grantor (determined without regard to section 672(e)) shall be treated as a transfer made directly by the decedent."*

*(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by strik-*

*ing "gifts" in the item relating to section 2035 and inserting "certain gifts".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.*

***SEC. 11613. CLARIFICATION OF QUALIFIED TERMINABLE INTEREST RULES.***

*(a) GENERAL RULE.—*

*(1) ESTATE TAX.—Subparagraph (B) of section 2056(b)(7) (defining qualified terminable interest property) is amended by adding at the end the following new clause:*

*"(vi) TREATMENT OF CERTAIN INCOME DISTRIBUTIONS.—An income interest shall not fail to qualify as a qualified income interest for life solely because income for the period after the last distribution date and on or before the date of the surviving spouse's death is not required to be distributed to the surviving spouse or to the estate of the surviving spouse."*

*(2) GIFT TAX.—Paragraph (3) of section 2523(f) is amended by striking "and (iv)" and inserting "(iv), and (vi)".*

*(b) CLARIFICATION OF SUBSEQUENT INCLUSIONS.—Section 2044 is amended by adding at the end the following new subsection:*

*"(d) CLARIFICATION OF INCLUSION OF CERTAIN INCOME.—The amount included in the gross estate under subsection (a) shall include the amount of any income from the property to which this section applies for the period after the last distribution date and on or before the date of the decedent's death if such income is not otherwise included in the decedent's gross estate."*

*(c) EFFECTIVE DATE.—*

*(1) IN GENERAL.—The amendments made by this section shall apply with respect to the estates of decedents dying, and gifts made, after the date of the enactment of this Act.*

*(2) APPLICATION OF SECTION 2044 TO TRANSFERS BEFORE DATE OF ENACTMENT.—In the case of the estate of any decedent dying after the date of the enactment of this Act, if there was a transfer of property on or before such date—*

*(A) such property shall not be included in the gross estate of the decedent under section 2044 of the Internal Revenue Code of 1986 if no prior marital deduction was allowed with respect*

*to such a transfer of such property to the decedent, but*

*(B) such property shall be so included if such a deduction was allowed.*

***SEC. 11614. TRANSITIONAL RULE UNDER SECTION 2056A.***

*(a) GENERAL RULE.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056A(a) of the Internal Revenue Code of 1986 if the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.*

*(b) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Revenue Reconciliation Act of 1990.*

***SEC. 11615. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.***

*(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:*

*"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under para-*

*graph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—*

*"(A) the notice of election, as filed, does not contain all required information, or*

*"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,*

*the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.*

***SEC. 11616. GIFTS MAY NOT BE REVALUED FOR ESTATE TAX PURPOSES AFTER EXPIRATION OF STATUTE OF LIMITATIONS.***

*(a) IN GENERAL.—Section 2001 (relating to imposition and rate of estate tax) is amended by adding at the end the following new subsection:*

*"(f) VALUATION OF GIFTS.—If—*

*"(1) the time has expired within which a tax may be assessed under chapter 12 (or under cor-*

*responding provisions of prior laws) on the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)), and*

*"(2) the value of such gift is shown on the return for such preceding calendar period or is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such gift,*

*the value of such gift shall, for purposes of computing the tax under this chapter, be the value of such gift as finally determined for purposes of chapter 12."*

*(b) MODIFICATION OF APPLICATION OF STATUTE OF LIMITATIONS.—Paragraph (9) of section 6501(c) is amended to read as follows:*

*"(9) GIFT TAX ON CERTAIN GIFTS NOT SHOWN ON RETURN.—If any gift of property the value of which (or any increase in taxable gifts required under section 2701(d)) is required to be shown on a return of tax imposed by chapter 12 (without regard to section 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item which is disclosed in such return, or in a state-*

*ment attached to the return, in a manner adequate to apprise the Secretary of the nature of such item. The value of any item which is so disclosed may not be redetermined by the Secretary after the expiration of the period under subsection (a).''*

*(c) DECLARATORY JUDGMENT PROCEDURE FOR DETERMINING VALUE OF GIFT.—*

*(1) IN GENERAL.—Part IV of subchapter C of chapter 76 is amended by inserting after section 7476 the following new section:*

***''SEC. 7477. DECLARATORY JUDGMENTS RELATING TO VALUE OF CERTAIN GIFTS.***

*''(a) CREATION OF REMEDY.—In a case of an actual controversy involving a determination by the Secretary of the value of any gift shown on the return of tax imposed by chapter 12 or disclosed on such return or in any statement attached to such return, upon the filing of an appropriate pleading, the Tax Court may make a declaration of the value of such gift. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.*

*''(b) LIMITATIONS.—*

*''(1) PETITIONER.—A pleading may be filed under this section only by the donor.*

*"(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service.*

*"(3) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail notice of his determination as described in subsection (a) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing."*

*(2) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by inserting after the item relating to section 7476 the following new item:*

*"Sec. 7477. Declaratory judgments relating to value of certain gifts."*

*(d) CONFORMING AMENDMENT.—Subsection (c) of section 2504 is amended by striking ", and if a tax under this chapter or under corresponding provisions of prior laws has been assessed or paid for such preceding calendar period".*

*(e) EFFECTIVE DATES.—*

*(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to gifts made after the date of the enactment of this Act.*

*(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to gifts made in calendar years ending after the date of the enactment of this Act.*

***SEC. 11617. CLARIFICATIONS RELATING TO DISCLAIMERS.***

*(a) PARTIAL TRANSFER-TYPE DISCLAIMERS PERMITTED.—Paragraph (3) of section 2518(c) (relating to certain transfers treated as disclaimers) is amended by inserting "(or an undivided portion of such interest)" after "entire interest in the property".*

*(b) RETENTION OF INTEREST BY DECEDENT'S SPOUSE PERMITTED IN TRANSFER-TYPE DISCLAIMERS.—Paragraph (3) of section 2518(c) is amended by adding at the end the following new flush sentence:*

*"For purposes of the preceding sentence, a written transfer by the spouse of the decedent of property to a trust shall not fail to be treated as a transfer of such spouse's interest in such property by reason of such spouse having an interest in such trust."*

*(c) DISCLAIMERS ARE EFFECTIVE FOR INCOME TAX PURPOSES.—Subsection (a) of section 2518 is amended by*

*inserting "and subtitle A" after "this subtitle" each place it appears.*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers creating an interest in the person disclaiming, and disclaimers, made after the date of the enactment of this Act.*

***SEC. 11618. CLARIFICATION OF TREATMENT OF SURVIVOR ANNUITIES UNDER QUALIFIED TERMINABLE INTEREST RULES.***

*(a) IN GENERAL.—Subparagraph (C) of section 2056(b)(7) is amended by inserting "(or, in the case of an interest in an annuity arising under the community property laws of a State, included in the gross estate of the decedent under section 2033)" after "section 2039".*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.*

***SEC. 11619. TREATMENT UNDER QUALIFIED DOMESTIC TRUST RULES OF FORMS OF OWNERSHIP WHICH ARE NOT TRUSTS.***

*(a) IN GENERAL.—Subsection (c) of section 2056A (defining qualified domestic trust) is amended by adding at the end the following new paragraph:*

*"(3) TRUST.—To the extent provided in regulations prescribed by the Secretary, the term 'trust' in-*

*cludes other arrangements which have substantially the same effect as a trust.''*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.*

## *Subchapter C—Generation-Skipping Tax Provisions*

### *SEC. 11631. TAXABLE TERMINATION NOT TO INCLUDE DIRECT SKIPS.*

*(a) IN GENERAL.—Paragraph (1) of section 2612(a) (defining taxable termination) is amended by adding at the end the following new flush sentence:*

*''Such term shall not include a direct skip.''*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to generation-skipping transfers (as defined in section 2611 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.*

# *CHAPTER 7—EXCISE TAX SIMPLIFICATION*

## *Subchapter A—Provisions Related to Distilled Spirits, Wines, and Beer*

### *SEC. 11641. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.*

*(a) IN GENERAL.—Paragraph (1) of section 5008(c) (relating to distilled spirits returned to bonded premises)*

*is amended by striking "withdrawn from bonded premises on payment or determination of tax" and inserting "on which tax has been determined or paid".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.*

***SEC. 11642. FERMENTED MATERIAL FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.***

*(a) IN GENERAL.—Paragraph (2) of section 5222(b) (relating to production, receipt, removal, and use of distilling materials) is amended to read as follows:*

*"(2) beer conveyed without payment of tax from brewery premises, beer which has been lawfully removed from brewery premises upon determination of tax, or".*

*(b) CLARIFICATION OF AUTHORITY TO PERMIT REMOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE AS DISTILLING MATERIAL.—Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:*

*"(f) REMOVAL FOR USE AS DISTILLING MATERIAL.—Subject to such regulations as the Secretary may prescribe,*

*beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material.''*

*(c) CLARIFICATION OF REFUND AND CREDIT OF TAX.—Section 5056 (relating to refund and credit of tax, or relief from liability) is amended—*

*(1) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:*

*''(c) BEER RECEIVED AT A DISTILLED SPIRITS PLANT.—Any tax paid by any brewer on beer produced in the United States may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under regulations as the Secretary may prescribe, if such beer is received on the bonded premises of a distilled spirits plant pursuant to the provisions of section 5222(b)(2), for use in the production of distilled spirits.'', and*

*(2) by striking ''or rendering unmerchantable'' in subsection (d) (as so redesignated) and inserting ''rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant''.*

*(d) EFFECTIVE DATE.—The amendments made by this section shall take effect at the beginning of the first calendar*

*quarter beginning more than 180 days after the date of the enactment of this Act.*

***SEC. 11643. REFUND OF TAX ON WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.***

*(a) IN GENERAL.—Subsection (a) of section 5044 (relating to refund of tax on unmerchantable wine) is amended by striking "as unmerchantable".*

*(b) CONFORMING AMENDMENTS.—*

*(1) Section 5361 is amended by striking "unmerchantable".*

*(2) The section heading for section 5044 is amended by striking "**unmerchantable**".*

*(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking "unmerchantable".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.*

***SEC. 11644. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.***

*(a) IN GENERAL.—Section 5053 is amended by inserting after subsection (g) the following new subsection:*

*"(h) REMOVALS FOR DESTRUCTION.—Subject to such regulations as the Secretary may prescribe, beer may be re-*

*moved from the brewery without payment of tax for destruction.''*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.*

***SEC. 11645. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.***

*(a) IN GENERAL.—Part II of subchapter G of chapter 51 is amended by adding at the end the following new section:*

***''SEC. 5418. BEER IMPORTED IN BULK.***

*''Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax.''*

*(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end the following new item:*

*"Sec. 5418. Beer imported in bulk."*

*(c) EFFECTIVE DATE.—The amendments made by this section shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.*

## *Subchapter B—Consolidation of Taxes on Aviation Gasoline*

### *SEC. 11651. CONSOLIDATION OF TAXES ON AVIATION GASOLINE.*

*(a) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) (relating to imposition of tax on gasoline and diesel fuel) is amended by redesignating clause (ii) as clause (iii) and by striking clause (i) and inserting the following:*

*"(i) in the case of gasoline other than aviation gasoline, 18.3 cents per gallon,*

*"(ii) in the case of aviation gasoline, 19.3 cents per gallon, and".*

*(b) TERMINATION.—Subsection (d) of section 4081 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:*

*"(2) AVIATION GASOLINE.—On and after January 1, 1996, the rate specified in subsection (a)(2)(A)(ii) shall be 4.3 cents per gallon."*

*(c) REPEAL OF RETAIL LEVEL TAX.—*

*(1) Subsection (c) of section 4041 is amended by striking paragraphs (2) and (3) and by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.*

*(2) Paragraph (3) of section 4041(c), as redesignated by paragraph (1), is amended by striking "paragraphs (1) and (2)" and inserting "paragraph (1)".*

*(d) CONFORMING AMENDMENTS.—*

*(1) Paragraph (1) of section 4041(k) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).*

*(2) Paragraph (1) of section 4081(d) is amended by striking "each rate of tax specified in subsection (a)(2)(A)" and inserting "the rates of tax specified in clauses (i) and (iii) of subsection (a)(2)(A)".*

*(3) Sections 6421(f)(2)(A) and 9502(f)(1)(A) are each amended by striking "section 4041(c)(4)" and inserting "section 4041(c)(2)".*

*(4) Paragraph (2) of section 9502(b) is amended by striking "14 cents" and inserting "15 cents".*

*(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.*

*(f) FLOOR STOCKS TAX.—*

*(1) IMPOSITION OF TAX.—In the case of aviation gasoline on which tax was imposed under section 4081 of the Internal Revenue Code of 1986 before January 1, 1996, and which is held on such date by any person, there is hereby imposed a floor stocks tax of 1 cent per gallon of such gasoline.*

*(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—*

*(A) LIABILITY FOR TAX.—A person holding aviation gasoline on January 1, 1996, to which the tax imposed by paragraph (1) applies shall be liable for such tax.*

*(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.*

*(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before June 30, 1996.*

*(3) DEFINITIONS.—For purposes of this subsection:*

*(A) HELD BY A PERSON.—Gasoline shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).*

*(B) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.*

*(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to gasoline held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 of such Code is allowable for such use.*

*(5) EXCEPTION FOR FUEL HELD IN AIRCRAFT TANK.—No tax shall be imposed by paragraph (1) on aviation gasoline held in the tank of an aircraft.*

*(6) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—*

*(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on aviation gasoline held on January 1, 1996, by any person if the aggregate amount of aviation gasoline held by such person on such date does not exceed 6,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such in-*

*formation as the Secretary shall require for purposes of this paragraph.*

*(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4) or (5).*

*(C) CONTROLLED GROUPS.—*

*(i) CORPORATIONS.—In the case of a controlled group, the 6,000 gallon amount in subparagraph (A) shall be apportioned among the component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.*

*(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles*

*similar to the principles of clause (i) shall apply to a group under common control where 1 or more of the members is not a corporation.*

*(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081.*

## *Subchapter C—Other Excise Tax Provisions*

### *SEC. 11661. CERTAIN COMBINATIONS NOT TREATED AS MANUFACTURE UNDER RETAIL SALES TAX ON HEAVY TRUCKS.*

*(a) IN GENERAL.—Paragraph (2) of section 4052(c) (relating to certain combinations not treated as manufacture) is amended by striking "or wood or metal floor" and inserting "wood or metal floor, or a power take-off and dump body".*

*(b) REMOVAL OF FIFTH WHEEL.—Paragraph (1) of section 4052(c) is amended by inserting before the period "or the removal of any coupling device (including any fifth wheel)".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.*

## *CHAPTER 8—ADMINISTRATIVE PROVISION*

### *SEC. 11671. CERTAIN NOTICES DISREGARDED UNDER PROVISION INCREASING INTEREST RATE ON LARGE CORPORATE UNDERPAYMENTS.*

*(a) GENERAL RULE.—Subparagraph (B) of section 6621(c)(2) (defining applicable date) is amended by adding at the end the following new clause:*

> *"(iii) EXCEPTION FOR LETTERS OR NOTICES INVOLVING SMALL AMOUNTS.—For purposes of this paragraph, any letter or notice shall be disregarded if the amount of the deficiency or proposed deficiency (or the assessment or proposed assessment) set forth in such letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax)."*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining interest for periods after December 31, 1995.*

## *Subtitle K—Miscellaneous Provisions*

***SEC. 11701. TREATMENT OF STORAGE OF PRODUCT SAMPLES.***

*(a) IN GENERAL.—Paragraph (2) of section 280A(c) is amended by striking "inventory" and inserting "inventory or product samples".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.*

***SEC. 11702. ADJUSTMENT OF DEATH BENEFIT LIMITS FOR CERTAIN POLICIES.***

*(a) IN GENERAL.—Subparagraph (C)(i) of section 7702(e)(2) (relating to limited increases in death benefit permitted) is amended by striking "$5,000" and inserting "$7,000" and by striking "$25,000" and inserting "$30,000".*

*(b) INFLATION ADJUSTMENTS.—Section 7702(e) (relating to computational rules) is amended by adding at the end the following new paragraph:*

*"(3) INFLATION ADJUSTMENT TO DEATH BENEFIT LIMITS FOR YEARS AFTER 1996.—In the case of any taxable year beginning in a calendar year after 1996, each dollar amount contained in paragraph (2)(C)(i) shall be increased by an amount equal to—*

*"(A) such dollar amount, multiplied by*

*"(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.".*

*(c) CONFORMING AMENDMENT.—Section 72(e)(10)(B) is amended by striking "$25,000" and inserting "$30,000 (adjusted at the same time and in the same manner as under section 7702(e)(3))".*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts entered into after December 31, 1995.*

***SEC. 11703. 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 October 13, 1995.*

**SEC. 11704. CORRECTION OF INFLATION ADJUSTMENT IN LUXURY EXCISE TAX ON AUTOMOBILES.**

*(a) IN GENERAL.—Subsection (e) of section 4001 (relating to inflation adjustment) is amended to read as follows:*

*"(e) INFLATION ADJUSTMENT.—*

*"(1) IN GENERAL.—The $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—*

*"(A) $30,000, multiplied by*

*"(B) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the vehicle is sold, determined by substituting 'calendar year 1990' for 'calendar year 1992' in subparagraph (B) thereof.*

*"(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $2,000, such amount shall be rounded to the next lowest multiple of $2,000."*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.*

***SEC. 11705. EXTENSION AND PHASEDOWN OF LUXURY PASSENGER AUTOMOBILE TAX.***

*(a) EXTENSION.—Subsection (f) of section 4001 is amended by striking "1999" and inserting "2002".*

*(b) PHASEDOWN.—Section 4001 is amended by redesignating subsection (f) (as amended by subsection (a) of this section) as subsection (g) and by inserting after subsection (e) the following new subsection:*

*"(f) PHASEDOWN.—For sales occurring in a calendar year after 1995 and before 2003, subsection (a) shall be applied by substituting for '10 percent' the percentage determined in accordance with the following table:*

| ***"If the calendar year is:*** | ***The percentage is:*** |
|---|---|
| *1996* | *9 percent* |
| *1997* | *8 percent* |

| | |
|---|---|
| *1998* | *7 percent* |
| *1999* | *6 percent* |
| *2000* | *5 percent* |
| *2001* | *4 percent* |
| *2002* | *3 percent.”* |

*(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.*

## *Subtitle L—Generalized System of Preferences*

***SEC. 11801. SHORT TITLE.***

*This subtitle may be cited as the “GSP Renewal Act of 1995”.*

***SEC. 11802. GENERALIZED SYSTEM OF PREFERENCES.***

*(a) IN GENERAL.—Title V of the Trade Act of 1974 is amended to read as follows:*

## *“TITLE V—GENERALIZED SYSTEM OF PREFERENCES*

***“SEC. 501. AUTHORITY TO EXTEND PREFERENCES.***

*“The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this title. In taking any such action, the President shall have due regard for—*

*“(1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;*

*“(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized pref-*

*erences with respect to imports of products of such countries;*

*"(3) the anticipated impact of such action on United States producers of like or directly competitive products; and*

*"(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.*

***"SEC. 502. DESIGNATION OF BENEFICIARY DEVELOPING COUNTRIES.***

*"(a) AUTHORITY TO DESIGNATE COUNTRIES.—*

*"(1) BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate countries as beneficiary developing countries for purposes of this title.*

*"(2) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate any beneficiary developing country as a least-developed beneficiary developing country for purposes of this title, based on the considerations in section 501 and subsection (c) of this section.*

*"(b) COUNTRIES INELIGIBLE FOR DESIGNATION.—*

*"(1) SPECIFIC COUNTRIES.—The following countries may not be designated as beneficiary developing countries for purposes of this title:*

*"(A) Australia.*

*"(B) Canada.*

*"(C) European Union member states.*

*"(D) Iceland.*

*"(E) Japan.*

*"(F) Monaco.*

*"(G) New Zealand.*

*"(H) Norway.*

*"(I) Switzerland.*

*"(2) OTHER BASES FOR INELIGIBILITY.—The President shall not designate any country a beneficiary developing country under this title if any of the following applies:*

*"(A) Such country is a Communist country, unless—*

*"(i) the products of such country receive nondiscriminatory treatment,*

*"(ii) such country is a WTO Member (as such term is defined in section 2(10) of the Uruguay Round Agreements Act) (19 U.S.C. 3501(10)) and a member of the International Monetary Fund, and*

*"(iii) such country is not dominated or controlled by international communism.*

*"(B) Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—*

*"(i) to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and*

*"(ii) to cause serious disruption of the world economy.*

*"(C) Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.*

*"(D)(i) Such country—*

*"(I) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,*

*"(II) has taken steps to repudiate or nullify an existing contract or agreement*

*with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or*

*"(III) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property,*

*unless clause (ii) applies.*

*"(ii) This clause applies if the President determines that—*

*"(I) prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to in clause (i),*

*"(II) good faith negotiations to provide prompt, adequate, and effective compensa-*

*tion under the applicable provisions of international law are in progress, or the country described in clause (i) is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or*

*"(III) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum,*

*and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.*

*"(E) Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by perma-*

*nent arbitral bodies to which the parties involved have submitted their dispute.*

*"(F) Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism.*

*"(G) Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).*

*Subparagraphs (D), (E), (F), and (G) shall not prevent the designation of any country as a beneficiary developing country under this title if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with the reasons therefor.*

*"(c) FACTORS AFFECTING COUNTRY DESIGNATION.—In determining whether to designate any country as a beneficiary developing country under this title, the President shall take into account—*

*"(1) an expression by such country of its desire to be so designated;*

*"(2) the level of economic development of such country, including its per capita gross national prod-*

*uct, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;*

*"(3) whether or not other major developed countries are extending generalized preferential tariff treatment to such country;*

*"(4) the extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;*

*"(5) the extent to which such country is providing adequate and effective protection of intellectual property rights;*

*"(6) the extent to which such country has taken action to—*

*"(A) reduce trade distorting investment practices and policies (including export performance requirements); and*

*"(B) reduce or eliminate barriers to trade in services; and*

*"(7) whether or not such country has taken or is taking steps to afford to workers in that country (in-*

*cluding any designated zone in that country) internationally recognized worker rights.*

*"(d) WITHDRAWAL, SUSPENSION, OR LIMITATION OF COUNTRY DESIGNATION.—*

*"(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any country. In taking any action under this subsection, the President shall consider the factors set forth in section 501 and subsection (c) of this section.*

*"(2) CHANGED CIRCUMSTANCES.—The President shall, after complying with the requirements of subsection (f)(2), withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, the President determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under subsection (b)(2). Such country shall cease to be a beneficiary developing country on the day on which the President issues an Executive order or Presidential proclamation revoking the designation of such country under this title.*

*"(3) ADVICE TO CONGRESS.—The President shall, as necessary, advise the Congress on the application of section 501 and subsection (c) of this sec-*

*tion, and the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in subsection (c).*

*"(e) MANDATORY GRADUATION OF BENEFICIARY DEVELOPING COUNTRIES.—If the President determines that a beneficiary developing country has become a 'high income' country, as defined by the official statistics of the International Bank for Reconstruction and Development, then the President shall terminate the designation of such country as a beneficiary developing country for purposes of this title, effective on January 1 of the second year following the year in which such determination is made.*

*"(f) CONGRESSIONAL NOTIFICATION.—*

*"(1) NOTIFICATION OF DESIGNATION.—*

*"(A) IN GENERAL.—Before the President designates any country as a beneficiary developing country under this title, the President shall notify the Congress of the President's intention to make such designation, together with the considerations entering into such decision.*

*"(B) DESIGNATION AS LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—At least 60 days before the President designates any*

*country as a least-developed beneficiary developing country, the President shall notify the Congress of the President's intention to make such designation.*

*"(2) NOTIFICATION OF TERMINATION.—If the President has designated any country as a beneficiary developing country under this title, the President shall not terminate such designation unless, at least 60 days before such termination, the President has notified the Congress and has notified such country of the President's intention to terminate such designation, together with the considerations entering into such decision.*

***"SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES.***

*"(a) ELIGIBLE ARTICLES.—*

*"(1) DESIGNATION.—*

*"(A) IN GENERAL.—Except as provided in subsection (b), the President is authorized to designate articles as eligible articles from all beneficiary developing countries for purposes of this title by Executive order or Presidential proclamation after receiving the advice of the International Trade Commission in accordance with subsection (e).*

*"(B) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Except for articles described in subparagraphs (A), (B), and (E) of subsection (b)(1) and articles described in paragraphs (2) and (3) of subsection (b), the President may, in carrying out section 502(d)(1) and subsection (c)(1) of this section, designate articles as eligible articles only for countries designated as least-developed beneficiary developing countries under section 502(a)(2) if, after receiving the advice of the International Trade Commission in accordance with subsection (e) of this section, the President determines that such articles are not import-sensitive in the context of imports from least-developed beneficiary developing countries.*

*"(C) THREE-YEAR RULE.—If, after receiving the advice of the International Trade Commission under subsection (e), an article has been formally considered for designation as an eligible article under this title and denied such designation, such article may not be reconsidered for such designation for a period of 3 years after such denial.*

*"(2) RULE OF ORIGIN.—*

*"(A) GENERAL RULE.—The duty-free treatment provided under this title shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—*

*"(i) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and*

*"(ii) the sum of—*

*"(I) the cost or value of the materials produced in the beneficiary developing country or any two or more such countries that are members of the same association of countries and are treated as one country under section 507(2), plus*

*"(II) the direct costs of processing operations performed in such beneficiary developing country or such member countries,*

*is not less than 35 percent of the appraised value of such article at the time it is entered.*

*"(B) EXCLUSIONS.—An article shall not be treated as the growth, product, or manufacture of a beneficiary developing country by virtue of having merely undergone—*

*"(i) simple combining or packaging operations, or*

*"(ii) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.*

*"(3) REGULATIONS.—The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out paragraph (2), including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article—*

*"(A) must be wholly the growth, product, or manufacture of a beneficiary developing country, or*

*"(B) must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country.*

*"(b) ARTICLES THAT MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES.—*

*"(1) IMPORT SENSITIVE ARTICLES.—The President may not designate any article as an eligible article under subsection (a) if such article is within one of the following categories of import-sensitive articles:*

*"(A) Textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on such date.*

*"(B) Watches, except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions.*

*"(C) Import-sensitive electronic articles.*

*"(D) Import-sensitive steel articles.*

*"(E) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on January 1, 1995, as this title was in effect on such date.*

*"(F) Import-sensitive semimanufactured and manufactured glass products.*

*"(G) Any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.*

*"(2) ARTICLES AGAINST WHICH OTHER ACTIONS TAKEN.—An article shall not be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act (19 U.S.C. 2253) or section 232 or 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, 1981).*

*"(3) AGRICULTURAL PRODUCTS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.*

*"(c) WITHDRAWAL, SUSPENSION, OR LIMITATION OF DUTY-FREE TREATMENT; COMPETITIVE NEED LIMITATION.—*

*"(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any article, except that no rate of duty may be established with respect to any article pursuant to this subsection other than the rate which would apply but*

*for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).*

*"(2) COMPETITIVE NEED LIMITATION.—*

*"(A) BASIS FOR WITHDRAWAL OF DUTY-FREE TREATMENT.—*

*"(i) IN GENERAL.—Except as provided in clause (ii) and subject to subsection (d), whenever the President determines that a beneficiary developing country has exported (directly or indirectly) to the United States during any calendar year beginning after December 31, 1995—*

*"(I) a quantity of an eligible article having an appraised value in excess of the applicable amount for the calendar year, or*

*"(II) a quantity of an eligible article equal to or exceeding 50 percent of the appraised value of the total imports of that article into the United States during any calendar year,*

*the President shall, not later than July 1 of the next calendar year, terminate the duty-*

*free treatment for that article from that beneficiary developing country.*

*"(ii) ANNUAL ADJUSTMENT OF APPLICABLE AMOUNT.—For purposes of applying clause (i), the applicable amount is—*

*"(I) for 1996, $75,000,000, and*

*"(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $5,000,000.*

*"(B) COUNTRY DEFINED.—For purposes of this paragraph, the term 'country' does not include an association of countries which is treated as one country under section 507(2), but does include a country which is a member of any such association.*

*"(C) REDESIGNATIONS.—A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of subparagraph (A) may, subject to the considerations set forth in sections 501 and 502, be redesignated a beneficiary developing country with respect to such article if imports of such article from such country did not exceed the limita-*

*tions in subparagraph (A) during the preceding calendar year.*

*"(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country.*

*"(E) ARTICLES NOT PRODUCED IN THE UNITED STATES EXCLUDED.—Subparagraph (A)(i)(II) shall not apply with respect to any eligible article if a like or directly competitive article was not produced in the United States on January 1, 1995.*

*"(F) DE MINIMIS WAIVERS.—*

*"(i) IN GENERAL.—The President may disregard subparagraph (A)(i)(II) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed the applicable amount for such preceding calendar year.*

*"(ii) APPLICABLE AMOUNT.—For purposes applying clause (i), the applicable amount is—*

*"(I) for calendar year 1995, $13,000,000, and*

*"(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $500,000.*

*"(d) WAIVER OF COMPETITIVE NEED LIMITATION.—*

*"(1) IN GENERAL.—The President may waive the application of subsection (c)(2) with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2)(A) was made with respect to such eligible article, the President—*

*"(A) receives the advice of the International Trade Commission under section 332 of the Tariff Act of 1930 on whether any industry in the United States is likely to be adversely affected by such waiver,*

*"(B) determines, based on the considerations described in sections 501 and 502(c) and the advice described in subparagraph (A), that such waiver is in the national economic interest of the United States, and*

*"(C) publishes the determination described in subparagraph (B) in the Federal Register.*

*"(2) CONSIDERATIONS BY THE PRESIDENT.—In making any determination under paragraph (1), the President shall give great weight to—*

*"(A) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and*

*"(B) the extent to which such country provides adequate and effective protection of intellectual property rights.*

*"(3) OTHER BASES FOR WAIVER.—The President may waive the application of subsection (c)(2) if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2) was made with respect to a beneficiary developing country, the President determines that—*

*"(A) there has been a historical preferential trade relationship between the United States and such country,*

*"(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and*

*"(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce,*

*and the President publishes that determination in the Federal Register.*

*"(4) LIMITATIONS ON WAIVERS.—*

*"(A) IN GENERAL.—The President may not exercise the waiver authority under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which equals or exceeds 30 percent of the aggregate appraised value of all articles that entered duty-free under this title during the preceding calendar year.*

*"(B) OTHER WAIVER LIMITS.—The President may not exercise the waiver authority provided under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which exceeds 15 percent of the aggregate appraised value of all articles*

*that have entered duty-free under this title during the preceding calendar year from those beneficiary developing countries which for the preceding calendar year—*

*"(i) had a per capita gross national product (calculated on the basis of the best available information, including that of the International Bank for Reconstruction and Development) of $5,000 or more; or*

*"(ii) had exported (either directly or indirectly) to the United States a quantity of articles that was duty-free under this title that had an aggregate appraised value of more than 10 percent of the aggregate appraised value of all articles that entered duty-free under this title during that year.*

*"(C) CALCULATION OF LIMITATIONS.—There shall be counted against the limitations imposed under subparagraphs (A) and (B) for any calendar year only that value of any eligible article of any country that—*

*"(i) entered duty-free under this title during such calendar year; and*

*"(ii) is in excess of the value of that article that would have been so entered dur-*

*ing such calendar year if the limitations under subsection (c)(2)(A) applied.*

*"(5) EFFECTIVE PERIOD OF WAIVER.—Any waiver granted under this subsection shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.*

*"(e) INTERNATIONAL TRADE COMMISSION ADVICE.—Before designating articles as eligible articles under subsection (a)(1), the President shall publish and furnish the International Trade Commission with lists of articles which may be considered for designation as eligible articles for purposes of this title. The provisions of sections 131, 132, 133, and 134 shall be complied with as though action under section 501 and this section were action under section 123 to carry out a trade agreement entered into under section 123.*

*"(f) SPECIAL RULE CONCERNING PUERTO RICO.—No action under this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 on coffee imported into Puerto Rico.*

***"SEC. 504. REVIEW AND REPORTS TO CONGRESS.***

*"The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country.*

***"SEC. 505. DATE OF TERMINATION.***

*"No duty-free treatment provided under this title shall remain in effect after December 31, 1996.*

***"SEC. 506. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.***

*"The appropriate agencies of the United States shall assist beneficiary developing countries to develop and implement measures designed to assure that the agricultural sectors of their economies are not directed to export markets to the detriment of the production of foodstuffs for their citizenry.*

***"SEC. 507. DEFINITIONS.***

*"For purposes of this title:*

*"(1) BENEFICIARY DEVELOPING COUNTRY.—The term 'beneficiary developing country' means any country with respect to which there is in effect an Executive order or Presidential proclamation by the President designating such country as a beneficiary developing country for purposes of this title.*

*"(2) COUNTRY.—The term 'country' means any foreign country or territory, including any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration*

*among its members through appropriate means, including, but not limited to, the reduction of duties, the President may by Executive order or Presidential proclamation provide that all members of such association other than members which are barred from designation under section 502(b) shall be treated as one country for purposes of this title.*

*"(3) ENTERED.—The term 'entered' means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.*

*"(4) INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—The term 'internationally recognized worker rights' includes—*

*"(A) the right of association;*

*"(B) the right to organize and bargain collectively;*

*"(C) a prohibition on the use of any form of forced or compulsory labor;*

*"(D) a minimum age for the employment of children; and*

*"(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.*

*"(5) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—The term 'least-developed beneficiary*

*developing country' means a beneficiary developing country that is designated as a least-developed beneficiary developing country under section 502(a)(2).".*

*(b) TABLE OF CONTENTS.—The items relating to title V in the table of contents of the Trade Act of 1974 are amended to read as follows:*

*"TITLE V—GENERALIZED SYSTEM OF PREFERENCES*

*"Sec. 501. Authority to extend preferences.*
*"Sec. 502. Designation of beneficiary developing countries.*
*"Sec. 503. Designation of eligible articles.*
*"Sec. 504. Review and reports to Congress.*
*"Sec. 505. Date of termination.*
*"Sec. 506. Agricultural exports of beneficiary developing countries.*
*"Sec. 507. Definitions.".*

***SEC. 11803. RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.***

*(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to subsection (b), the entry—*

*(1) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on July 31, 1995, and*

*(2) that was made after July 31, 1995, and before the date of the enactment of this Act,*

*shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry. As used in this subsection, the term*

*"entry" includes a withdrawal from warehouse for consumption.*

*(b) REQUESTS.—Liquidation or reliquidation may be made under subsection (a) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—*

*(1) to locate the entry; or*

*(2) to reconstruct the entry if it cannot be located.*

***SEC. 11804. CONFORMING AMENDMENTS.***

*(a) TRADE LAWS.—*

*(1) Section 1211(b) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3011(b)) is amended—*

*(A) in paragraph (1), by striking "(19 U.S.C. 2463(a), 2464(c)(3))" and inserting "(as in effect on July 31, 1995)"; and*

*(B) in paragraph (2), by striking "(19 U.S.C. 2464(c)(1))" and inserting the following: "(as in effect on July 31, 1995)".*

*(2) Section 203(c)(7) of the Andean Trade Preference Act (19 U.S.C. 3202(c)(7)) is amended by striking "502(a)(4)" and inserting "507(4)".*

*(3) Section 212(b)(7) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)(7)) is amended by striking "502(a)(4)" and inserting "507(4)".*

*(4) General note 3(a)(iv)(C) of the Harmonized Tariff Schedule of the United States is amended by striking "sections 503(b) and 504(c)" and inserting "subsections (a), (c), and (d) of section 503".*

*(5) Section 201(a)(2) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3331(a)(2)) is amended by striking "502(a)(2) of the Trade Act of 1974 (19 U.S.C. 2462(a)(2))" and inserting "502(f)(2) of the Trade Act of 1974".*

*(6) Section 131 of the Uruguay Round Agreements Act (19 U.S.C. 3551) is amended in subsections (a) and (b)(1) by striking "502(a)(4)" and inserting "507(4)".*

*(b) OTHER LAWS.—*

*(1) Section 871(f)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "within the meaning of section 502" and inserting "under title V".*

*(2) Section 2202(8) of the Export Enhancement Act of 1988 (15 U.S.C. 4711(8)) is amended by striking "502(a)(4)" and inserting "507(4)".*

*(3) Section 231A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a(a)) is amended—*

*(A) in paragraph (1) by striking "502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4))" and inserting "507(4) of the Trade Act of 1974";*

*(B) in paragraph (2) by striking "505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c))" and inserting "504 of the Trade Act of 1974"; and*

*(C) in paragraph (4) by striking "502(a)(4)" and inserting "507(4)".*

*(4) Section 1621(a)(1) of the International Financial Institutions Act (22 U.S.C. 262p–4p(a)(1)) is amended by striking "502(a)(4)" and inserting "507(4)".*

*(5) Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444–2) is amended in subsections (a)(5)(F)(v) and (n)(1)(C) by striking "503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d))" and inserting "503(b)(3) of the Trade Act of 1974".*

## *Subtitle M—Increase in Public Debt LImit*

### *SEC. 11901. INCREASE IN PUBLIC DEBT LIMIT.*

*Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar amount contained*

*in the first sentence and inserting "$5,500,000,000,000" and by striking the second sentence (if any).*

# *TITLE XII—TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION; ASSET SALES; WELFARE; AND OTHER PROVISIONS*

### *SEC. 12001. SHORT TITLE.*

*Subtitles A through K of this title may be cited as the "Personal Responsibility and Work Opportunity Act of 1995".*

### *SEC. 12002. TABLE OF CONTENTS.*

*The table of contents of subtitles A through L of this title is as follows:*

*Sec. 12001. Short title.*
*Sec. 12002. Table of contents.*

*Subtitle A—Block Grants for Temporary Assistance for Needy Families*

*Sec. 12100. References to the Social Security Act.*
*Sec. 12101. Block grants to States.*
*Sec. 12102. Report on data processing.*
*Sec. 12103. Conforming amendments to the Social Security Act.*
*Sec. 12104. Conforming amendments to the Food Stamp Act of 1977 and related provisions.*
*Sec. 12105. Conforming amendments to other laws.*
*Sec. 12106. Effective date; transition rule.*

*Subtitle B—Supplemental Security Income*

*Sec. 12200. Reference to Social Security Act.*

*Chapter 1—Eligibility Restrictions*

*Sec. 12201. Denial of supplemental security income benefits by reason of disability to drug addicts and alcoholics.*
*Sec. 12202. Denial of SSI benefits for 10 years to individuals found to have fraudulently misrepresented residence in order to obtain benefits simultaneously in 2 or more States.*
*Sec. 12203. Denial of SSI benefits for fugitive felons and probation and parole violators.*

*Chapter 2—Benefits for Disabled Children*

*Sec. 12211. Definition and eligibility rules.*
*Sec. 12212. Eligibility redeterminations and continuing disability reviews.*
*Sec. 12213. Additional accountability requirements.*
*Sec. 12214. Reduction in cash benefits payable to institutionalized individuals whose medical costs are covered by private insurance.*
*Sec. 12215. Regulations.*

*Subtitle C—Child Support*

*Sec. 12300. Reference to Social Security Act.*

*Chapter 1—Eligibility for Services; Distribution of Payments*

*Sec. 12301. State obligation to provide child support enforcement services.*
*Sec. 12302. Distribution of child support collections.*
*Sec. 12303. Privacy safeguards.*

*Chapter 2—Locate and Case Tracking*

*Sec. 12311. State case registry.*
*Sec. 12312. Collection and disbursement of support payments.*
*Sec. 12313. State directory of new hires.*
*Sec. 12314. Amendments concerning income withholding.*
*Sec. 12315. Locator information from interstate networks.*
*Sec. 12316. Expansion of the Federal parent locator service.*
*Sec. 12317. Collection and use of social security numbers for use in child support enforcement.*

*Chapter 3—Streamlining and Uniformity of Procedures*

*Sec. 12321. Adoption of uniform State laws.*
*Sec. 12322. Improvements to full faith and credit for child support orders.*
*Sec. 12323. Administrative enforcement in interstate cases.*
*Sec. 12324. Use of forms in interstate enforcement.*
*Sec. 12325. State laws providing expedited procedures.*

*Chapter 4—Paternity Establishment*

*Sec. 12331. State laws concerning paternity establishment.*
*Sec. 12332. Outreach for voluntary paternity establishment.*
*Sec. 12333. Cooperation by applicants for and recipients of temporary family assistance.*

*Chapter 5—Program Administration and Funding*

*Sec. 12341. Performance-based incentives and penalties.*
*Sec. 12342. Federal and State reviews and audits.*
*Sec. 12343. Required reporting procedures.*
*Sec. 12344. Automated data processing requirements.*
*Sec. 12345. Technical assistance.*
*Sec. 12346. Reports and data collection by the Secretary.*

*Chapter 6—Establishment and Modification of Support Orders*

*Sec. 12351. Simplified process for review and adjustment of child support orders.*
*Sec. 12352. Furnishing consumer reports for certain purposes relating to child support.*

*Sec. 12353. Nonliability for financial institutions providing financial records to State child support enforcement agencies in child support cases.*

*Chapter 7—Enforcement of Support Orders*

*Sec. 12361. Internal Revenue Service collection of arrearages.*
*Sec. 12362. Authority to collect support from Federal employees.*
*Sec. 12363. Enforcement of child support obligations of members of the Armed Forces.*
*Sec. 12364. Voiding of fraudulent transfers.*
*Sec. 12365. Work requirement for persons owing past-due child support.*
*Sec. 12366. Definition of support order.*
*Sec. 12367. Reporting arrearages to credit bureaus.*
*Sec. 12368. Liens.*
*Sec. 12369. State law authorizing suspension of licenses.*
*Sec. 12370. International child support enforcement.*
*Sec. 12371. Financial institution data matches.*
*Sec. 12372. Enforcement of orders against paternal or maternal grandparents in cases of minor parents.*

*Chapter 8—Medical Support*

*Sec. 12376. Correction to ERISA definition of medical child support order.*
*Sec. 12377. Enforcement of orders for health care coverage.*

*Chapter 9—Enhancing Responsibility and Opportunity for Non-Residential Parents*

*Sec. 12381. Grants to States for access and visitation programs.*

*Chapter 10—Effect of Enactment*

*Sec. 12391. Effective dates.*

*Subtitle D—Restricting Welfare and Public Benefits for Aliens*

*Chapter 1—Eligibility for Federal Benefits*

*Sec. 12401. Aliens who are not qualified aliens ineligible for Federal public benefits.*
*Sec. 12402. Limited eligibility of certain qualified aliens for certain Federal programs.*
*Sec. 12403. Five-year limited eligibility of qualified aliens for Federal means-tested public benefit.*

*Chapter 2—Attribution of Income and Affidavits of Support*

*Sec. 12421. Attribution of sponsor's income and resources to alien.*
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*Sec. 13020. Deductions from income.*
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*Sec. 13023. Doubled penalties for violating food stamp program requirements.*
*Sec. 13024. Disqualification of convicted individuals.*
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*Sec. 13026. Caretaker exemption.*
*Sec. 13027. Employment and training.*
*Sec. 13028. Comparable treatment for disqualification.*
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*Sec. 13031. Cooperation with child support agencies.*
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*Sec. 13035. Value of minimum allotment.*
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*Sec. 13037. Optional combined allotment for expedited households.*
*Sec. 13038. Failure to comply with other means-tested public assistance programs.*
*Sec. 13039. Allotments for households residing in centers.*
*Sec. 13040. Condition precedent for approval of retail food stores and wholesale food concerns.*
*Sec. 13041. Authority to establish authorization periods.*
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*Sec. 13043. Waiting period for stores that fail to meet authorization criteria.*
*Sec. 13044. Expedited coupon service.*
*Sec. 13045. Withdrawing fair hearing requests.*
*Sec. 13046. Disqualification of retailers who intentionally submit falsified applications.*
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*CHAPTER 2—COMMODITY DISTRIBUTION PROGRAMS*

*Sec. 13071. Emergency food assistance program.*

*Subtitle K—Miscellaneous*

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*Sec. 13102. Reduction in block grants for social services.*

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*Sec. 13200. Amendment of 1986 code.*
*Sec. 13201. Earned income credit denied to individuals not authorized to be employed in the United States.*
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*Sec. 13203. Modification of earned income credit amount and phaseout.*
*Sec. 13204. Rules relating to denial of earned income credit on basis of disqualified income.*
*Sec. 13205. Modification of adjusted gross income definition for earned income credit.*
*Sec. 13206. Provisions to improve tax compliance.*

*Subtitle M—Clinical Laboratories*

*Sec. 13301. Exemption of physician office laboratories.*

## *Subtitle A—Block Grants for Temporary Assistance for Needy Families*

### *SEC. 12100. REFERENCES TO THE SOCIAL SECURITY ACT.*

*Except as otherwise specifically provided, wherever in this subtitle 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.*

### *SEC. 12101. BLOCK GRANTS TO STATES.*

*Part A of title IV (42 U.S.C. 601 et seq.) is amended to read as follows:*

## *"PART A—BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES*

### *"SEC. 401. ELIGIBLE STATES; STATE PLAN.*

*"(a) IN GENERAL.—As used in this part, the term 'eligible State' means, with respect to a fiscal year, a State that, during the 2-year period immediately preceding the fiscal year, has submitted to the Secretary a plan that includes the following:*

*"(1) OUTLINE OF FAMILY ASSISTANCE PROGRAM.—*

*"(A) GENERAL PROVISIONS.—A written document that outlines how the State intends to do the following:*

*"(i) Conduct a program, designed to serve all political subdivisions in the State, that provides assistance to needy families with (or expecting) children and provides parents with job preparation, work, and support services to enable them to leave the program and become self-sufficient.*

*"(ii) Require a parent or caretaker receiving assistance under the program to engage in work (as defined by the State) once the State determines the parent or caretaker is ready to engage in work, or once the parent or caretaker has received assistance*

*under the program for 24 months (whether or not consecutive), whichever is earlier.*

*"(iii) Ensure that parents and caretakers receiving assistance under the program engage in work activities in accordance with section 406.*

*"(iv) Take such reasonable steps as the State deems necessary to restrict the use and disclosure of information about individuals and families receiving assistance under the program.*

*"(v) Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies, with special emphasis on teenage pregnancies, and establish numerical goals for reducing the illegitimacy ratio of the State (as defined in section 402(a)(2)(B)) for calendar years 1996 through 2005.*

*"(B) SPECIAL PROVISIONS.—*

*"(i) The document shall indicate whether the State intends to treat families moving into the State from another State differently than other families under the*

*program, and if so, how the State intends to treat such families under the program.*

*"(ii) The document shall indicate whether the State intends to provide assistance under the program to individuals who are not citizens of the United States, and if so, shall include an overview of such assistance.*

*"(2) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD SUPPORT ENFORCEMENT PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child support enforcement program under the State plan approved under part D.*

*"(3) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD PROTECTION PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child protection program under the State plan approved under part B.*

*"(4) CERTIFICATION OF THE ADMINISTRATION OF THE PROGRAM.—A certification by the chief executive officer of the State specifying which State agency or agencies will administer and supervise the program referred to in paragraph (1) for the fiscal year,*

*which shall include assurances that local governments and private sector organizations—*

*"(A) have been consulted regarding the plan and design of welfare services in the State so that services are provided in a manner appropriate to local populations; and*

*"(B) have had at least 60 days to submit comments on the plan and the design of such services.*

*"(5) CERTIFICATION THAT THE STATE WILL PROVIDE INDIANS WITH EQUITABLE ACCESS TO ASSISTANCE.—A certification by the chief executive officer of the State that, during the fiscal year, the State will provide each Indian who is a member of an Indian tribe in the State that does not have a tribal family assistance plan approved under section 411 with equitable access to assistance under the State program funded under this part.*

*"(b) SPECIAL RULE FOR FISCAL YEAR 1996.—Notwithstanding subsection (a), the term 'eligible State' means, with respect to fiscal year 1996, a State that has submitted to the Secretary a plan described in subsection (a) within 3 months after the date of the enactment of this part.*

*"(c) PUBLIC AVAILABILITY OF STATE PLAN SUMMARY.—The State shall make available to the public a summary of any plan submitted by the State under this section.*

***"SEC. 402. PAYMENTS TO STATES.***

*"(a) GRANTS.—*

*"(1) FAMILY ASSISTANCE GRANT.—*

*"(A) IN GENERAL.—Each eligible State shall be entitled to receive from the Secretary, for each of fiscal years 1996, 1997, 1998, 1999, and 2000, a grant in an amount equal to the State family assistance grant. The payment of these grants to States shall not be deemed to entitle any individual or family to any assistance under any State program funded under this part.*

*"(B) STATE FAMILY ASSISTANCE GRANT DEFINED.—As used in this part, the term 'State family assistance grant' means the greatest of—*

*"(i) 1/3 of the total amount required to be paid to the State under section 403 of this title (as in effect on September 30, 1995) for fiscal years 1992, 1993, and 1994 (other than with respect to amounts expended by the State for child care under*

*subsection (g) or (i) of section 402 (as so in effect));*

*"(ii) the total amount required to be paid to the State under such section 403 for fiscal year 1994 (other than with respect to amounts expended by the State for child care under subsection (g) or (i) of section 402 (as so in effect)); or*

*"(iii) 4/3 of the total amount required to be paid to the State under such section 403 for the 1st 3 quarters of fiscal year 1995 (other than with respect to amounts expended by the State under the State plan approved under part F (as so in effect) or for child care under subsection (g) or (i) of section 402 (as so in effect)), plus the total amount required to be paid to the State for fiscal year 1995 under section 403(l) (as so in effect).*

*"(2) GRANT TO REWARD STATES THAT REDUCE OUT-OF-WEDLOCK BIRTHS.—*

*"(A) IN GENERAL.—In addition to any grant under paragraph (1), each eligible State shall be entitled to receive from the Secretary for fiscal year 1998 or any succeeding fiscal year, a*

*grant in an amount equal to the State family assistance grant multiplied by—*

*"(i) 5 percent if—*

*"(I) the illegitimacy ratio of the State for the fiscal year is at least 1 percentage point lower than the illegitimacy ratio of the State for fiscal year 1995; and*

*"(II) the rate of induced pregnancy terminations in the State for the fiscal year is less than the rate of induced pregnancy terminations in the State for fiscal year 1995; or*

*"(ii) 10 percent—*

*"(I) if the illegitimacy ratio of the State for the fiscal year is at least 2 percentage points lower than the illegitimacy ratio of the State for fiscal year 1995; and*

*"(II) the rate of induced pregnancy terminations in the State for the fiscal year is less than the rate of induced pregnancy terminations in the State for fiscal year 1995.*

*"(B) ILLEGITIMACY RATIO.—As used in this paragraph, the term 'illegitimacy ratio' means, with respect to a State and a fiscal year—*

*"(i) the number of out-of-wedlock births that occurred in the State during the most recent fiscal year for which such information is available; divided by*

*"(ii) the number of births that occurred in the State during the most recent fiscal year for which such information is available.*

*"(C) DISREGARD OF CHANGES IN DATA DUE TO CHANGED REPORTING METHODS.—For purposes of subparagraph (A), the Secretary shall disregard—*

*"(i) any difference between the illegitimacy ratio of a State for a fiscal year and the illegitimacy ratio of the State for fiscal year 1995 which is attributable to a change in State methods of reporting data used to calculate the illegitimacy ratio; and*

*"(ii) any difference between the rate of induced pregnancy terminations in a State for a fiscal year and such rate for fiscal year 1995 which is attributable to a change*

*in State methods of reporting data used to calculate such rate.*

*"(3) SUPPLEMENTAL GRANT FOR POPULATION INCREASES IN CERTAIN STATES.—*

*"(A) IN GENERAL.—In addition to any grant under paragraph (1), each qualifying State shall, subject to subparagraph (E), be entitled to receive from the Secretary for each of fiscal years 1997, 1998, 1999, and 2000, a grant in an amount equal to the sum of—*

*"(i) the amount (if any) required to be paid to the State under this paragraph for the immediately preceding fiscal year; and*

*"(ii) 2.5 percent of the sum of—*

*"(I) the total amount required to be paid to the State under part A (as in effect during fiscal year 1994) for fiscal year 1994; and*

*"(II) the amount (if any) required to be paid to the State under this paragraph for the fiscal year preceding the fiscal year specified in the matter preceding clause (i).*

*"(B) QUALIFYING STATE.—*

*"(i) IN GENERAL.—For purposes of this paragraph, a State is a qualifying State for a fiscal year if—*

*"(I) the level of welfare spending per poor person by the State for the immediately preceding fiscal year is less than the national average level of State welfare spending per poor person for such preceding fiscal year; and*

*"(II) the population growth rate of the State (as determined by the Bureau of the Census for the most recent fiscal year for which information is available exceeds the average population growth rate for all States (as so determined) for such most recent fiscal year.*

*"(ii) STATE MUST QUALIFY IN FISCAL YEAR 1997.—Notwithstanding clause (i), a State shall not be a qualifying State for any fiscal year after 1997 by reason of clause (i) if the State is not a qualifying State for fiscal year 1997 by reason of clause (i).*

*"(iii) CERTAIN STATES DEEMED QUALIFYING STATES.—For purposes of this paragraph, a State is deemed to be a qualifying State for fiscal years 1997, 1998, 1999, and 2000 if—*

*"(I) the level of welfare spending per poor person by the State for fiscal year 1996 is less than 35 percent of the national average level of State welfare spending per poor person for fiscal year 1996; or*

*"(II) the population of the State increased by more than 10 percent from April 1, 1990 to July 1, 1994, as determined by the Bureau of the Census.*

*"(C) DEFINITIONS.—As used in this paragraph:*

*"(i) LEVEL OF WELFARE SPENDING PER POOR PERSON.—The term 'level of State welfare spending per poor person' means, with respect to a State and a fiscal year—*

*"(I) the sum of—*

*"(aa) the total amount required to be paid to the State under part A (as in effect during fiscal year 1994) for fiscal year 1994; and*

*"(bb) the amount (if any) paid to the State under this paragraph for the immediately preceding fiscal year; divided by*

*"(II) the number of individuals, according to the 1990 decennial census, who were residents of the State and whose income was below the poverty line.*

*"(ii) NATIONAL AVERAGE LEVEL OF STATE WELFARE SPENDING PER POOR PERSON.—The term 'national average level of State welfare spending per poor person' means, with respect to a fiscal year, an amount equal to—*

*"(I) the total amount required to be paid to the States under part A (as in effect during fiscal year 1994) for fiscal year 1994; divided by*

*"(II) the number of individuals, according to the 1990 decennial census, who were residents of any State and whose income was below the poverty line.*

*"(iii) STATE.—The term 'State' means each of the 50 States of the United States and the District of Columbia.*

*"(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated 1996, 1997, 1998, 1999, and 2000 such sums as are necessary for grants under this paragraph, in a total amount not to exceed $800,000,000.*

*"(E) GRANTS REDUCED PRO RATA IF INSUFFICIENT APPROPRIATIONS.—If the amount appropriated pursuant to this paragraph for a fiscal year is less than the total amount of payments otherwise required to be made under this paragraph for the fiscal year, then the amount otherwise payable to each qualifying State for the fiscal year under this paragraph shall be reduced by a percentage equal to the amount so appropriated divided by such total amount.*

*"(b) CONTINGENCY FUND.—*

*"(1) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a fund which shall be known as the 'Contingency Fund for State Welfare Programs' (in this section referred to as the 'Fund').*

*"(2) DEPOSITS INTO FUND.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1996, 1997, 1998, 1999, and 2000 such sums as are necessary for payment to the Fund in a total amount not to exceed $800,000,000.*

*"(3) COMPUTATION OF GRANT.—*

*"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of the Treasury shall pay to each eligible State for a fiscal year an amount equal to the Federal medical assistance percentage for the State for the fiscal year (as defined in section 1905(b), as in effect on the date of the enactment of this part) of so much of the expenditures by the State in the fiscal year under the State program funded under this part as exceed the historic State expenditures (as defined in section 408(a)(7)(B)(iii)) for the State.*

*"(B) LIMITATION.—The total amount paid to a State under subparagraph (A) for any fiscal*

*year shall not exceed an amount equal to 20 percent of the State family assistance grant for the fiscal year.*

*"(C) METHOD OF RECONCILIATION.—If, at the end of any fiscal year, the Secretary finds that a State to which amounts from the Fund were paid in the fiscal year did not meet the maintenance of effort requirement under paragraph (4)(B) for the fiscal year, the Secretary shall reduce the grant payable to the State under subsection (a)(1) for the immediately succeeding fiscal year by such amounts.*

*"(4) ELIGIBLE STATE.—*

*"(A) IN GENERAL.—For purposes of this subsection, a State is an eligible State for a fiscal year, if—*

*"(i)(I) the average rate of total unemployment in such State (seasonally adjusted) for the period consisting of the most recent 3 months for which data for all States are published equals or exceeds 6.5 percent; and*

*"(II) the average rate of total unemployment in such State (seasonally adjusted) for the 3-month period equals or ex-*

*ceeds 110 percent of such average rate for either (or both) of the corresponding 3-month periods ending in the 2 preceding calendar years; and*

*"(ii) has met the maintenance of effort requirement under subparagraph (B) for the State program funded under this part for the fiscal year.*

*"(B) MAINTENANCE OF EFFORT.—The maintenance of effort requirement for any State under this subparagraph for any fiscal year is the expenditure by the State during the fiscal year of an amount at least equal to 100 percent of the level of historic State expenditures for the State (as determined under section 408(e)).*

*"(5) STATE.—As used in this subsection, the term 'State' means each of the 50 States of the United States and the District of Columbia.*

*"(c) CONDITION OF GRANT.—*

*"(1) IN GENERAL.—Notwithstanding any other provision of this section, as a condition of receiving a grant under this section, a State shall not provide cash assistance to a family that includes an adult who has received assistance under any State program funded under this part for 60 months (whether or not*

*consecutive) after September 30, 1995, except as provided in paragraphs (2) and (3).*

*"(2) MINOR CHILD EXCEPTION.—In determining the number of months for which an individual who is a parent or pregnant, as the case may be, has received assistance under the State program funded under this part, there shall be disregarded any month for which such assistance was provided with respect to the individual and throughout which the individual was—*

*"(A) a minor child; and*

*"(B) not the head of a household or married to the head of a household.*

*"(3) HARDSHIP EXCEPTION.—*

*"(A) IN GENERAL.—The State may exempt a family from the application of paragraph (1) by reason of hardship or if the family includes an individual who has been battered or subjected to extreme cruelty.*

*"(B) LIMITATION.—The number of families with respect to which an exemption made by a State under subparagraph (A) is in effect for a fiscal year shall not exceed 15 percent of the average monthly number of families to which the*

*State is providing assistance under the program funded under this part.*

*"(C) BATTERED OR SUBJECT TO EXTREME CRUELTY DEFINED.—For purposes of subparagraph (A), an individual has been battered or subjected to extreme cruelty if the individual has been subjected to—*

*"(i) physical acts that resulted in, or threatened to result in, physical injury to the individual;*

*"(ii) sexual abuse;*

*"(iii) sexual activity involving a dependent child;*

*"(iv) being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;*

*"(v) threats of, or attempts at, physical or sexual abuse;*

*"(vi) mental abuse; or*

*"(vii) neglect or deprivation of medical care.*

*"(4) RULE OF INTERPRETATION.—Paragraph (1) shall not be interpreted to require any State to provide assistance to any individual for any period of time under the State program funded under this part.*

***"SEC. 403. USE OF GRANTS.***

*"(a) GENERAL RULES.—Subject to this part, a State to which a grant is made under section 402 may use the grant—*

*"(1) in any manner that is reasonably calculated to increase the flexibility of States in operating a program designed to—*

*"(A) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;*

*"(B) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;*

*"(C) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and*

*"(D) encourage the formation and maintenance of two-parent families; and*

*"(2) in any manner that the State was authorized to use amounts received under part A or F of this title, as such parts were in effect on September 30, 1995.*

*"(b) LIMITATION ON USE OF GRANT FOR ADMINISTRATIVE PURPOSES.—*

*"(1) LIMITATION.—A State to which a grant is made under section 402 shall not expend more than 15 percent of the grant for administrative purposes.*

*"(2) EXCEPTION.—Paragraph (1) shall not apply to the use of a grant for information technology and computerization needed for tracking or monitoring required by or under this part.*

*"(c) AUTHORITY TO USE PORTION OF GRANT FOR OTHER PURPOSES.—*

*"(1) IN GENERAL.—A State may use not more than 30 percent of the amount of the grant made to the State under section 402 for a fiscal year to carry out a State program pursuant to any or all of the following provisions of law:*

*"(A) Part B of this title.*

*"(B) Title XX of this Act.*

*"(C) The Child Care and Development Block Grant Act of 1990.*

*"(2) APPLICABLE RULES.—Any amount paid to the State under this part that is used to carry out a State program pursuant to a provision of law specified in paragraph (1) shall not be subject to the requirements of this part, but shall be subject to the requirements that apply to Federal funds provided di-*

*rectly under the provision of law to carry out the program.*

*"(d) AUTHORITY TO RESERVE CERTAIN AMOUNTS FOR ASSISTANCE.—A State may reserve amounts paid to the State under this part for any fiscal year for the purpose of providing, without fiscal year limitation, assistance under the State program funded under this part.*

*"(e) AUTHORITY TO OPERATE EMPLOYMENT PLACEMENT PROGRAM.—A State to which a grant is made under section 402 may use the grant to make payments (or provide job placement vouchers) to State-approved public and private job placement agencies that provide employment placement services to individuals who receive assistance under the State program funded under this part.*

*"(f) IMPLEMENTATION OF ELECTRONIC BENEFIT TRANSFER SYSTEM.—A State to which a grant is made under section 402 is encouraged to implement an electronic benefit transfer system for providing assistance under the State program funded under this part, and may use the grant for such purpose.*

***"SEC. 404. ADMINISTRATIVE PROVISIONS.***

*"(a) QUARTERLY.—The Secretary shall pay each grant payable to a State under section 402 in quarterly installments.*

*"(b) NOTIFICATION.—Not later than 3 months before the payment of any such quarterly installment to a State, the Secretary shall notify the State of the amount of any reduction determined under section 411(a)(1)(B) with respect to the State.*

*"(c) COMPUTATION AND CERTIFICATION OF PAYMENTS TO STATES.—*

*"(1) COMPUTATION.—The Secretary shall estimate the amount to be paid to each eligible State for each quarter under this part, such estimate to be based on a report filed by the State containing an estimate by the State of the total sum to be expended by the State in the quarter under the State program funded under this part and such other information as the Secretary may find necessary.*

*"(2) CERTIFICATION.—The Secretary of Health and Human Services shall certify to the Secretary of the Treasury the amount estimated by the Secretary under paragraph (1) with respect to a State.*

*"(d) PAYMENT METHOD.—Upon receipt of a certification under subsection (c)(2) with respect to a State, the Secretary of the Treasury shall, through the Fiscal Service of the Department of the Treasury and before audit or settlement by the General Accounting Office, pay to the State,*

*at the time or times fixed by the Secretary of Health and Human Services, the amount so certified.*

***"SEC. 405. FEDERAL LOANS FOR STATE WELFARE PROGRAMS.***

*"(a) LOAN AUTHORITY.—*

*"(1) IN GENERAL.—The Secretary shall make loans to any loan-eligible State, for a period to maturity of not more than 3 years.*

*"(2) LOAN-ELIGIBLE STATE.—As used in paragraph (1), the term 'loan-eligible State' means a State against which a penalty has not been imposed under section 408(a)(1) at any time before the loan is to be made.*

*"(b) RATE OF INTEREST.—The Secretary shall charge and collect interest on any loan made under this section at a rate equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the period to maturity of the loan.*

*"(c) USE OF LOAN.—A State shall use a loan made to the State under this section only for any purpose for which grant amounts received by the State under section 402(a) may be used including—*

*"(1) welfare anti-fraud activities; and*

*"(2) the provision of assistance under the State program to Indian families that have moved from the service area of an Indian tribe with a tribal family assistance plan approved under section 411.*

*"(d) LIMITATION ON TOTAL AMOUNT OF LOANS TO A STATE.—The cumulative dollar amount of all loans made to a State under this section during fiscal years 1996 through 2000 shall not exceed 10 percent of the State family assistance grant.*

*"(e) LIMITATION ON TOTAL AMOUNT OF OUTSTANDING LOANS.—The total dollar amount of loans outstanding under this section may not exceed $1,700,000,000.*

*"(f) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated such sums as may be necessary for the cost of loans under this section.*

***"SEC. 406. MANDATORY WORK REQUIREMENTS.***

*"(a) PARTICIPATION RATE REQUIREMENTS.—*

*"(1) ALL FAMILIES.—A State to which a grant is made under section 402 for a fiscal year shall achieve the minimum participation rate specified in the following table for the fiscal year with respect to all families receiving assistance under the State program funded under this part:*

| *"If the fiscal year is:* | *The minimum participation rate is:* |
|---|---|
| *1996* | *15* |
| *1997* | *20* |
| *1998* | *25* |
| *1999* | *30* |
| *2000* | *35* |
| *2001* | *40* |
| *2002 or thereafter* | *50.* |

*"(2) 2-PARENT FAMILIES.—A State to which a grant is made under section 402 for a fiscal year shall achieve the minimum participation rate specified in the following table for the fiscal year with respect to 2-parent families receiving assistance under the State program funded under this part:*

| *"If the fiscal year is:* | *The minimum participation rate is:* |
|---|---|
| *1996* | *50* |
| *1997* | *75* |
| *1998* | *75* |
| *1999 or thereafter* | *90.* |

*"(b) CALCULATION OF PARTICIPATION RATES.—*

*"(1) ALL FAMILIES.—*

*"(A) AVERAGE MONTHLY RATE.—For purposes of subsection (a)(1), the participation rate for all families of a State for a fiscal year is the average of the participation rates for all families of the State for each month in the fiscal year.*

*"(B) MONTHLY PARTICIPATION RATES.—The participation rate of a State for all families of the State for a month, expressed as a percentage, is—*

*"(i) the number of families receiving assistance under the State program funded under this part that include an adult who is engaged in work for the month; divided by*

*"(ii) the amount by which—*

*"(I) the number of families receiving such assistance during the month that include an adult receiving such assistance; exceeds*

*"(II) the number of families receiving such assistance that are subject in such month to a reduction or termination of assistance pursuant to section 408(a)(2) but have not been subject to such penalty for more than 3 months within the preceding 12-month period (whether or not consecutive).*

*"(2) 2-PARENT FAMILIES.—*

*"(A) AVERAGE MONTHLY RATE.—For purposes of subsection (a)(2), the participation rate for 2-parent families of a State for a fiscal year is the average of the participation rates for 2-parent families of the State for each month in the fiscal year.*

*"(B) MONTHLY PARTICIPATION RATES.—The participation rate of a State for 2-parent families of the State for a month shall be calculated by use of the formula set forth in paragraph (1)(B), except that in the formula the term 'number of 2-parent families' shall be substituted for the term 'number of families' each place such latter term appears.*

*"(3) PRO RATA REDUCTION OF PARTICIPATION RATE DUE TO CASELOAD REDUCTIONS NOT REQUIRED BY FEDERAL LAW.—*

*"(A) IN GENERAL.—The Secretary shall prescribe regulations for reducing the minimum participation rate otherwise required by this section for a fiscal year by the number of percentage points equal to the number of percentage points (if any) by which—*

*"(i) the number of families receiving assistance during the fiscal year under the State program funded under this part is less than*

*"(ii) the number of families that received aid under the State plan approved under part A of this title (as in effect on*

*September 30, 1995) during the fiscal year immediately preceding such effective date.*

*The minimum participation rate shall not be reduced to the extent that the Secretary determines that the reduction in the number of families receiving such assistance is required by Federal law.*

*"(B) ELIGIBILITY CHANGES NOT COUNTED.—The regulations described in subparagraph (A) shall not take into account families that are diverted from a State program funded under this part as a result of differences in eligibility criteria under a State program funded under this part and eligibility criteria under such State's plan under the aid to families with dependent children program, as such plan was in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995. Such regulations shall place the burden on the Secretary to prove that such families were diverted as a direct result of differences in such eligibility criteria.*

*"(4) STATE OPTION TO INCLUDE INDIVIDUALS RECEIVING ASSISTANCE UNDER A TRIBAL FAMILY ASSISTANCE PLAN.—For purposes of paragraphs (1)(B)*

*and (2)(B), a State may, at its option, include families receiving assistance under a tribal family assistance plan approved under section 411.*

*"(c) ENGAGED IN WORK.—*

*"(1) ALL FAMILIES.—For purposes of subsection (b)(1)(B)(i), a recipient is engaged in work for a month in a fiscal year if the recipient is participating in such activities for at least the minimum average number of hours per week specified in the following table during the month, not fewer than 20 hours per week of which are attributable to an activity described in paragraph (1), (2), (3), (4), (5), (7), or (8) of subsection (d) (or, in the case of the first 4 weeks for which the recipient is required under this section to participate in work activities, an activity described in subsection (d)(6)):*

| *"If the month is in fiscal year:* | *The minimum average number of hours per week is:* |
|---|---|
| *1996* | *20* |
| *1997* | *20* |
| *1998* | *20* |
| *1999* | *25* |
| *2000* | *30* |
| *2001* | *30* |
| *2002* | *35* |
| *2003 or thereafter* | *35.* |

*"(2) 2-PARENT FAMILIES.—For purposes of subsection (b)(2)(B)(i), an adult is engaged in work for a month in a fiscal year if the adult is making progress in such activities for at least 35 hours per*

*week during the month, not fewer than 30 hours per week of which are attributable to an activity described in paragraph (1), (2), (3), (4), (5), (7), or (8) of subsection (d) (or, in the case of the first 4 weeks for which the recipient is required under this section to participate in work activities, an activity described in subsection (d)(6)).*

*"(3) LIMITATION ON VOCATIONAL EDUCATION ACTIVITIES COUNTED AS WORK.—For purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B)(i) of subsection (b), not more than 20 percent of adults in all families and in 2-parent families determined to be engaged in work in the State for a month may meet the work activity requirement through participation in vocational educational training.*

*"(d) WORK ACTIVITIES DEFINED.—As used in this section, the term 'work activities' means—*

*"(1) unsubsidized employment;*

*"(2) subsidized private sector employment;*

*"(3) subsidized public sector employment;*

*"(4) work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;*

*"(5) on-the-job training;*

*"(6) job search and job readiness assistance;*

*"(7) community service programs;*

*"(8) vocational educational training (not to exceed 12 months with respect to any individual);*

*"(9) job skills training directly related to employment;*

*"(10) education directly related to employment, in the case of a recipient who has not attained 20 years of age, and has not received a high school diploma or a certificate of high school equivalency; and*

*"(11) satisfactory attendance at secondary school, in the case of a recipient who—*

*"(A) has not completed secondary school; and*

*"(B) is a dependent child, or a head of household who has not attained 20 years of age.*

***"SEC. 407. PROHIBITIONS.***

*"(a) IN GENERAL.—*

*"(1) NO ASSISTANCE FOR FAMILIES WITHOUT A MINOR CHILD.—A State to which a grant is made under section 402 may not use any part of the grant to provide assistance to a family, unless the family includes—*

*"(A) a minor child who resides with a custodial parent or other adult caretaker relative of the child; or*

*"(B) a pregnant individual.*

*"(2) REDUCED ASSISTANCE FOR FAMILY IF ADULT REFUSES TO WORK.—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), a State to which a grant is made under section 402 may not fail to—*

*"(i) reduce the amount of assistance otherwise payable to a family receiving assistance under the State program funded under this part, pro rata (or more, at the option of the State) with respect to any period during a month in which an adult member of the family refuses to engage in work required in accordance with this section; or*

*"(ii) terminate such assistance,*

*subject to such good cause and other exceptions as the State may establish.*

*"(B) EXCEPTION.—Notwithstanding subparagraph (A), a State may not reduce or terminate assistance under the State program funded under this part based on a refusal of an adult*

*to work if the adult is a single custodial parent caring for a child who has not attained 6 years of age, and the adult proves that the adult has a demonstrated inability (as determined by the State) to obtain needed child care, for 1 or more of the following reasons:*

*"(i) Unavailability of appropriate child care within a reasonable distance from the individual's home or work site.*

*"(ii) Unavailability or unsuitability of informal child care by a relative or under other arrangements.*

*"(iii) Unavailability of appropriate and affordable formal child care arrangements.*

*"(3) REDUCTION OR ELIMINATION OF ASSISTANCE FOR NONCOOPERATION IN CHILD SUPPORT.—If the agency responsible for administering the State plan approved under part D determines that an individual is not cooperating with the State in establishing, modifying, or enforcing a support order with respect to a child of the individual, then the State—*

*"(A) shall deduct from the assistance that would otherwise be provided to the family of the individual under the State program funded*

*under this part the share of such assistance attributable to the individual; and*

*"(B) may deny the family any assistance under the State program.*

*"(4) NO ASSISTANCE FOR FAMILIES NOT ASSIGNING CERTAIN SUPPORT RIGHTS TO THE STATE.—*

*"(A) IN GENERAL.—A State to which a grant is made under section 402 may not fail to require, as a condition of providing assistance to a family under the State program funded under this part, that a member of the family assign to the State any rights the family member may have (on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance) to support from any other person, not exceeding the total amount of assistance so provided to the family, which accrue (or have accrued) before the date the family leaves the program, which assignment, on and after the date the the family leaves the program, shall not apply with respect to—*

*"(i) if the assignment occurs on or after October 1, 1997, and before October 1, 2000, any support (other than support col-*

*lected pursuant to section 464) which accrued before the family received such assistance and which the State has not collected by September 30, 2000; or*

*"(ii) if the assignment occurs on or after October 1, 2000, any support (other than support collected pursuant to section 464) which accrued before the family received such assistance and which the State has not collected by the date the family leaves the program.*

*"(B) LIMITATION.—A State to which a grant is made under section 402 may not require, as a condition of providing assistance to any family under the State program funded under this part, that a member of the family assign to the State any rights to support described in subparagraph (A) which accrue after the date the family leaves the program.*

*"(5) NO ASSISTANCE FOR TEENAGE PARENTS WHO DO NOT ATTEND HIGH SCHOOL OR OTHER EQUIVALENT TRAINING PROGRAM.—A State to which a grant is made under section 402 may not use any part of the grant to provide assistance to an individual who has not attained 18 years of age, is not mar-*

*ried, has a minor child at least 12 weeks of age in his or her care, and has not successfully completed a high-school education (or its equivalent), if the individual does not participate in—*

*"(A) educational activities directed toward the attainment of a high school diploma or its equivalent; or*

*"(B) an alternative educational or training program that has been approved by the State.*

*"(6) NO ASSISTANCE FOR TEENAGE PARENTS NOT LIVING IN ADULT-SUPERVISED SETTINGS.—*

*"(A) IN GENERAL.—*

*"(i) REQUIREMENT.—Except as provided in subparagraph (B), a State to which a grant is made under section 402 may not use any part of the grant to provide assistance to an individual described in clause (ii) of this subparagraph if the individual and the minor child referred to in clause (ii)(II) do not reside in a place of residence maintained by a parent, legal guardian, or other adult relative of the individual as such parent's, guardian's, or adult relative's own home.*

*"(ii) INDIVIDUAL DESCRIBED.— For purposes of clause (i), an individual described in this clause is an individual who—*

*"(I) has not attained 18 years of age; and*

*"(II) is not married, and has a minor child in his or her care.*

*"(B) EXCEPTION.—*

*"(i) PROVISION OF, OR ASSISTANCE IN LOCATING, ADULT-SUPERVISED LIVING ARRANGEMENT.—In the case of an individual who is described in clause (ii), the State agency referred to in section 401(a)(4) shall provide, or assist the individual in locating, a second chance home, maternity home, or other appropriate adult-supervised supportive living arrangement, taking into consideration the needs and concerns of the individual, unless the State agency determines that the individual's current living arrangement is appropriate, and thereafter shall require that the individual and the minor child referred to in subparagraph (A)(ii)(II) reside in such living arrangement as a con-*

*dition of the continued receipt of assistance under the State program funded under this part (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate).*

*"(ii) INDIVIDUAL DESCRIBED.—For purposes of clause (i), an individual is described in this clause if the individual is described in subparagraph (A)(ii), and—*

*"(I) the individual has no parent, legal guardian or other appropriate adult relative described in subclause (II) of his or her own who is living or whose whereabouts are known;*

*"(II) no living parent, legal guardian, or other appropriate adult relative, who would otherwise meet applicable State criteria to act as the individual's legal guardian, of such individual allows the individual to live in the home of such parent, guardian, or relative;*

*"(III) the State agency determines that—*

*"(aa) the individual or the minor child referred to in subparagraph (A)(ii)(II) is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of the individual's own parent or legal guardian; or*

*"(bb) substantial evidence exists of an act or failure to act that presents an imminent or serious harm if the individual and the minor child lived in the same residence with the individual's own parent or legal guardian; or*

*"(IV) the State agency otherwise determines that it is in the best interest of the minor child to waive the requirement of subparagraph (A) with respect to the individual or the minor child.*

*"(iii) SECOND-CHANCE HOME.—For purposes of this subparagraph, the term 'second-chance home' means an entity that provides individuals described in clause (ii)*

*with a supportive and supervised living arrangement in which such individuals are required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their children.*

*"(7) NO MEDICAL SERVICES.—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), a State to which a grant is made under section 402 may not use any part of the grant to provide medical services.*

*"(B) EXCEPTION FOR FAMILY PLANNING SERVICES.—As used in subparagraph (A), the term 'medical services' does not include family planning services.*

*"(8) DENIAL OF ASSISTANCE FOR 10 YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN ASSISTANCE IN 2 OR MORE STATES.—a State to which a grant is made under section 402 may not use any part of the grant to provide cash assistance to an individual during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or rep-*

*resentation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States under programs that are funded under this title, title XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI.*

*"(9) DENIAL OF ASSISTANCE FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.—*

*"(A) IN GENERAL.—A State to which a grant is made under section 402 may not use any part of the grant to provide assistance to any individual who is—*

*"(i) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or*

*"(ii) violating a condition of probation or parole imposed under Federal or State law.*

*"(B) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—If a State to which a grant is made under section 402 establishes safeguards against the use or disclosure of information about applicants or recipients of assistance under the State program funded under this part, the safeguards shall not prevent the State agency administering the program from furnishing a Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient if the officer furnishes the agency with the name of the recipient and notifies the agency that—*

*"(i) such recipient—*

*"(I) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the recipient flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the recipient flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State;*

*"(II) is violating a condition of probation or parole imposed under Federal or State law; or*

*"(III) has information that is necessary for the officer to conduct the official duties of the officer; and*

*"(ii) the location or apprehension of the recipient is within such official duties.*

*"(10) DENIAL OF ASSISTANCE FOR MINOR CHILDREN WHO ARE ABSENT FROM THE HOME FOR A SIGNIFICANT PERIOD.—*

*"(A) IN GENERAL.—A State to which a grant is made under section 402 may not use any part of the grant to provide assistance for a minor child who has been, or is expected by a parent (or other caretaker relative) of the child to be, absent from the home for a period of 45 consecutive days or, at the option of the State, such period of not less than 30 and not more than 90 consecutive days as the State may provide for in the State plan submitted pursuant to section 401.*

*"(B) STATE AUTHORITY TO ESTABLISH GOOD CAUSE EXCEPTIONS.—The State may establish such good cause exceptions to subpara-*

*graph (A) as the State considers appropriate if such exceptions are provided for in the State plan submitted pursuant to section 401.*

*"(C) DENIAL OF ASSISTANCE FOR RELATIVE WHO FAILS TO NOTIFY STATE AGENCY OF ABSENCE OF CHILD.—A State to which a grant is made under section 402 may not use any part of the grant to provide assistance for an individual who is a parent (or other caretaker relative) of a minor child and who fails to notify the agency administering the State program funded under this part, of the absence of the minor child from the home for the period specified in or provided for under subparagraph (A), by the end of the 5-day period that begins with the date that it becomes clear to the parent (or relative) that the minor child will be absent for such period so specified or provided for.*

*"(11) INCOME SECURITY PAYMENTS NOT TO BE DISREGARDED IN DETERMINING THE AMOUNT OF ASSISTANCE TO BE PROVIDED TO A FAMILY.—If a State to which a grant is made under section 402 uses any part of the grant to provide assistance for any individual who is receiving a payment under a State plan for old-age assistance approved under section 2,*

*a State program funded under part B that provides cash payments for foster care, or the supplemental security income program under title XVI, then the State may not disregard the payment in determining the amount of assistance to be provided to the family of which the individual is a member under the State program funded under this part.*

***"SEC. 408. PENALTIES.***

*"(a) IN GENERAL.—Subject to subsections (b), (c), and (d):*

*"(1) FOR USE OF GRANT IN VIOLATION OF THIS PART.—*

*"(A) GENERAL PENALTY.—If an audit conducted under chapter 75 of title 31, United States Code, finds that an amount paid to a State under section 402 for a fiscal year has been used in violation of this part, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year quarter by the amount so used.*

*"(B) ENHANCED PENALTY FOR INTENTIONAL VIOLATIONS.—If the State does not prove to the satisfaction of the Secretary that the State did not intend to use the amount in violation of this part, the Secretary shall further reduce the*

*grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year quarter by an amount equal to 5 percent of the State family assistance grant.*

*"(2) FOR FAILURE TO SUBMIT REQUIRED REPORT.—*

*"(A) IN GENERAL.—If the Secretary determines that a State has not, within 6 months after the end of a fiscal year, submitted the report required by section 410 for the fiscal year, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year by an amount equal to 4 percent of the State family assistance grant.*

*"(B) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a State under subparagraph (A) with respect to a report for a fiscal year if the State submits the report before the end of the immediately succeeding fiscal year.*

*"(3) FOR FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.—*

*"(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made*

*under section 402 for a fiscal year has failed to comply with section 406(a) for the fiscal year, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 5 percent of the State family assistance grant.*

*"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) based on the degree of noncompliance.*

*"(4) FOR FAILURE TO PARTICIPATE IN THE INCOME AND ELIGIBILITY VERIFICATION SYSTEM.—If the Secretary determines that a State program funded under this part is not participating during a fiscal year in the income and eligibility verification system required by section 1137, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 2 percent of the State family assistance grant.*

*"(5) FOR FAILURE TO COMPLY WITH PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT REQUIREMENTS UNDER PART D.—Notwithstanding any other provision of this Act, if the Secretary deter-*

*mines that the State agency that administers a program funded under this part does not enforce the penalties requested by the agency administering part D against recipients of assistance under the State program who fail to cooperate in establishing paternity in accordance with such part, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year (without regard to this section) by not more than 5 percent.*

*"(6) FOR FAILURE TO TIMELY REPAY A FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.—If the Secretary determines that a State has failed to repay any amount borrowed from the Federal Loan Fund for State Welfare Programs established under section 405 within the period of maturity applicable to the loan, plus any interest owed on the loan, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year quarter (without regard to this section) by the outstanding loan amount, plus the interest owed on the outstanding amount. The Secretary may not forgive any outstanding loan amount or interest owed on the outstanding amount.*

*"(7) MAINTENANCE OF EFFORT.—*

*"(A) IN GENERAL.—The Secretary shall reduce the grant payable to the State under section 402(a)(1) for fiscal year 1996, 1997, 1998, 1999, or 2000 by the amount (if any) by which State expenditures under the State program funded under this part for the then immediately preceding fiscal year is less than the applicable percentage of historic State expenditures.*

*"(B) DEFINITIONS.—As used in this paragraph:*

*"(i) STATE EXPENDITURES UNDER THE STATE PROGRAM FUNDED UNDER THIS PART.—*

*"(I) IN GENERAL.—The term 'State expenditures under the State program funded under this part' means, with respect to a State and a fiscal year, the sum of the expenditures by the State under the program for the fiscal year for—*

*"(aa) cash assistance;*

*"(bb) child care assistance;*

*"(cc) education, job training, and work;*

*"(dd) administrative costs; and*

*"(ee) any other use of funds allowable under section 403(a)(1).*

*"(II) EXCLUSION OF TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such term does not include funding supplanted by transfers from other State and local programs.*

*"(ii) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means—*

*"(I) for fiscal year 1996, 75 percent; and*

*"(II) for fiscal years 1997, 1998, 1999, and 2000, 75 percent reduced (if appropriate) in accordance with subparagraph (C)(iii).*

*"(iii) HISTORIC STATE EXPENDITURES.—The term 'historic State expenditures' means, with respect to a State, the lesser of—*

*"(I) the expenditures by the State under parts A and F of this title (as in effect during fiscal year 1994) for fiscal year 1994; or*

*"(II) the amount which bears the same ratio to the amount described in subclause (I) as—*

*"(aa) the State family assistance grant for the immediately preceding fiscal year; bears to*

*"(bb) the total amount of Federal payments to the State under section 403 (as in effect during fiscal year 1994) for fiscal year 1994.*

*"(iv) EXPENDITURES BY THE STATE.—The term 'expenditures by the State' does not include any expenditures from amounts made available by the Federal Government, State funds expended for the medicaid program under title XIX or the MediGrant program under title XXI, or any State funds which are used to match Federal funds or are expended as a condition of receiving Federal funds under Federal programs other than under title I.*

*"(C) APPLICABLE PERCENTAGE REDUCED FOR STATES WITH BEST OR MOST IMPROVED PERFORMANCE IN CERTAIN AREAS.—*

*"(i) SCORING OF STATE PERFORMANCE.—Beginning with fiscal year 1997, the Secretary shall assign to each State a score that represents the performance of the State for the fiscal year in each category described in clause (ii).*

*"(ii) CATEGORIES.—The categories described in this clause are the following:*

*"(I) Increasing the number of families that received assistance under a State program funded under this part in the fiscal year, and that, during the fiscal year, become ineligible for such assistance as a result of unsubsidized employment.*

*"(II) Reducing the percentage of families that, within 18 months after becoming ineligible for assistance under the State program funded under this part, become eligible for such assistance.*

*"(III) Increasing the amount earned by families that receive assistance under this part.*

*"(IV) Reducing the percentage of families in the State that receive assistance under the State program funded under this part.*

*"(iii) REDUCTION OF MAINTENANCE OF EFFORT THRESHOLD.—*

*"(I) REDUCTION FOR STATES WITH 5 GREATEST SCORES IN EACH CATEGORY OF PERFORMANCE.—The applicable percentage for a State for a fiscal year shall be reduced by 2 percentage points, with respect to each category described in clause (ii) for which the score assigned to the State under clause (i) for the fiscal year is 1 of the 5 highest scores so assigned to States.*

*"(II) REDUCTION FOR STATES WITH 5 GREATEST IMPROVEMENT IN SCORES IN EACH CATEGORY OF PERFORMANCE.—The applicable percentage for a State for a fiscal year shall be reduced by 2 percentage points for a State for a fiscal year, with respect to each category described in clause (ii)*

*for which the difference between the score assigned to the State under clause (i) for the fiscal year and the score so assigned to the State for the immediately preceding fiscal year is 1 of the 5 greatest such differences.*

*"(III) LIMITATION ON REDUCTION.—The applicable percentage for a State for a fiscal year may not be reduced by more than 8 percentage points pursuant to this clause.*

*"(8) PENALTIES FOR SUBSTANTIAL NONCOMPLIANCE OF STATE CHILD SUPPORT ENFORCEMENT PROGRAM WITH REQUIREMENTS OF PART D.—*

*"(A) IN GENERAL.—If a State program operated under part D is found as a result of a review conducted under section 452(a)(4) not to have complied substantially with the requirements of such part for any quarter, and the Secretary determines that the program is not complying substantially with such requirements at the time the finding is made, the Secretary shall, subject to paragraph (2), reduce the grant payable to the State under section 402(a)(1) for the quarter and each subsequent quarter that ends*

*before the 1st quarter throughout which the program is found not to be in substantial compliance with such requirements by—*

*"(i) not less than 1 nor more than 2 percent;*

*"(ii) not less than 2 nor more than 3 percent, if the finding is the 2nd consecutive such finding made as a result of such a review; or*

*"(iii) not less than 3 nor more than 5 percent, if the finding is the 3rd or a subsequent consecutive such finding made as a result of such a review.*

*"(B) DISREGARD OF NONCOMPLIANCE WHICH IS OF A TECHNICAL NATURE.—For purposes of subparagraph (A) and section 452(a)(4), a State which is not in full compliance with the requirements of this part shall be determined to be in substantial compliance with such requirements only if the Secretary determines that any noncompliance with such requirements is of a technical nature which does not adversely affect the performance of the State's program operated under part D.*

*"(9) FOR FAILURE TO EXPEND ADDITIONAL STATE FUNDS TO REPLACE GRANT REDUCTIONS.—If the grant payable to a State under section 402(a)(1) for a fiscal year is reduced by reason of any of the preceding paragraphs of this subsection, the State shall, during the immediately succeeding fiscal year, expend under the State program funded under this part an amount equal to the sum of—*

*"(A) the applicable percentage of the historic State expenditures; and*

*"(B) 105 percent of the total amount of such reductions under such preceding paragraphs.*

*"(b) REASONABLE CAUSE EXCEPTION.—The Secretary may not impose a penalty on a State under subsection (a) with respect to a requirement if the Secretary determines that the State has reasonable cause for failing to comply with the requirement.*

*"(c) CORRECTIVE COMPLIANCE PLAN.—*

*"(1) IN GENERAL.—*

*"(A) NOTIFICATION OF VIOLATION.—Notwithstanding any other provision of law, the Federal Government shall, before assessing a penalty against a State under subsection (a), notify the State of the violation of law for which*

*the penalty would be assessed and allow the State the opportunity to enter into a corrective compliance plan in accordance with this subsection which outlines how the State will correct any such violations and how the State will insure continuing compliance with the requirements of this part.*

*"(B) 60-DAY PERIOD TO PROPOSE A CORRECTIVE COMPLIANCE PLAN.—Any State notified under subparagraph (A) shall have 60 days in which to submit to the Federal Government a corrective compliance plan to correct any violations described in subparagraph (A).*

*"(C) ACCEPTANCE OF PLAN.—The Federal Government shall have 60 days to accept or reject the State's corrective compliance plan and may consult with the State during this period to modify the plan. If the Federal Government does not accept or reject the corrective compliance plan during the period, the corrective compliance plan shall be deemed to be accepted.*

*"(2) FAILURE TO CORRECT.—If a corrective compliance plan is accepted by the Federal Government, no penalty shall be imposed with respect to a violation described in paragraph (1) if the State cor-*

*rects the violation pursuant to the plan. If a State has not corrected the violation in a timely manner under the plan, some or all of the penalty shall be assessed.*

*"(d) LIMITATION ON AMOUNT OF PENALTY.—*

*"(1) IN GENERAL.—In imposing the penalties described in subsection (a), the Secretary shall not reduce any quarterly payment to a State by more than 25 percent.*

*"(2) CARRYFORWARD OF UNRECOVERED PENALTIES.—To the extent that paragraph (1) prevents the Secretary from recovering during a fiscal year the full amount of all penalties imposed on a State under subsection (a) for a prior fiscal year, the Secretary shall apply any remaining amount of such penalties to the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year.*

***"SEC. 409. APPEAL OF ADVERSE DECISION.***

*"(a) IN GENERAL.—Within 5 days after the date any adverse decision is made or action is taken under this part with respect to a State, the Secretary shall notify the chief executive officer of the State of the adverse decision or action, including any decision with respect to the State plan submitted under section 401 or the imposition of a penalty under section 408.*

*"(b) ADMINISTRATIVE REVIEW OF ADVERSE DECISION.—*

*"(1) IN GENERAL.—Within 60 days after the date a State receives notice under this section of an adverse decision, the State may appeal the decision, in whole or in part, to the Departmental Appeals Board established in the Department of Health and Human Services (in this section referred to as the 'Board') by filing an appeal with the Board.*

*"(2) PROCEDURAL RULES.—The Board shall consider a State's appeal on the basis of such documentation as the State may submit and as the Board may require to support the final decision of the Board. In deciding whether to uphold an adverse decision or any portion of such a decision, the Board shall conduct a thorough review of the issues and take into account all relevant evidence. The Board shall make a final determination with respect to an appeal filed under this paragraph not less than 60 days after the date the appeal is filed.*

*"(c) JUDICIAL REVIEW OF ADVERSE DECISION.—*

*"(1) IN GENERAL.—Within 90 days after the date of a final decision by the Board with respect to an adverse decision regarding a State under this section, the State may obtain judicial review of the final*

*decision (and the findings incorporated into the final decision) by filing an action in—*

*"(A) the district court of the United States for the judicial district in which the principal or headquarters office of the State agency is located; or*

*"(B) the United States District Court for the District of Columbia.*

*"(2) PROCEDURAL RULES.—The district court in which an action is filed shall review the final decision of the Board on the record established in the administrative proceeding, in accordance with the standards of review prescribed by subparagraphs (A) through (E) of section 706(2) of title 5, United States Code. The review shall be on the basis of the documents and supporting data submitted to the Board.*

***"SEC. 410. DATA COLLECTION AND REPORTING.***

*"(a) GENERAL REPORTING REQUIREMENT.—Beginning July 1, 1996, each State shall collect on a monthly basis, and report to the Secretary on a quarterly basis, the following information on the families receiving assistance under the State program funded under this part:*

*"(1) The county of residence of the family.*

*"(2) Whether a child receiving such assistance or an adult in the family is disabled.*

*"(3) The ages of the members of such families.*

*"(4) The number of individuals in the family, and the relation of each family member to the youngest child in the family.*

*"(5) The employment status and earnings of the employed adult in the family.*

*"(6) The marital status of the adults in the family, including whether such adults have never married, are widowed, or are divorced.*

*"(7) The educational status of each adult in the family.*

*"(8) The educational status of each child in the family.*

*"(9) Whether the family received subsidized housing, assistance under the State MediGrant plan approved under title XXI, food stamps, or subsidized child care, and if the latter 2, the amount received.*

*"(10) The number of months that the family has received each type of assistance under the program.*

*"(11) If the adults participated in, and the number of hours per week of participation in, the following activities:*

*"(A) Education.*

*"(B) Subsidized private sector employment.*

*"(C) Unsubsidized employment.*

*"(D) Public sector employment, work experience, or community service.*

*"(E) Job search.*

*"(F) Job skills training or on-the-job training.*

*"(G) Vocational education.*

*"(12) Information necessary to calculate participation rates under section 406.*

*"(13) The type and amount of assistance received under the program, including the amount of and reason for any reduction of assistance (including sanctions).*

*"(14) From a sample of closed cases, whether the family left the program, and if so, whether the family left due to—*

*"(A) employment;*

*"(B) marriage;*

*"(C) the prohibition set forth in section 407(a)(8);*

*"(D) sanction; or*

*"(E) State policy.*

*"(15) Any amount of unearned income received by any member of the family.*

*"(16) The citizenship of the members of the family.*

*"(b) USE OF ESTIMATES.—*

*"(1) AUTHORITY.—A State may comply with subsection (a) by submitting an estimate which is obtained through the use of scientifically acceptable sampling methods approved by the Secretary.*

*"(2) SAMPLING AND OTHER METHODS.—The Secretary shall provide the States with such case sampling plans and data collection procedures as the Secretary deems necessary to produce statistically valid estimates of the performance of State programs funded under this part. The Secretary may develop and implement procedures for verifying the quality of data submitted by the States.*

*"(c) REPORT ON USE OF FEDERAL FUNDS TO COVER ADMINISTRATIVE COSTS AND OVERHEAD.—The report required by subsection (a) for a fiscal quarter shall include a statement of the percentage of the funds paid to the State under this part for the quarter that are used to cover administrative costs or overhead.*

*"(d) REPORT ON STATE EXPENDITURES ON PROGRAMS FOR NEEDY FAMILIES.—The report required by subsection (a) for a fiscal quarter shall include a statement of the total amount expended by the State during the quarter on programs for needy families.*

*"(e) REPORT ON NONCUSTODIAL PARENTS PARTICIPATING IN WORK ACTIVITIES.—The report required by subsection (a) for a fiscal quarter shall include the number of noncustodial parents in the State who participated in work activities (as defined in section 406(d)) during the quarter.*

*"(f) REPORT ON TRANSITIONAL SERVICES.—The report required by subsection (a) for a fiscal quarter shall include the total amount expended by the State during the quarter to provide transitional services to a family that has ceased to receive assistance under this part because of employment, along with a description of such services.*

*"(g) REPORT TO CONGRESS.—Not later than 6 months after the end of fiscal year 1997, and each fiscal year thereafter, the Secretary shall transmit to the Congress a report describing—*

*"(1) whether the States are meeting—*

*"(A) the participation rates described in section 406(a); and*

*"(B) the objectives of—*

*"(i) increasing employment and earnings of needy families, and child support collections; and*

*"(ii) decreasing out-of-wedlock pregnancies and child poverty;*

*"(2) the demographic and financial characteristics of families applying for assistance, families receiving assistance, and families that become ineligible to receive assistance;*

*"(3) the characteristics of each State program funded under this part; and*

*"(4) the trends in employment and earnings of needy families with minor children living at home.*

***"SEC. 411. DIRECT FUNDING AND ADMINISTRATION BY INDIAN TRIBES.***

*"(a) GRANTS FOR INDIAN TRIBES.—*

*"(1) TRIBAL FAMILY ASSISTANCE GRANT.—*

*"(A) IN GENERAL.—For each of fiscal years 1997, 1998, 1999, and 2000, the Secretary shall pay to each Indian tribe that has an approved tribal family assistance plan a tribal family assistance grant for the fiscal year in an amount equal to the amount determined under subparagraph (B), and shall reduce the grant payable under section 402(a)(1) to any State in which lies the service area or areas of the Indian tribe by that portion of the amount so determined that is attributable to expenditures by the State.*

*"(B) AMOUNT DETERMINED.—*

*"(i) IN GENERAL.—The amount determined under this subparagraph is an amount equal to the total amount of the Federal payments to a State or States under section 403 for fiscal year 1994 (as in effect during such fiscal year) attributable to expenditures by the State or States under parts A and F of this title (as so in effect) for fiscal year 1994 for Indian families residing in the service area or areas identified by the Indian tribe pursuant to subsection (b)(1)(C).*

*"(ii) USE OF STATE SUBMITTED DATA.—*

*"(I) IN GENERAL.—The Secretary shall use State submitted data to make each determination under clause (i).*

*"(II) DISAGREEMENT WITH DETERMINATION.—If an Indian tribe or tribal organization disagrees with State submitted data described under subclause (I), the Indian tribe or tribal organization may submit to the Secretary such additional information as may be relevant to making the deter-*

*mination under clause (i) and the Secretary may consider such information before making such determination.*

*"(2) GRANTS FOR INDIAN TRIBES THAT RECEIVED JOBS FUNDS.—*

*"(A) IN GENERAL.—The Secretary shall pay to each eligible Indian tribe for each of fiscal years 1996, 1997, 1998, 1999, and 2000 a grant in an amount equal to the amount received by the Indian tribe in fiscal year 1994 under section 482(i) (as in effect during fiscal year 1994).*

*"(B) ELIGIBLE INDIAN TRIBE.—For purposes of subparagraph (A), the term 'eligible Indian tribe' means an Indian tribe or Alaska Native organization that conducted a job opportunities and basic skills training program in fiscal year 1995 under section 482(i) (as in effect during such fiscal year).*

*"(C) USE OF GRANT.—Each Indian tribe to which a grant is made under this paragraph shall use the grant for the purpose of operating a program to make work activities available to members of the Indian tribe.*

*"(D) APPROPRIATION.—Out of any money in the Treasury of the United States not other-*

*wise appropriated, there are appropriated $7,638,474 for each fiscal year specified in subparagraph (A) for grants under subparagraph (A).*

*"(b) 3-YEAR TRIBAL FAMILY ASSISTANCE PLAN.—*

*"(1) IN GENERAL.—Any Indian tribe that desires to receive a tribal family assistance grant shall submit to the Secretary a 3-year tribal family assistance plan that—*

*"(A) outlines the Indian tribe's approach to providing welfare-related services for the 3-year period, consistent with this section;*

*"(B) specifies whether the welfare-related services provided under the plan will be provided by the Indian tribe or through agreements, contracts, or compacts with intertribal consortia, States, or other entities;*

*"(C) identifies the population and service area or areas to be served by such plan;*

*"(D) provides that a family receiving assistance under the plan may not receive duplicative assistance from other State or tribal programs funded under this part;*

*"(E) identifies the employment opportunities in or near the service area or areas of the*

*Indian tribe and the manner in which the Indian tribe will cooperate and participate in enhancing such opportunities for recipients of assistance under the plan consistent with any applicable State standards; and*

*"(F) applies the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.*

*"(2) APPROVAL.—The Secretary shall approve each tribal family assistance plan submitted in accordance with paragraph (1).*

*"(3) CONSORTIUM OF TRIBES.—Nothing in this section shall preclude the development and submission of a single tribal family assistance plan by the participating Indian tribes of an intertribal consortium.*

*"(c) MINIMUM WORK PARTICIPATION REQUIREMENTS AND TIME LIMITS.—The Secretary, with the participation of Indian tribes, shall establish for each Indian tribe receiving a grant under this section minimum work participation requirements, appropriate time limits for receipt of welfare-related services under the grant, and penalties against individuals—*

*"(1) consistent with the purposes of this section;*

*"(2) consistent with the economic conditions and resources available to each tribe; and*

*"(3) similar to comparable provisions in section 406(d).*

*"(d) EMERGENCY ASSISTANCE.—Nothing in this section shall preclude an Indian tribe from seeking emergency assistance from any Federal loan program or emergency fund.*

*"(e) ACCOUNTABILITY.—Nothing in this section shall be construed to limit the ability of the Secretary to maintain program funding accountability consistent with—*

*"(1) generally accepted accounting principles; and*

*"(2) the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).*

*"(f) PENALTIES.—*

*"(1) Subsections (a)(1), (a)(6), and (b) of section 408, shall apply to an Indian tribe with an approved tribal assistance plan in the same manner as such subsections apply to a State.*

*"(2) Section 408(a)(3) shall apply to an Indian tribe with an approved tribal assistance plan by substituting 'meet minimum work participation require-*

*ments established under section 411(c)' for 'comply with section 406(a)'.*

*"(g) DATA COLLECTION AND REPORTING.—Section 410 shall apply to an Indian tribe with an approved tribal family assistance plan.*

*"(h) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.—*

*"(1) IN GENERAL.—Notwithstanding any other provision of this section, and except as provided in paragraph (2), a tribal organization in the State of Alaska that receives a tribal family assistance grant under this section shall use the grant to operate a program in accordance with the requirements comparable to the requirements applicable to the program of the State of Alaska funded under this part. Comparability of programs shall be established on the basis of program criteria developed by the Secretary in consultation with the State of Alaska and the tribal organizations.*

*"(2) WAIVER.—An Indian tribe described in paragraph (1) may apply to the appropriate State authority to receive a waiver of the requirement of paragraph (1).*

***"SEC. 412. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.***

*"(a) RESEARCH.—The Secretary shall conduct research on the benefits, effects, and costs of operating different State programs funded under this part, including time limits relating to eligibility for assistance. The research shall include studies on the effects of different programs and the operation of such programs on welfare dependency, illegitimacy, teen pregnancy, employment rates, child well-being, and any other area the Secretary deems appropriate. The Secretary shall also conduct research on the costs and benefits of State activities under section 406.*

*"(b) DEVELOPMENT AND EVALUATION OF INNOVATIVE APPROACHES TO REDUCING WELFARE DEPENDENCY AND INCREASING CHILD WELL-BEING.—*

*"(1) IN GENERAL.—The Secretary may assist States in developing, and shall evaluate, innovative approaches for reducing welfare dependency and increasing the well-being of minor children living at home with respect to recipients of assistance under programs funded under this part. The Secretary may provide funds for training and technical assistance to carry out the approaches developed pursuant to this paragraph.*

*"(2) EVALUATIONS.—In performing the evaluations under paragraph (1), the Secretary shall, to the*

*maximum extent feasible, use random assignment as an evaluation methodology.*

*"(c) DISSEMINATION OF INFORMATION.—The Secretary shall develop innovative methods of disseminating information on any research, evaluations, and studies conducted under this section, including the facilitation of the sharing of information and best practices among States and localities through the use of computers and other technologies.*

*"(d) ANNUAL RANKING OF STATES AND REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—*

*"(1) ANNUAL RANKING OF STATES.—The Secretary shall rank annually the States to which grants are paid under section 402 in the order of their success in placing recipients of assistance under the State program funded under this part into long-term private sector jobs, reducing the overall welfare caseload, and, when a practicable method for calculating this information becomes available, diverting individuals from formally applying to the State program and receiving assistance. In ranking States under this subsection, the Secretary shall take into account the average number of minor children living at home in families in the State that have incomes below the pov-*

*erty line and the amount of funding provided each State for such families.*

*"(2) ANNUAL REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—The Secretary shall review the programs of the 3 States most recently ranked highest under paragraph (1) and the 3 States most recently ranked lowest under paragraph (1) that provide parents with work experience, assistance in finding employment, and other work preparation activities and support services to enable the families of such parents to leave the program and become self-sufficient.*

*"(e) ANNUAL RANKING OF STATES AND REVIEW OF ISSUES RELATING TO OUT-OF-WEDLOCK BIRTHS.—*

*"(1) ANNUAL RANKING OF STATES.—*

*"(A) IN GENERAL.—The Secretary shall annually rank States to which grants are made under section 402 based on the following ranking factors:*

*"(i) ABSOLUTE OUT-OF-WEDLOCK RATIOS.—The ratio represented by—*

*"(I) the total number of out-of-wedlock births in families receiving assistance under the State program under this part in the State for the*

*most recent fiscal year for which information is available; over*

*"(II) the total number of births in families receiving assistance under the State program under this part in the State for such year.*

*"(ii) NET CHANGES IN THE OUT-OF-WEDLOCK RATIO.—The difference between the ratio described in subparagraph (A)(i) for the most recent fiscal year for which information is available and such State's ratio determined for the preceding year.*

*"(2) ANNUAL REVIEW.—The Secretary shall review the programs of the 5 States most recently ranked highest under paragraph (1) and the 5 States most recently ranked the lowest under paragraph (1).*

*"(f) STATE-INITIATED STUDIES.—A State shall be eligible to receive funding to evaluate the State's family assistance program funded under this part if—*

*"(1) the State submits a proposal to the Secretary for such evaluation,*

*"(2) the Secretary determines that the design and approach of the evaluation is rigorous and is likely to yield information that is credible and will be useful to other States, and*

*"(3) unless otherwise waived by the Secretary, the State provides a non-Federal share of at least 10 percent of the cost of such study.*

*"(g) FUNDING OF STUDIES AND DEMONSTRATIONS.—*

*"(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $15,000,000 for each fiscal year specified in section 402(a)(1) for the purpose of paying—*

*"(A) the cost of conducting the research described in subsection (a);*

*"(B) the cost of developing and evaluating innovative approaches for reducing welfare dependency and increasing the well-being of minor children under subsection (b);*

*"(C) the Federal share of any State-initiated study approved under subsection (f); and*

*"(D) an amount determined by the Secretary to be necessary to operate and evaluate demonstration projects, relating to this part, that are in effect or approved under section 1115 as of September 30, 1995, and are continued after such date.*

*"(2) ALLOCATION.—Of the amount appropriated under paragraph (1) for a fiscal year—*

*"(A) 50 percent shall be allocated for the purposes described in subparagraphs (A) and (B) of paragraph (1), and*

*"(B) 50 percent shall be allocated for the purposes described in subparagraphs (C) and (D) of paragraph (1).*

***"SEC. 413. STUDY BY THE CENSUS BUREAU.***

*"(a) IN GENERAL.—The Bureau of the Census shall expand the Survey of Income and Program Participation as necessary to obtain such information as will enable interested persons to evaluate the impact of the amendments made by subtitle A of the Personal Responsibility and Work Opportunity Act of 1995 on a random national sample of recipients of assistance under State programs funded under this part and (as appropriate) other low income families, and in doing so, shall pay particular attention to the issues of out-of-wedlock birth, welfare dependency, the beginning and end of welfare spells, and the causes of repeat welfare spells.*

*"(b) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $10,000,000 for each of fiscal years 1996, 1997, 1998, 1999, and 2000 for payment to the Bureau of the Census to carry out subsection (a).*

***"SEC. 414. WAIVERS.***

*"(a) CONTINUATION OF WAIVERS.—*

*"(1) IN GENERAL.—Except as provided in paragraph (2), if any waiver granted to a State under section 1115 or otherwise which relates to the provision of assistance under a State plan under this part is in effect or approved by the Secretary as of October 1, 1995, the amendments made by the Personal Responsibility and Work Opportunity Act of 1995 shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the terms of the waiver.*

*"(2) FINANCING LIMITATION.—Notwithstanding any other provision of law, beginning with fiscal year 1996, a State operating under a waiver described in paragraph (1) shall receive the payment described for such State for such fiscal year under section 402, in lieu of any other payment provided for in the waiver.*

*"(b) STATE OPTION TO TERMINATE WAIVER.—*

*"(1) IN GENERAL.—A State may terminate a waiver described in subsection (a) before the expiration of the waiver.*

*"(2) REPORT.—A State which terminates a waiver under paragraph (1) shall submit a report to the Secretary summarizing the waiver and any avail-*

*able information concerning the result or effect of such waiver.*

*"(3) HOLD HARMLESS PROVISION.—*

*"(A) IN GENERAL.—Notwithstanding any other provision of law, a State that, not later than the date described in subparagraph (B), submits a written request to terminate a waiver described in subsection (a) shall be held harmless for accrued cost neutrality liabilities incurred under the terms and conditions of such waiver.*

*"(B) DATE DESCRIBED.—The date described in this subparagraph is the later of—*

*"(i) January 1, 1996; or*

*"(ii) 90 days following the adjournment of the first regular session of the State legislature that begins after the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995.*

*"(c) SECRETARIAL ENCOURAGEMENT OF CURRENT WAIVERS.—The Secretary shall encourage any State operating a waiver described in subsection (a) to continue such waiver and to evaluate, using random sampling and other characteristics of accepted scientific evaluations, the result or effect of such waiver.*

*"(d) CONTINUATION OF INDIVIDUAL WAIVERS.—A State may elect to continue one or more individual waivers described in subsection (a)(1).*

***"SEC. 415. ASSISTANT SECRETARY FOR FAMILY SUPPORT.***

*"The programs under this part and part D shall be administered by an Assistant Secretary for Family Support within the Department of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be in addition to any other Assistant Secretary of Health and Human Services provided for by law.*

***"SEC. 416. LIMITATION ON FEDERAL AUTHORITY.***

*"No officer or employee of the Federal Government may regulate the conduct of States under this part or enforce any provision of this part, except to the extent expressly provided in this part.*

***"SEC. 417. DEFINITIONS.***

*"As used in this part:*

*"(1) ADULT.—The term 'adult' means an individual who is not a minor child.*

*"(2) MINOR CHILD.—The term 'minor child' means an individual who—*

*"(A) has not attained 18 years of age; or*

*"(B) has not attained 19 years of age and is a full-time student in a secondary school (or*

*in the equivalent level of vocational or technical training).*

*"(3) FISCAL YEAR.—The term 'fiscal year' means any 12-month period ending on September 30 of a calendar year.*

*"(4) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), the terms 'Indian', 'Indian tribe', and 'tribal organization' have the meaning given such terms by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).*

*"(B) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.—The term 'Indian tribe' means, with respect to the State of Alaska, only the following Alaska Native regional nonprofit corporations:*

*"(i) Arctic Slope Native Association.*

*"(ii) Kawerak, Inc.*

*"(iii) Maniilaq Association.*

*"(iv) Association of Village Council Presidents.*

*"(v) Tanana Chiefs Conference.*

*"(vi) Cook Inlet Tribal Council.*

*"(vii) Bristol Bay Native Association.*

*"(viii) Aleutian and Pribilof Island Association.*

*"(ix) Chugachmuit.*

*"(x) Tlingit Haida Central Council.*

*"(xi) Kodiak Area Native Association.*

*"(xii) Copper River Native Association.*

*"(xiii) Metlakatla Indian Tribe.*

*"(5) STATE.—Except as otherwise specifically provided, the term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa.".*

***SEC. 12102. REPORT ON DATA PROCESSING.***

*(a) IN GENERAL.—Within 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Congress a report on—*

*(1) the status of the automated data processing systems operated by the States to assist management in the administration of State programs under part A of title IV of the Social Security Act (whether in effect before or after October 1, 1995); and*

*(2) what would be required to establish a system capable of—*

*(A) tracking participants in public programs over time; and*

*(B) checking case records of the States to determine whether individuals are participating in public programs of 2 or more States.*

*(b) PREFERRED CONTENTS.—The report required by subsection (a) should include—*

*(1) a plan for building on the automated data processing systems of the States to establish a system with the capabilities described in subsection (a)(2); and*

*(2) an estimate of the amount of time required to establish such a system and of the cost of establishing such a system.*

***SEC. 12103. CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT.***

*(a) AMENDMENTS TO TITLE II.—*

*(1) Section 205(c)(2)(C)(vi) (42 U.S.C. 405(c)(2)(C)(vi)), as so redesignated by section 321(a)(9)(B) of the Social Security Independence and Program Improvements Act of 1994, is amended—*

*(A) by inserting "an agency administering a program funded under part A of title IV or" before "an agency operating"; and*

*(B) by striking "A or D of title IV of this Act" and inserting "D of such title".*

*(2) Section 228(d)(1) (42 U.S.C. 428(d)(1)) is amended by inserting "under a State program funded under" before "part A of title IV".*

*(b) AMENDMENTS TO PART D OF TITLE IV.—*

*(1) Section 451 (42 U.S.C. 651) is amended by striking "aid" and inserting "assistance under a State program funded".*

*(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—*

*(A) by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A";*

*(B) by striking "such aid" and inserting "such assistance"; and*

*(C) by striking "under section 402(a)(26) or 471(a)(17)" and inserting "pursuant to section 408(a)(4) or under section 471(a)(17)".*

*(3) Section 452(a)(10)(F) (42 U.S.C. 652(a)(10)(F)) is amended—*

*(A) by striking "aid under a State plan approved" and inserting "assistance under a State program funded"; and*

*(B) by striking "in accordance with the standards referred to in section 402(a)(26)(B)(ii)" and inserting "by the State".*

*(4) Section 452(b) (42 U.S.C. 652(b)) is amended in the first sentence by striking "aid under the State plan approved under part A" and inserting "assistance under the State program funded under part A".*

*(5) Section 452(d)(3)(B)(i) (42 U.S.C. 652(d)(3)(B)(i)) is amended by striking "1115(c)" and inserting "1115(b)".*

*(6) Section 452(g)(2)(A)(ii)(I) (42 U.S.C. 652(g)(2)(A)(ii)(I)) is amended by striking "aid is being paid under the State's plan approved under part A or E" and inserting "assistance is being provided under the State program funded under part A or aid is being paid under the State's plan approved under part E".*

*(7) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended in the matter following clause (iii) by striking "aid was being paid under the State's plan approved under part A or E" and inserting "assistance was being provided under the State program funded under part A or aid was being paid under the State's plan approved under part E".*

*(8) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended in the matter following subparagraph (B)—*

*(A) by striking "who is a dependent child" and inserting "with respect to whom assistance is being provided under the State program funded under part A";*

*(B) by inserting "by the State agency administering the State plan approved under this part" after "found"; and*

*(C) by striking "under section 402(a)(26)" and inserting "with the State in establishing paternity".*

*(9) Section 452(h) (42 U.S.C. 652(h)) is amended by striking "under section 402(a)(26)" and inserting "pursuant to section 408(a)(4)".*

*(10) Section 453(c)(3) (42 U.S.C. 653(c)(3)) is amended by striking "aid under part A of this title" and inserting "assistance under a State program funded under part A".*

*(11) Section 454(5)(A) (42 U.S.C. 654(5)(A))) is amended—*

*(A) by striking "under section 402(a)(26)" and inserting "pursuant to section 408(a)(4)"; and*

*(B) by striking "; except that this paragraph shall not apply to such payments for any month following the first month in which the amount collected is sufficient to make such family ineligible for assistance under the State plan approved under part A;" and inserting a comma.*

*(12) Section 454(6)(D) (42 U.S.C. 654(6)(D)) is amended by striking "aid under a State plan approved" and inserting "assistance under a State program funded".*

*(13) Section 456(a)(1) (42 U.S.C. 656(a)(1)) is amended by striking "under section 402(a)(26)".*

*(14) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "402(a)(26)" and inserting "408(a)(4)".*

*(15) Section 466(b)(2) (42 U.S.C. 666(b)(2)) is amended by striking "aid" and inserting "assistance under a State program funded".*

*(16) Section 469(a) (42 U.S.C. 669(a)) is amended—*

*(A) by striking "aid under plans approved" and inserting "assistance under State programs funded"; and*

*(B) by striking "such aid" and inserting "such assistance".*

*(c) REPEAL OF PART F OF TITLE IV.—Part F of title IV (42 U.S.C. 681–687) is repealed.*

*(d) AMENDMENT TO TITLE X.—Section 1002(a)(7) (42 U.S.C. 1202(a)(7)) is amended by striking "aid to families with dependent children under the State plan approved under section 402 of this Act" and inserting "assistance under a State program funded under part A of title IV".*

*(e) AMENDMENTS TO TITLE XI.—*

*(1) Section 1108 (42 U.S.C. 1308) is amended to read as follows:*

***"SEC. 1108. LIMITATION ON PAYMENTS TO PUERTO RICO, THE VIRGIN ISLANDS, GUAM, AND AMERICAN SAMOA.***

*"(a) IN GENERAL.—Notwithstanding any other provision of this Act, the total amount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, and under parts A and B of title IV for payment to any territory for a fiscal year shall not exceed the ceiling amount for the territory for the fiscal year.*

*"(b) DEFINITIONS.—As used in this section:*

*"(1) TERRITORY.—The term 'territory' means Puerto Rico, the Virgin Islands, Guam, and American Samoa.*

*"(2) CEILING AMOUNT.—The term 'ceiling amount' means, with respect to a territory and a fiscal year, the mandatory ceiling amount with respect to the territory plus the discretionary ceiling amount with respect to the territory, reduced for the fiscal year in accordance with subsection (e).*

*"(3) MANDATORY CEILING AMOUNT.—The term 'mandatory ceiling amount' means—*

*"(A) $103,538,000 with respect to for Puerto Rico;*

*"(B) $4,812,000 with respect to Guam;*

*"(C) $3,677,397 with respect to the Virgin Islands; and*

*"(D) $1,122,095 with respect to American Samoa.*

*"(4) DISCRETIONARY CEILING AMOUNT.—The term 'discretionary ceiling amount' means, with respect to a territory, the dollar amount specified in subsection (c)(2) with respect to the territory.*

*"(c) DISCRETIONARY GRANTS.—*

*"(1) IN GENERAL.—The Secretary shall make a grant to each territory for any fiscal year in the amount appropriated pursuant to paragraph (2) for the fiscal year for payment to the territory.*

*"(2) USE OF GRANT.—Any territory to which a grant is made under paragraph (1) may expend the amount under any program operated or funded under any provision of law specified in subsection (a).*

*"(3) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For grants under paragraph (1), there are authorized to be appropriated to the Secretary for each fiscal year—*

*"(A) $7,951,000 for payment to Puerto Rico;*

*"(B) $345,000 for payment to Guam;*

*"(C) $275,000 for payment to the Virgin Islands; and*

*"(D) $190,000 for payment to American Samoa.*

*"(d) AUTHORITY TO TRANSFER FUNDS AMONG PROGRAMS.—Notwithstanding any other provision of this Act, any territory to which an amount is paid under any provision of law specified in subsection (a) may use part or all of the amount to carry out any program operated by the territory, or funded, under any other such provision of law.*

*"(e) MAINTENANCE OF EFFORT.—The ceiling amount with respect to a territory shall be reduced for a fiscal year by an amount equal to the amount (if any) by which—*

*"(1) the total amount expended by the territory under all programs of the territory operated pursuant to the provisions of law specified in subsection (a) (as such provisions were in effect for fiscal year 1995) for fiscal year 1995; exceeds*

*"(2) the total amount expended by the territory under all programs of the territory that are funded under the provisions of law specified in subsection (a) for the fiscal year that immediately precedes the fiscal year referred to in the matter preceding paragraph (1).".*

*(2) Section 1109 (42 U.S.C. 1309) is amended by striking "or part A of title IV,".*

*(3) Section 1115 (42 U.S.C. 1315) is amended—*

*(A) in subsection (a)(2)—*

*(i) by inserting "(A)" after "(2)";*

*(ii) by striking "403,";*

*(iii) by striking the period at the end and inserting ", and"; and*

*(iv) by adding at the end the following new subparagraph:*

*"(B) costs of such project which would not otherwise be a permissible use of funds under part A of title IV and which are not included as part of the costs of projects under section 1110, shall to the extent*

*and for the period prescribed by the Secretary, be regarded as a permissible use of funds under such part.”; and*

*(B) in subsection (c)(3), by striking “under the program of aid to families with dependent children” and inserting “part A of such title”.*

*(4) Section 1116 (42 U.S.C. 1316) is amended—*

*(A) in each of subsections (a)(1), (b), and (d), by striking “or part A of title IV,”; and*

*(B) in subsection (a)(3), by striking “404,”.*

*(5) Section 1118 (42 U.S.C. 1318) is amended—*

*(A) by striking “403(a),”;*

*(B) by striking “and part A of title IV,”; and*

*(C) by striking “, and shall, in the case of American Samoa, mean 75 per centum with respect to part A of title IV”.*

*(6) Section 1119 (42 U.S.C. 1319) is amended—*

*(A) by striking “or part A of title IV”; and*

*(B) by striking “403(a),”.*

*(7) Section 1133(a) (42 U.S.C. 1320b–3(a)) is amended by striking “or part A of title IV,”.*

*(8) Section 1136 (42 U.S.C. 1320b–6) is repealed.*

*(9) Section 1137 (42 U.S.C. 1320b–7) is amended—*

*(A) in subsection (b), by striking paragraph (1) and inserting the following:*

*"(1) any State program funded under part A of title IV of this Act;"; and*

*(B) in subsection (d)(1)(B)—*

*(i) by striking "In this subsection—" and all that follows through "(ii) in" and inserting "In this subsection, in";*

*(ii) by redesignating subclauses (I), (II), and (III) as clauses (i), (ii), and (iii); and*

*(iii) by moving such redesignated material 2 ems to the left.*

*(f) AMENDMENT TO TITLE XIV.—Section 1402(a)(7) (42 U.S.C. 1352(a)(7)) is amended by striking "aid to families with dependent children under the State plan approved under section 402 of this Act" and inserting "assistance under a State program funded under part A of title IV".*

*(g) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE TERRITORIES.—Section 1602(a)(11), as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972 (42 U.S.C. 1382 note), is amended by striking "aid under the State*

*plan approved" and inserting "assistance under a State program funded".*

*(h) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE STATES.—Section 1611(c)(5)(A) (42 U.S.C. 1382(c)(5)(A)) is amended to read as follows: "(A) a State program funded under part A of title IV,".*

***SEC. 12104. CONFORMING AMENDMENTS TO THE FOOD STAMP ACT OF 1977 AND RELATED PROVISIONS.***

*(a) Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—*

*(1) in the second sentence of subsection (a), by striking "plan approved" and all that follows through "title IV of the Social Security Act" and inserting "program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995";*

*(2) in subsection (d)—*

*(A) in paragraph (5), by striking "assistance to families with dependent children" and inserting "assistance under a State program funded"; and*

*(B) by striking paragraph (13) and redesignating paragraphs (14), (15), and (16) as paragraphs (13), (14), and (15), respectively;*

*(3) in subsection (j), by striking "plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.)" and inserting "program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".*

*(b) Section 6 of such Act (7 U.S.C. 2015) is amended—*

*(1) in subsection (c)(5), by striking "the State plan approved" and inserting "the State program funded";*

*(2) in subsection (e)—*

*(A) by striking "aid to families with dependent children" and inserting "benefits under a State program funded"; and*

*(B) by inserting before the semicolon the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State pro-*

*gram are comparable to or more restrictive than those in effect on June 1, 1995"; and*

*(3) by adding at the end the following new subsection:*

*"(i) ELIGIBILITY UNDER OTHER LAW.—Notwithstanding any other provision of this Act, a household may not receive benefits under this Act as a result of the household's eligibility under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above 130 percent of the poverty guidelines is not eligible for the program.".*

*(c) Section 16(g)(4) of such Act (7 U.S.C. 2025(g)(4)) is amended by striking "State plans under the Aid to Families with Dependent Children Program under" and inserting "State programs funded under part A of".*

*(d) Section 17 of such Act (7 U.S.C. 2026) is amended—*

*(1) in the first sentence of subsection (b)(1)(A), by striking "to aid to families with dependent children under part A of title IV of the Social Security Act" and inserting "or are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)"; and*

*(2) in subsection (b)(3), by adding at the end the following new subparagraph:*

*"(I) The Secretary may not grant a waiver under this paragraph on or after October 1, 1995. Any reference in this paragraph to a provision of title IV of the Social Security Act shall be deemed to be a reference to such provision as in effect on September 30, 1995.";*

*(e) Section 20 of such Act (7 U.S.C. 2029) is amended—*

*(1) in subsection (a)(2)(B) by striking "operating—" and all that follows through "(ii) any other" and inserting "operating any"; and*

*(2) in subsection (b)—*

*(A) in paragraph (1)—*

*(i) by striking "(b)(1) A household" and inserting "(b) A household"; and*

*(ii) in subparagraph (B), by striking "training program" and inserting "activity";*

*(B) by striking paragraph (2); and*

*(C) by redesignating subparagraphs (A) through (F) as paragraphs (1) through (6), respectively.*

*(f) Section 5(h)(1) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–186; 7 U.S.C. 612c note) is amended by striking "the program for aid to families with dependent children" and inserting "the State program funded".*

*(g) Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended—*

*(1) in subsection (b)—*

*(A) in paragraph (2)(C)(ii)(II)—*

*(i) by striking "program for aid to families with dependent children" and inserting "State program funded"; and*

*(ii) by inserting before the period at the end the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and*

*(B) in paragraph (6)—*

*(i) in subparagraph (A)(ii)—*

*(I) by striking "an AFDC assistance unit (under the aid to families with dependent children program au-*

*thorized" and inserting "a family (under the State program funded"; and*

*(II) by striking ", in a State" and all that follows through "9902(2)))" and inserting "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and*

*(ii) in subparagraph (B), by striking "aid to families with dependent children" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and*

*(2) in subsection (d)(2)(C)—*

*(A) by striking "program for aid to families with dependent children" and inserting "State program funded"; and*

*(B) by inserting before the period at the end the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".*

*(h) Section 17(d)(2)(A)(ii)(II) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(A)(ii)(II)) is amended—*

*(1) by striking "program for aid to families with dependent children established" and inserting "State program funded"; and*

*(2) by inserting before the semicolon the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".*

***SEC. 12105. CONFORMING AMENDMENTS TO OTHER LAWS.***

*(a) Subsection (b) of section 508 of the Unemployment Compensation Amendments of 1976 (42 U.S.C. 603a; Public Law 94–566; 90 Stat. 2689) is amended to read as follows:*

*"(b) PROVISION FOR REIMBURSEMENT OF EXPENSES.—For purposes of section 455 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information requested of such offices—*

*"(1) pursuant to the third sentence of section 3(a) of the Act entitled 'An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes', approved June 6, 1933 (29 U.S.C. 49b(a)), or*

*"(2) by a State or local agency charged with the duty of carrying a State plan for child support approved under part D of title IV of the Social Security Act,*

*shall be considered to constitute expenses incurred in the administration of such State plan.".*

*(b) Section 9121 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.*

*(c) Section 9122 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.*

*(d) Section 221 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 602 note), relating to treatment under AFDC of certain rental payments for federally assisted housing, is repealed.*

*(e) Section 159 of the Tax Equity and Fiscal Responsibility Act of 1982 (42 U.S.C. 602 note) is repealed.*

*(f) Section 202(d) of the Social Security Amendments of 1967 (81 Stat. 882; 42 U.S.C. 602 note) is repealed.*

*(g) Section 903 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 11381 note), relating to demonstration projects to reduce number of AFDC families in welfare hotels, is amended—*

*(1) in subsection (a), by striking "aid to families with dependent children under a State plan approved" and inserting "assistance under a State program funded"; and*

*(2) in subsection (c), by striking "aid to families with dependent children in the State under a State plan approved" and inserting "assistance in the State under a State program funded".*

*(h) The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—*

*(1) in section 404C(c)(3) (20 U.S.C. 1070a–23(c)(3)), by striking "(Aid to Families with Dependent Children)"; and*

*(2) in section 480(b)(2) (20 U.S.C. 1087vv(b)(2)), by striking "aid to families with dependent children under a State plan approved" and inserting "assistance under a State program funded".*

*(i) The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended—*

*(1) in section 231(d)(3)(A)(ii) (20 U.S.C. 2341(d)(3)(A)(ii)), by striking "the program for aid to dependent children" and inserting "the State program funded";*

*(2) in section 232(b)(2)(B) (20 U.S.C. 2341a(b)(2)(B)), by striking "the program for aid to families with dependent children" and inserting "the State program funded"; and*

*(3) in section 521(14)(B)(iii) (20 U.S.C. 2471(14)(B)(iii)), by striking "the program for aid to families with dependent children" and inserting "the State program funded".*

*(j) The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—*

*(1) in section 1113(a)(5) (20 U.S.C. 6313(a)(5)), by striking "Aid to Families with Dependent Children Program" and inserting "State program funded under part A of title IV of the Social Security Act";*

*(2) in section 1124(c)(5) (20 U.S.C. 6333(c)(5)), by striking "the program of aid to families with dependent children under a State plan approved under"*

*and inserting "a State program funded under part A of"; and*

*(3) in section 5203(b)(2) (20 U.S.C. 7233(b)(2))—*

*(A) in subparagraph (A)(xi), by striking "Aid to Families with Dependent Children benefits" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act"; and*

*(B) in subparagraph (B)(viii), by striking "Aid to Families with Dependent Children" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act".*

*(k) Chapter VII of title I of Public Law 99–88 (25 U.S.C. 13d–1) is amended to read as follows: "Provided further, That general assistance payments made by the Bureau of Indian Affairs shall be made—*

*"(1) after April 29, 1985, and before October 1, 1995, on the basis of Aid to Families with Dependent Children (AFDC) standards of need; and*

*"(2) on and after October 1, 1995, on the basis of standards of need established under the State program funded under part A of title IV of the Social Security Act,*

*except that where a State ratably reduces its AFDC or State program payments, the Bureau shall reduce general assistance payments in such State by the same percentage as the State has reduced the AFDC or State program payment.".*

*(l) The Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) is amended—*

*(1) in section 51(d)(9) (26 U.S.C. 51(d)(9)), by striking all that follows "agency as" and inserting "being eligible for financial assistance under part A of title IV of the Social Security Act and as having continually received such financial assistance during the 90-day period which immediately precedes the date on which such individual is hired by the employer.";*

*(2) in section 3304(a)(16) (26 U.S.C. 3304(a)(16)), by striking "eligibility for aid or services," and all that follows through "children approved" and inserting "eligibility for assistance, or the amount of such assistance, under a State program funded";*

*(3) in section 6103(l)(7)(D)(i) (26 U.S.C. 6103(l)(7)(D)(i)), by striking "aid to families with dependent children provided under a State plan approved" and inserting "a State program funded";*

*(4) in section 6334(a)(11)(A) (26 U.S.C. 6334(a)(11)(A)), by striking "(relating to aid to families with dependent children)"; and*

*(5) in section 7523(b)(3)(C) (26 U.S.C. 7523(b)(3)(C)), by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act".*

*(m) Section 3(b) of the Wagner-Peyser Act (29 U.S.C. 49b(b)) is amended by striking "State plan approved under part A of title IV" and inserting "State program funded under part A of title IV".*

*(n) The Job Training Partnership Act (29 U.S.C. 1501 et seq.) is amended—*

*(1) in section 4(29)(A)(i) (29 U.S.C. 1503(29)(A)(i)), by striking "(42 U.S.C. 601 et seq.)";*

*(2) in section 106(b)(6)(C) (29 U.S.C. 1516(b)(6)(C)), by striking "State aid to families with dependent children records," and inserting "records collected under the State program funded under part A of title IV of the Social Security Act,";*

*(3) in section 121(b)(2) (29 U.S.C. 1531(b)(2))—*

*(A) by striking "the JOBS program" and inserting "the work activities required under title IV of the Social Security Act"; and*

*(B) by striking the second sentence;*

*(4) in section 123(c) (29 U.S.C. 1533(c))—*

*(A) in paragraph (1)(E), by repealing clause (vi); and*

*(B) in paragraph (2)(D), by repealing clause (v);*

*(5) in section 203(b)(3) (29 U.S.C. 1603(b)(3)), by striking ", including recipients under the JOBS program";*

*(6) in subparagraphs (A) and (B) of section 204(a)(1) (29 U.S.C. 1604(a)(1) (A) and (B)), by striking "(such as the JOBS program)" each place it appears;*

*(7) in section 205(a) (29 U.S.C. 1605(a)), by striking paragraph (4) and inserting the following:*

*"(4) the portions of title IV of the Social Security Act relating to work activities;";*

*(8) in section 253 (29 U.S.C. 1632)—*

*(A) in subsection (b)(2), by repealing subparagraph (C); and*

*(B) in paragraphs (1)(B) and (2)(B) of subsection (c), by striking "the JOBS program or" each place it appears;*

*(9) in section 264 (29 U.S.C. 1644)—*

*(A) in subparagraphs (A) and (B) of subsection (b)(1), by striking "(such as the JOBS program)" each place it appears; and*

*(B) in subparagraphs (A) and (B) of subsection (d)(3), by striking "and the JOBS program" each place it appears;*

*(10) in section 265(b) (29 U.S.C. 1645(b)), by striking paragraph (6) and inserting the following:*

*"(6) the portion of title IV of the Social Security Act relating to work activities;";*

*(11) in the second sentence of section 429(e) (29 U.S.C. 1699(e)), by striking "and shall be in an amount that does not exceed the maximum amount that may be provided by the State pursuant to section 402(g)(1)(C) of the Social Security Act (42 U.S.C. 602(g)(1)(C))";*

*(12) in section 454(c) (29 U.S.C. 1734(c)), by striking "JOBS and";*

*(13) in section 455(b) (29 U.S.C. 1735(b)), by striking "the JOBS program,";*

*(14) in section 501(1) (29 U.S.C. 1791(1)), by striking "aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)" and inserting "assistance under*

*the State program funded under part A of title IV of the Social Security Act";*

*(15) in section 506(1)(A) (29 U.S.C. 1791e(1)(A)), by striking "aid to families with dependent children" and inserting "assistance under the State program funded";*

*(16) in section 508(a)(2)(A) (29 U.S.C. 1791g(a)(2)(A)), by striking "aid to families with dependent children" and inserting "assistance under the State program funded"; and*

*(17) in section 701(b)(2)(A) (29 U.S.C. 1792(b)(2)(A))—*

*(A) in clause (v), by striking the semicolon and inserting "; and"; and*

*(B) by striking clause (vi).*

*(o) Section 3803(c)(2)(C)(iv) of title 31, United States Code, is amended to read as follows:*

*"(iv) assistance under a State program funded under part A of title IV of the Social Security Act".*

*(p) Section 2605(b)(2)(A)(i) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(2)(A)(i)) is amended to read as follows:*

*"(i) assistance under the State program funded under part A of title IV of the Social Security Act;".*

*(q) Section 303(f)(2) of the Family Support Act of 1988 (42 U.S.C. 602 note) is amended—*

*(1) by striking "(A)"; and*

*(2) by striking subparagraphs (B) and (C).*

*(r) The Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) is amended—*

*(1) in the first section 255(h) (2 U.S.C. 905(h)), by striking "Aid to families with dependent children (75–0412–0–1–609);" and inserting "Block grants to States for temporary assistance for needy families;"; and*

*(2) in section 256 (2 U.S.C. 906)—*

*(A) by striking subsection (k); and*

*(B) by redesignating subsection (l) as subsection (k).*

*(s) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—*

*(1) in section 210(f) (8 U.S.C. 1160(f)), by striking "aid under a State plan approved under" each place it appears and inserting "assistance under a State program funded under";*

*(2) in section 245A(h) (8 U.S.C. 1255a(h))—*

*(A) in paragraph (1)(A)(i), by striking "program of aid to families with dependent children" and inserting "State program of assistance"; and*

*(B) in paragraph (2)(B), by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act"; and*

*(3) in section 412(e)(4) (8 U.S.C. 1522(e)(4)), by striking "State plan approved" and inserting "State program funded".*

*(t) Section 640(a)(4)(B)(i) of the Head Start Act (42 U.S.C. 9835(a)(4)(B)(i)) is amended by striking "program of aid to families with dependent children under a State plan approved" and inserting "State program of assistance funded".*

*(u) Section 9 of the Act of April 19, 1950 (64 Stat. 47, chapter 92; 25 U.S.C. 639) is repealed.*

*(v) Subparagraph (E) of section 213(d)(6) of the School-To-Work Opportunities Act of 1994 (20 U.S.C. 6143(d)(6)) is amended to read as follows:*

*"(E) part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) relating to work activities;".*

***SEC. 12106. EFFECTIVE DATE; TRANSITION RULE.***

*(a) IN GENERAL.—Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall take effect on October 1, 1995.*

*(b) PENALTIES.—*

*(1) IN GENERAL.—Paragraphs (2) through (7) and paragraph (9) of section 408(a) of the Social Security Act (as added by section 12101 of this Act) shall apply with respect to fiscal years beginning on or after October 1, 1996.*

*(2) MISUSE OF FUNDS.—Paragraphs (1) and (8) of section 408(a) of the Social Security Act (as added by section 12101 of this Act, shall apply with respect to fiscal years beginning on or after October 1, 1995.*

*(c) TRANSITION RULES.—*

*(1) STATE OPTION TO CONTINUE AFDC PROGRAM.—*

*(A) 9-MONTH EXTENSION.—A State may elect to continue the State AFDC program until June 30, 1996.*

*(B) NO INDIVIDUAL OR FAMILY ENTITLEMENT UNDER CONTINUED STATE AFDC PROGRAMS.—Notwithstanding any other provision of law or any rule of law, no individual or family is entitled to aid under any State AFDC pro-*

*gram on or after the date of the enactment of this Act.*

*(C) LIMITATIONS ON FEDERAL OBLIGATIONS.—*

*(i) UNDER AFDC PROGRAM.—If a State elects to continue the State AFDC program pursuant to subparagraph (A), the total obligations of the Federal Government to the State under part A of title IV of the Social Security Act (as in effect on September 30, 1995) after the date of the enactment of this Act shall not exceed an amount equal to—*

*(I) the State family assistance grant (as defined in section 402(a)(1)(B) of the Social Security Act (as in effect pursuant to the amendment made by section 12101 of this Act)); minus*

*(II) any obligations of the Federal Government to the State under such part (as in effect on September 30, 1995) with respect to expenditures by the State during the period that begins on October 1, 1995, and ends on the*

*day before the date of the enactment of this Act.*

*(ii) UNDER TEMPORARY FAMILY ASSISTANCE PROGRAM.—Notwithstanding section 402(a)(1) of the Social Security Act (as in effect pursuant to the amendment made by section 12101 of this Act), the total obligations of the Federal Government to the State under such section 402(a)(1) for fiscal year 1996 after the termination of the State AFDC program shall not exceed an amount equal to—*

*(I) the amount described in clause (i)(I) of this subparagraph; minus*

*(II) any obligations of the Federal Government to the State under part A of title IV of the Social Security Act (as in effect on September 30, 1995) with respect to expenditures by the State on or after October 1, 1995.*

*(D) SUBMISSION OF STATE PLAN FOR FISCAL YEAR 1996 DEEMED ACCEPTANCE OF GRANT LIMITATIONS AND FORMULA.—The submission of a plan by a State under section 401(a) of the Social Security Act (as in effect pursuant to the*

*amendment made by section 12101 of this Act) for fiscal year 1996 is deemed to constitute the State's acceptance of the grant reductions under subparagraph (C)(ii) of this paragraph (including the formula for computing the amount of the reduction).*

*(E) STATE AFDC PROGRAM DEFINED.—As used in this paragraph, the term "State AFDC program" means the State program under parts A and F of title IV of the Social Security Act (as in effect on September 30, 1995).*

*(2) CLAIMS, ACTIONS, AND PROCEEDINGS.—The amendments made by this subtitle shall not apply with respect to—*

*(A) powers, duties, functions, rights, claims, penalties, or obligations applicable to aid, assistance, or services provided before the effective date of this subtitle under the provisions amended; and*

*(B) administrative actions and proceedings commenced before such date, or authorized before such date to be commenced, under such provisions.*

*(3) CLOSING OUT ACCOUNT FOR THOSE PROGRAMS TERMINATED OR SUBSTANTIALLY MODIFIED BY*

*THIS SUBTITLE.—In closing out accounts, Federal and State officials may use scientifically acceptable statistical sampling techniques. Claims made under programs which are repealed or substantially amended in this subtitle and which involve State expenditures in cases where assistance or services were provided during a prior fiscal year, shall be treated as expenditures during fiscal year 1995 for purposes of reimbursement even if payment was made by a State on or after October 1, 1995. States shall complete the filing of all claims no later than September 30, 1997. Federal department heads shall—*

*(A) use the single audit procedure to review and resolve any claims in connection with the close out of programs, and*

*(B) reimburse States for any payments made for assistance or services provided during a prior fiscal year from funds for fiscal year 1995, rather than the funds authorized by this subtitle.*

*(4) CONTINUANCE IN OFFICE OF ASSISTANT SECRETARY FOR FAMILY SUPPORT.—The individual who, on the day before the effective date of this subtitle, is serving as Assistant Secretary for Family Support within the Department of Health and Human Serv-*

*ices shall, until a successor is appointed to such position—*

*(A) continue to serve in such position; and*

*(B) except as otherwise provided by law—*

*(i) continue to perform the functions of the Assistant Secretary for Family Support under section 417 of the Social Security Act (as in effect before such effective date); and*

*(ii) have the powers and duties of the Assistant Secretary for Family Support under section 415 of the Social Security Act (as in effect pursuant to the amendment made by section 12101 of this Act).*

*(d) SUNSET.—The amendment made by section 12101 shall be effective only during the 6-year period beginning on October 1, 1995.*

## *Subtitle B—Supplemental Security Income*

### *SEC. 12200. REFERENCE TO SOCIAL SECURITY ACT.*

*Except as otherwise specifically provided, where ever in this subtitle 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.*

## *CHAPTER 1—ELIGIBILITY RESTRICTIONS*

### *SEC. 12201. DENIAL OF SUPPLEMENTAL SECURITY INCOME BENEFITS BY REASON OF DISABILITY TO DRUG ADDICTS AND ALCOHOLICS.*

*(a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following:*

*"(I) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.".*

*(b) REPRESENTATIVE PAYEE REQUIREMENTS.—*

*(1) Section 1631(a)(2)(A)(ii)(II) (42 U.S.C. 1383(a)(2)(A)(ii)(II)) is amended to read as follows:*

*"(II) In the case of an individual eligible for benefits under this title by reason of disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition that prevents the individual from managing such benefits.".*

*(2) Section 1631(a)(2)(B)(vii) (42 U.S.C. 1383(a)(2)(B)(vii)) is amended by striking "eligible for benefits" and all that follows through "is disabled"*

*and inserting "described in subparagraph (A)(ii)(II)".*

*(3) Section 1631(a)(2)(B)(ix)(II) (42 U.S.C. 1383(a)(2)(B)(ix)(II)) is amended by striking all that follows "15 years, or" and inserting "described in subparagraph (A)(ii)(II)".*

*(4) Section 1631(a)(2)(D)(i)(II) (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".*

*(c) TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION.—Title XVI (42 U.S.C. 1381 et seq.) is amended by adding at the end the following new section:*

*"TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION*

*"SEC. 1636. In the case of any eligible individual whose benefits under this title by reason of disability are paid to a representative payee pursuant to section 1631(a)(2)(A)(ii)(II), the Commissioner of Social Security shall refer such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–21 et seq.).".*

*(d) CONFORMING AMENDMENTS.—*

*(1) Section 1611(e) (42 U.S.C. 1382(e)) is amended by striking paragraph (3).*

*(2) Section 1634 (42 U.S.C. 1383c) is amended by striking subsection (e).*

*(3) Section 201(c)(1) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 425 note) is amended—*

*(A) by striking "to—" and all that follows through "in cases in which" and inserting "to individuals who are entitled to disability insurance benefits or child's, widow's, or widower's insurance benefits based on disability under title II of the Social Security Act, in cases in which";*

*(B) by striking "either subparagraph (A) or subparagraph (B)" and inserting "the preceding sentence"; and*

*(C) by striking "subparagraph (A) or (B)" and inserting "the preceding sentence".*

*(e) SUPPLEMENTAL FUNDING FOR ALCOHOL AND SUBSTANCE ABUSE TREATMENT PROGRAMS.—*

*(1) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there are hereby appropriated to supplement State and Tribal programs funded under section 1933 of the Public Health*

*Service Act (42 U.S.C. 300x–33), $50,000,000 for each of the fiscal years 1997 and 1998.*

*(2) ADDITIONAL FUNDS.—Amounts appropriated under paragraph (1) shall be in addition to any funds otherwise appropriated for allotments under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33) and shall be allocated pursuant to such section 1933.*

*(3) USE OF FUNDS.—A State or Tribal government receiving an allotment under this subsection shall consider as priorities, for purposes of expending funds allotted under this subsection, activities relating to the treatment of the abuse of alcohol and other drugs.*

*(f) EFFECTIVE DATES.—*

*(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to applicants for benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.*

*(2) APPLICATION TO CURRENT RECIPIENTS.—*

*(A) APPLICATION AND NOTICE.—Notwithstanding any other provision of law, in the case of an individual who is receiving supplemental*

*security income benefits under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits would terminate by reason of the amendments made by this section, such amendments shall apply with respect to the benefits of such individual, including such individual's treatment (if any) provided pursuant to such title as in effect on the day before the date of such enactment, for months beginning on or after January 1, 1997, and the Commissioner of Social Security shall so notify the individual not later than 90 days after the date of the enactment of this Act.*

*(B) REAPPLICATION.—*

*(i) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, each individual notified pursuant to subparagraph (A) who desires to reapply for benefits under title XVI of the Social Security Act, as amended by this title, may reapply to the Commissioner of Social Security.*

*(ii) DETERMINATION OF ELIGIBILITY.—Not later than January 1, 1997,*

*the Commissioner of Social Security shall complete the eligibility redetermination of each individual who reapplies for benefits under clause (i) pursuant to the procedures of title XVI of such Act.*

*(3) ADDITIONAL APPLICATION OF PAYEE REPRESENTATIVE AND TREATMENT REFERRAL REQUIREMENTS.—The amendments made by subsections (b) and (c) shall also apply—*

*(A) in the case of any individual who is receiving supplemental security income benefits under title XVI of the Social Security Act as of the date of the enactment of this Act, on and after the date of such individual's first continuing disability review occurring after such date of enactment, and*

*(B) in the case of any individual who receives supplemental security income benefits under title XVI of the Social Security Act and has attained age 65, in such manner as determined appropriate by the Commissioner of Social Security.*

***SEC. 12202. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDIVIDUALS FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR MORE STATES.***

*(a) IN GENERAL.—Section 1614(a) (42 U.S.C. 1382c(a)) is amended by adding at the end the following new paragraph:*

*"(5) An individual shall not be considered an eligible individual for the purposes of this title during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States under programs that are funded under title IV, title XXI, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under this title.".*

*(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.*

***SEC. 12203. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.***

*(a) IN GENERAL.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 12201(d)(1), is amended*

*by inserting after paragraph (2) the following new paragraph:*

*"(3) A person shall not be considered an eligible individual or eligible spouse for purposes of this title with respect to any month if during such month the person is—*

*"(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or*

*"(B) violating a condition of probation or parole imposed under Federal or State law.".*

*(b) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 12201(d)(1) and subsection (a), is amended by inserting after paragraph (3) the following new paragraph:*

*"(4) Notwithstanding any other provision of law, the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of benefits under this title,*

*if the officer furnishes the Commissioner with the name of the recipient and notifies the Commissioner that—*

*"(A) the recipient—*

*"(i) is described in subparagraph (A) or (B) of paragraph (3); or*

*"(ii) has information that is necessary for the officer to conduct the officer's official duties; and*

*"(B) the location or apprehension of the recipient is within the officer's official duties.".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.*

## *CHAPTER 2—BENEFITS FOR DISABLED CHILDREN*

### *SEC. 12211. DEFINITION AND ELIGIBILITY RULES.*

*(a) DEFINITION OF CHILDHOOD DISABILITY.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)), as amended by section 7251(a), is amended—*

*(1) in subparagraph (A), by striking "An individual" and inserting "Except as provided in subparagraph (C), an individual";*

*(2) in subparagraph (A), by striking "(or, in the case of an individual under the age of 18, if he suffers*

*from any medically determinable physical or mental impairment of comparable severity)";*

*(3) by redesignating subparagraphs (C) through (I) as subparagraphs (D) through (J), respectively;*

*(4) by inserting after subparagraph (B) the following new subparagraph:*

*"(C) An individual under the age of 18 shall be considered disabled for the purposes of this title if that individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. Notwithstanding the preceding sentence, no individual under the age of 18 who engages in substantial gainful activity (determined in accordance with regulations prescribed pursuant to subparagraph (E)) may be considered to be disabled."; and*

*(5) in subparagraph (F), as redesignated by paragraph (3), by striking "(D)" and inserting "(E)".*

*(b) CHANGES TO CHILDHOOD SSI REGULATIONS.—*

*(1) MODIFICATION TO MEDICAL CRITERIA FOR EVALUATION OF MENTAL AND EMOTIONAL DISORDERS.—The Commissioner of Social Security shall modify sections 112.00C.2. and 112.02B.2.c.(2) of ap-*

*pendix 1 to subpart P of part 404 of title 20, Code of Federal Regulations, to eliminate references to maladaptive behavior in the domain of personal/behavorial function.*

*(2) DISCONTINUANCE OF INDIVIDUALIZED FUNCTIONAL ASSESSMENT.—The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in sections 416.924d and 416.924e of title 20, Code of Federal Regulations.*

*(c) MEDICAL IMPROVEMENT REVIEW STANDARD AS IT APPLIES TO INDIVIDUALS UNDER THE AGE OF 18.—Section 1614(a)(4) (42 U.S.C. 1382(a)(4)) is amended—*

*(1) by redesignating subclauses (I) and (II) of clauses (i) and (ii) of subparagraph (B) as subclauses (aa) and (bb), respectively;*

*(2) by redesignating clauses (i) and (ii) of subparagraphs (A) and (B) as subclauses (I) and (II), respectively;*

*(3) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and by moving their left hand margin 2 ems to the right;*

*(4) by inserting before clause (i) (as redesignated by paragraph (3)) the following:*

*"(A) in the case of an individual who is age 18 or older—";*

*(5) at the end of subparagraph (A)(iii) (as redesignated by paragraphs (3) and (4)), by striking the period and inserting "; or";*

*(6) by inserting after and below subparagraph (A)(iii) (as so redesignated) the following:*

*"(B) in the case of an individual who is under the age of 18—*

*"(i) substantial evidence which demonstrates that there has been medical improvement in the individual's impairment or combination of impairments, and that such impairment or combination of impairments no longer results in marked and severe functional limitations; or*

*"(ii) substantial evidence which demonstrates that, as determined on the basis of new or improved diagnostic techniques or evaluations, the individual's impairment or combination of impairments, is not as disabling as it was considered to be at the time of the most recent prior decision that he or she was under a disability or continued to be under a disability, and such impairment*

*or combination of impairments does not result in marked or severe functional limitations; or";*

*(7) by redesignating subparagraph (D) as subparagraph (C) and by inserting in such subparagraph "in the case of any individual," before "substantial evidence"; and*

*(8) in the first sentence following subparagraph (C) (as redesignated by paragraph (7)), by—*

*(A) inserting "(i)" before "to restore"; and*

*(B) inserting ", or (ii) in the case of an individual under the age of 18, to eliminate or improve the individual's impairment or combination of impairments so that it no longer results in marked and severe functional limitations" immediately before the period.*

*(d) AMOUNT OF BENEFITS.—Section 1611(b) (42 U.S.C. 1382(b)) is amended by adding at the end the following new paragraph:*

*"(3)(i) Except with respect to individuals described in clause (ii), the benefit under this title for an individual described in section 1614(a)(3)(C) shall be payable at a rate equal to 75 percent of the rate otherwise determined under this subsection.*

*"(ii) An individual is described in this clause if such individual is described in section 1614(a)(3)(C), and—*

*"(I) in the case of such an individual under the age of 6, such individual has a medical impairment that severely limits the individual's ability to function in a manner appropriate to individuals of the same age and who without special personal assistance would require specialized care outside the home; or*

*"(II) in the case of such an individual who has attained the age of 6, such individual requires personal care assistance with—*

*"(aa) at least 2 activities of daily living;*

*"(bb) continual 24-hour supervision or monitoring to avoid causing injury or harm to self or others; or*

*"(cc) the administration of medical treatment; and*

*who without such assistance would require full-time or part-time specialized care outside the home.*

*"(iii)(I) For purposes of clause (ii), the term 'specialized care' means medical care beyond routine administration of medication.*

*"(II) For purposes of clause (ii)(II)—*

*"(aa) the term 'personal care assistance' means at least hands-on and stand-by assistance, supervision, or cueing; and*

*"(bb) the term 'activities of daily living' means eating, toileting, dressing, bathing, and mobility.".*

*(e) EFFECTIVE DATES, ETC.—*

*(1) EFFECTIVE DATES.—*

*(A) IN GENERAL.—The provisions of, and amendments made by, subsections (a), (b), and (c) shall apply to applicants for benefits under title XVI of the Social Security Act for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such provisions and amendments.*

*(B) ELIGIBILITY RULES.—The amendments made by subsection (d) shall apply to—*

*(i) applicants for benefits under title XVI of the Social Security Act for months beginning on or after January 1, 1997; and*

*(ii) with respect to continuing disability reviews of eligibility for benefits under such title occurring on or after such date.*

*(2) APPLICATION TO CURRENT RECIPIENTS.—*

*(A) ELIGIBILITY DETERMINATIONS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall redetermine the eligibility of any individual under age 18 who is receiving supplemental security income benefits based on a disability under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the provisions of, and amendments made by, subsections (a), (b), and (c). With respect to any redetermination under this subparagraph—*

*(i) section 1614(a)(4) of the Social Security Act (42 U.S.C. 1382c(a)(4)) shall not apply;*

*(ii) the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under title XVI of such Act;*

*(iii) the Commissioner shall give such redetermination priority over all continuing eligibility reviews and other reviews under such title; and*

*(iv) such redetermination shall be counted as a review or redetermination otherwise required to be made under section 208 of the Social Security Independence and Program Improvements Act of 1994 or any other provision of title XVI of the Social Security Act.*

*(B) GRANDFATHER PROVISION.—The provisions of, and amendments made by, subsections (a), (b), and (c), and the redetermination under subparagraph (A), shall only apply with respect to the benefits of an individual described in subparagraph (A) for months beginning on or after January 1, 1997.*

*(C) NOTICE.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify an individual described in subparagraph (A) of the provisions of this paragraph.*

*(3) REGULATIONS.—The Commissioner of Social Security shall submit for review to the committees of jurisdiction in the Congress any final regulation pertaining to the eligibility of individuals under age 18 for benefits under title XVI of the Social Security Act at least 45 days before the effective date of such regu-*

*lation. The submission under this paragraph shall include supporting documentation providing a cost analysis, workload impact, and projections as to how the regulation will effect the future number of recipients under such title.*

*(4) APPROPRIATIONS.—*

*(A) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there are authorized to be appropriated and are hereby appropriated, to remain available without fiscal year limitation, $200,000,000 for fiscal year 1996, $75,000,000 for fiscal year 1997, and $25,000,000 for fiscal year 1998, for the Commissioner of Social Security to utilize only for continuing disability reviews and redeterminations under title XVI of the Social Security Act, with reviews and redeterminations for individuals affected by the provisions of subsection (b) given highest priority.*

*(B) ADDITIONAL FUNDS.—Amounts appropriated under subparagraph (A) shall be in addition to any funds otherwise appropriated for continuing disability reviews and redeterminations under title XVI of the Social Security Act.*

***SEC. 12212. ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY REVIEWS.***

*(a) CONTINUING DISABILITY REVIEWS RELATING TO CERTAIN CHILDREN.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as redesignated by section 12211(a)(3), is amended—*

*(1) by inserting "(i)" after "(H)"; and*

*(2) by adding at the end the following new clause:*

*"(ii)(I) Not less frequently than once every 3 years, the Commissioner shall review in accordance with paragraph (4) the continued eligibility for benefits under this title of each individual who has not attained 18 years of age and is eligible for such benefits by reason of an impairment (or combination of impairments) which may improve (or, at the option of the Commissioner, which is unlikely to improve).*

*"(II) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.*

*"(III) If the representative payee refuses to comply without good cause with the requirements of subclause (II), the Commissioner of Social Security shall, if the Commis-*

*sioner determines it is in the best interest of the individual, promptly terminate payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this title would be served thereby, to the individual.*

*"(IV) Subclause (II) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual's impairment (or combination of impairments). Section 1631(c) shall not apply to a finding by the Commissioner that the requirements of subclause (II) should not apply to an individual's representative payee.".*

*(b) DISABILITY ELIGIBILITY REDETERMINATIONS REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS OF AGE.—*

*(1) IN GENERAL.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsection (a), is amended by adding at the end the following new clause:*

*"(iii) If an individual is eligible for benefits under this title by reason of disability for the month preceding the*

*month in which the individual attains the age of 18 years, the Commissioner shall redetermine such eligibility—*

*"(I) during the 1-year period beginning on the individual's 18th birthday; and*

*"(II) by applying the criteria used in determining the initial eligibility for applicants who are age 18 or older.*

*With respect to a redetermination under this clause, paragraph (4) shall not apply and such redetermination shall be considered a substitute for a review or redetermination otherwise required under any other provision of this subparagraph during that 1-year period.".*

*(2) CONFORMING REPEAL.—Section 207 of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 1382 note; 108 Stat. 1516) is hereby repealed.*

*(c) CONTINUING DISABILITY REVIEW REQUIRED FOR LOW BIRTH WEIGHT BABIES.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsections (a) and (b), is amended by adding at the end the following new clause:*

*"(iv)(I) Not later than 12 months after the birth of an individual, the Commissioner shall review in accordance with paragraph (4) the continuing eligibility for benefits under this title by reason of disability of such individual*

*whose low birth weight is a contributing factor material to the Commissioner's determination that the individual is disabled.*

*"(II) A review under subclause (I) shall be considered a substitute for a review otherwise required under any other provision of this subparagraph during that 12-month period.*

*"(III) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.*

*"(IV) If the representative payee refuses to comply without good cause with the requirements of subclause (III), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly terminate payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this title would be served thereby, to the individual.*

*"(V) Subclause (III) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappro-*

*priate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual's impairment (or combination of impairments). Section 1631(c) shall not apply to a finding by the Commissioner that the requirements of subclause (III) should not apply to an individual's representative payee.".*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.*

***SEC. 12213. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.***

*(a) DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE.—*

*(1) IN GENERAL.—Section 1613(c) (42 U.S.C. 1382b(c)) is amended to read as follows:*

*"(c) DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE.—(1)(A)(i) If an individual who has not attained 18 years of age (or any person acting on such individual's behalf) disposes of resources of the individual for less than fair market value on or after the look-back date specified in clause (ii)(I), the individual is ineligible for benefits under this title for months during the period beginning on the date specified in clause (iii) and equal to the number of months specified in clause (iv).*

*"(ii)(I) The look-back date specified in this subclause is a date that is 36 months before the date specified in subclause (II).*

*"(II) The date specified in this subclause is the date on which the individual applies for benefits under this title or, if later, the date on which the disposal of the individual's resources for less than fair market value occurs.*

*"(iii) The date specified in this clause is the first day of the first month that follows the month in which the individual's resources were disposed of for less than fair market value and that does not occur in any other period of ineligibility under this paragraph.*

*"(iv) The number of months of ineligibility under this clause for an individual shall be equal to—*

*"(I) the total, cumulative uncompensated value of all the individual's resources so disposed of on or after the look-back date specified in clause (ii)(I), divided by*

*"(II) the amount of the maximum monthly benefit payable under section 1611(b) to an eligible individual for the month in which the date specified in clause (ii)(II) occurs.*

*"(B) An individual shall not be ineligible for benefits under this title by reason of subparagraph (A) if the Commissioner determines that—*

*"(i) the individual intended to dispose of the resources at fair market value;*

*"(ii) the resources were transferred exclusively for a purpose other than to qualify for benefits under this title;*

*"(iii) all resources transferred for less than fair market value have been returned to the individual; or*

*"(iv) the denial of eligibility would work an undue hardship on the individual (as determined on the basis of criteria established by the Commissioner in regulations).*

*"(C) For purposes of this paragraph, in the case of a resource held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the resource (or the affected portion of such resource) shall be considered to be disposed of by such individual when any action is taken, either by such individual or by any other person, that reduces or eliminates such individual's ownership or control of such resource.*

*"(D)(i) Notwithstanding subparagraph (A), this subsection shall not apply to a transfer of a resource to a trust if the portion of the trust attributable to such resource is considered a resource available to the individual pursuant*

*to subsection (e)(3) (or would be so considered, but for the application of subsection (e)(4)).*

*"(ii) In the case of a trust established by an individual (within the meaning of paragraph (2)(A) of subsection (e)), if from such portion of the trust (if any) that is considered a resource available to the individual pursuant to paragraph (3) of such subsection (or would be so considered but for the application of paragraph (2) of such subsection) or the residue of such portion upon the termination of the trust—*

*"(I) there is made a payment other than to or for the benefit of the individual, or*

*"(II) no payment could under any circumstance be made to the individual,*

*then the payment described in subclause (I) or the foreclosure of payment described in subclause (II) shall be considered a disposal of resources by the individual subject to this subsection, as of the date of such payment or foreclosure, respectively.*

*"(2)(A) At the time an individual (and the individual's eligible spouse, if any) applies for benefits under this title, and at the time the eligibility of an individual (and such spouse, if any) for such benefits is redetermined, the Commissioner of Social Security shall—*

*"(i) inform such individual of the provisions of paragraph (1) providing for a period of ineligibility for benefits under this title for individuals who make certain dispositions of resources for less than fair market value, and inform such individual that information obtained pursuant to clause (ii) will be made available to the State agency administering a State plan under title XXI (as provided in subparagraph (B)); and*

*"(ii) obtain from such individual information which may be used in determining whether or not a period of ineligibility for such benefits would be required by reason of paragraph (1).*

*"(B) The Commissioner of Social Security shall make the information obtained under subparagraph (A)(ii) available, on request, to any State agency administering a State plan approved under title XXI.*

*"(3) For purposes of this subsection—*

*"(A) the term 'trust' includes any legal instrument or device that is similar to a trust; and*

*"(B) the term 'benefits under this title' includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a), and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.".*

*(2) EFFECTIVE DATE.—The amendment made by this subsection shall be effective with respect to transfers of resources for less than fair market value that occur at least 90 days after the date of the enactment of this Act.*

*(b) TREATMENT OF ASSETS HELD IN TRUST.—*

*(1) TREATMENT AS RESOURCE.—Section 1613 (42 U.S.C. 1382) is amended by adding at the end the following new subsection:*

*"TRUSTS*

*"(e)(1) In determining the resources of an individual who has not attained 18 years of age, the provisions of paragraph (3) shall apply to a trust established by such individual.*

*"(2)(A) For purposes of this subsection, an individual shall be considered to have established a trust if any assets of the individual were transferred to the trust.*

*"(B) In the case of an irrevocable trust to which the assets of an individual and the assets of any other person or persons were transferred, the provisions of this subsection shall apply to the portion of the trust attributable to the assets of the individual.*

*"(C) This subsection shall apply without regard to—*

*"(i) the purposes for which the trust is established;*

*"(ii) whether the trustees have or exercise any discretion under the trust;*

*"(iii) any restrictions on when or whether distributions may be made from the trust; or*

*"(iv) any restrictions on the use of distributions from the trust.*

*"(3)(A) In the case of a revocable trust, the corpus of the trust shall be considered a resource available to the individual.*

*"(B) In the case of an irrevocable trust, if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual, the portion of the corpus from which payment to or for the benefit of the individual could be made shall be considered a resource available to the individual.*

*"(4) The Commissioner may waive the application of this subsection with respect to any individual if the Commissioner determines, on the basis of criteria prescribed in regulations, that such application would work an undue hardship on such individual.*

*"(5) For purposes of this subsection—*

*"(A) the term 'trust' includes any legal instrument or device that is similar to a trust;*

*"(B) the term 'corpus' means all property and other interests held by the trust, including accumu-*

*lated earnings and any other addition to such trust after its establishment (except that such term does not include any such earnings or addition in the month in which such earnings or addition is credited or otherwise transferred to the trust);*

*"(C) the term 'asset' includes any income or resource of the individual, including—*

*"(i) any income otherwise excluded by section 1612(b);*

*"(ii) any resource otherwise excluded by this section; and*

*"(iii) any other payment or property that the individual is entitled to but does not receive or have access to because of action by—*

*"(I) such individual;*

*"(II) a person or entity (including a court) with legal authority to act in place of, or on behalf of, such individual; or*

*"(III) a person or entity (including a court) acting at the direction of, or upon the request of, such individual; and*

*"(D) the term 'benefits under this title' includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a),*

*and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.".*

*(2) TREATMENT AS INCOME.—Section 1612(a)(2) (42 U.S.C. 1382a(a)(2)) is amended—*

*(A) by striking "and" at the end of subparagraph (E);*

*(B) by striking the period at the end of subparagraph (F) and inserting "; and"; and*

*(C) by adding at the end the following new subparagraph:*

*"(G) any earnings of, and additions to, the corpus of a trust (as defined in section 1613(f)) established by an individual (within the meaning of paragraph (2)(A) of section 1613(e)) and of which such individual is a beneficiary (other than a trust to which paragraph (4) of such section applies); except that in the case of an irrevocable trust, there shall exist circumstances under which payment from such earnings or additions could be made to, or for the benefit of, such individual.".*

*(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1996, and shall apply to trusts established on or after such date.*

*(c) REQUIREMENT TO ESTABLISH ACCOUNT.—*

*(1) IN GENERAL.—Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended—*

*(A) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and*

*(B) by inserting after subparagraph (E) the following new subparagraph:*

*"(F)(i)(I) Each representative payee of an eligible individual under the age of 18 who is eligible for the payment of benefits described in subclause (II) shall establish on behalf of such individual an account in a financial institution into which such benefits shall be paid, and shall thereafter maintain such account for use in accordance with clause (ii).*

*"(II) Benefits described in this subclause are past-due monthly benefits under this title (which, for purposes of this subclause, include State supplementary payments made by the Commissioner pursuant to an agreement under section 1616 or section 212(b) of Public Law 93–66) in an amount (after any withholding by the Commissioner for reimbursement to a State for interim assistance under subsection (g)) that exceeds the product of—*

*"(aa) 6, and*

*"(bb) the maximum monthly benefit payable under this title to an eligible individual.*

*"(ii)(I) A representative payee may use funds in the account established under clause (i) to pay for allowable expenses described in subclause (II).*

*"(II) An allowable expense described in this subclause is an expense for—*

*"(aa) education or job skills training;*

*"(bb) personal needs assistance;*

*"(cc) special equipment;*

*"(dd) housing modification;*

*"(ee) medical treatment;*

*"(ff) therapy or rehabilitation; or*

*"(gg) any other item or service that the Commissioner determines to be appropriate;*

*provided that such expense benefits such individual and, in the case of an expense described in division (cc), (dd), (ff), or (gg), is related to the impairment (or combination of impairments) of such individual.*

*"(III) The use of funds from an account established under clause (i) in any manner not authorized by this clause—*

*"(aa) by a representative payee shall constitute misuse of benefits for all purposes of this paragraph, and any representative payee who knowingly misuses*

*benefits from such an account shall be liable to the Commissioner in an amount equal to the total amount of such misused benefits; and*

*"(bb) by an eligible individual who is his or her own representative payee shall be considered an overpayment subject to recovery under subsection (b).*

*"(IV) This clause shall continue to apply to funds in the account after the child has reached age 18, regardless of whether benefits are paid directly to the beneficiary or through a representative payee.*

*"(iii) The representative payee may deposit into the account established pursuant to clause (i)—*

*"(I) past-due benefits payable to the eligible individual in an amount less than that specified in clause (i)(II), and*

*"(II) any other funds representing an underpayment under this title to such individual, provided that the amount of such underpayment is equal to or exceeds the maximum monthly benefit payable under this title to an eligible individual.*

*"(iv) The Commissioner of Social Security shall establish a system for accountability monitoring whereby such representative payee shall report, at such time and in such manner as the Commissioner shall require, on activity re-*

*specting funds in the account established pursuant to clause (i).".*

*(2) EXCLUSION FROM RESOURCES.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—*

*(A) in paragraph (9), by striking "; and" and inserting a semicolon;*

*(B) in the first paragraph (10), by striking the period and inserting a semicolon;*

*(C) by redesignating the second paragraph (10) as paragraph (11), and by striking the period and inserting "; and"; and*

*(D) by adding at the end the following:*

*"(12) the assets and accrued interest or other earnings of any account established and maintained in accordance with section 1631(a)(2)(F).".*

*(3) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—*

*(A) by striking "and" at the end of paragraph (19);*

*(B) by striking the period at the end of paragraph (20) and inserting "; and"; and*

*(C) by adding at the end the following new paragraph:*

*"(21) the interest or other earnings on any account established and maintained in accordance with section 1631(a)(2)(F).".*

*(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after the date of the enactment of this Act.*

***SEC. 12214. REDUCTION IN CASH BENEFITS PAYABLE TO INSTITUTIONALIZED INDIVIDUALS WHOSE MEDICAL COSTS ARE COVERED BY PRIVATE INSURANCE.***

*(a) IN GENERAL.—Section 1611(e)(1)(B) (42 U.S.C. 1382(e)(1)(B)) is amended—*

*(1) by striking "title XIX, or" and inserting "title XIX,"; and*

*(2) by inserting "or, in the case of an eligible individual under the age of 18 receiving payments (with respect to such individual) under any health insurance policy issued by a private provider of such insurance" after "section 1614(f)(2)(B),".*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to benefits for months beginning 90 or more days after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.*

***SEC. 12215. REGULATIONS.***

*Within 3 months after the date of the enactment of this Act, the Commissioner of Social Security shall prescribe such regulations as may be necessary to implement the amendments made by sections 12211, 12212, 12213, and 12214.*

# *Subtitle C—Child Support*

***SEC. 12300. REFERENCE TO SOCIAL SECURITY ACT.***

*Except as otherwise specifically provided, where ever in this subtitle 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.*

## *CHAPTER 1—ELIGIBILITY FOR SERVICES; DISTRIBUTION OF PAYMENTS*

***SEC. 12301. STATE OBLIGATION TO PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES.***

*(a) STATE PLAN REQUIREMENTS.—Section 454 (42 U.S.C. 654) is amended—*

*(1) by striking paragraph (4) and inserting the following new paragraph:*

*"(4) provide that the State will—*

*"(A) provide services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obliga-*

*tions, as appropriate, under the plan with respect to—*

*"(i) each child for whom (I) assistance is provided under the State program funded under part A of this title, (II) benefits or services for foster care maintenance and adoption assistance are provided under the State program funded under part B of this title, or (III) medical assistance is provided under the State plan approved under title XXI, unless the State agency administering the plan determines (in accordance with paragraph (29)) that it is against the best interests of the child to do so; and*

*"(ii) any other child, if an individual applies for such services with respect to the child; and*

*"(B) enforce any support obligation established with respect to—*

*"(i) a child with respect to whom the State provides services under the plan; or*

*"(ii) the custodial parent of such a child."; and*

*(2) in paragraph (6)—*

*(A) by striking "provide that" and inserting "provide that—";*

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

*"(A) services under the plan shall be made available to residents of other States on the same terms as to residents of the State submitting the plan;";*

*(C) in subparagraph (B), by inserting "on individuals not receiving assistance under any State program funded under part A" after "such services shall be imposed";*

*(D) in each of subparagraphs (B), (C), (D), and (E)—*

*(i) by indenting the subparagraph in the same manner as, and aligning the left margin of the subparagraph with the left margin of, the matter inserted by subparagraph (B) of this paragraph; and*

*(ii) by striking the final comma and inserting a semicolon; and*

*(E) in subparagraph (E), by indenting each of clauses (i) and (ii) 2 additional ems.*

*(b) CONTINUATION OF SERVICES FOR FAMILIES CEASING TO RECEIVE ASSISTANCE UNDER THE STATE PRO-*

*GRAM FUNDED UNDER PART A.—Section 454 (42 U.S.C. 654) is amended—*

*(1) by striking "and" at the end of paragraph (23);*

*(2) by striking the period at the end of paragraph (24) and inserting "; and"; and*

*(3) by adding after paragraph (24) the following new paragraph:*

*"(25) provide that if a family with respect to which services are provided under the plan ceases to receive assistance under the State program funded under part A, the State shall provide appropriate notice to the family and continue to provide such services, subject to the same conditions and on the same basis as in the case of other individuals to whom services are furnished under the plan, except that an application or other request to continue services shall not be required of such a family and paragraph (6)(B) shall not apply to the family.".*

*(c) CONFORMING AMENDMENTS.—*

*(1) Section 452(b) (42 U.S.C. 652(b)) is amended by striking "454(6)" and inserting "454(4)".*

*(2) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended by striking "454(6)" each place it appears and inserting "454(4)(A)(ii)".*

*(3) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "in the case of overdue support which a State has agreed to collect under section 454(6)" and inserting "in any other case".*

*(4) Section 466(e) (42 U.S.C. 666(e)) is amended by striking "paragraph (4) or (6) of section 454" and inserting "section 454(4)".*

***SEC. 12302. DISTRIBUTION OF CHILD SUPPORT COLLECTIONS.***

*(a) IN GENERAL.—Section 457 (42 U.S.C. 657) is amended to read as follows:*

***"SEC. 457. DISTRIBUTION OF COLLECTED SUPPORT.***

*"(a) IN GENERAL.—An amount collected on behalf of a family as support by a State pursuant to a plan approved under this part shall be distributed as follows:*

*"(1) FAMILIES RECEIVING ASSISTANCE.—In the case of a family receiving assistance from the State, the State shall—*

*"(A) retain, or distribute to the family, the State share of the amount so collected; and*

*"(B) pay to the Federal Government the Federal share of the amount so collected.*

*"(2) FAMILIES THAT FORMERLY RECEIVED ASSISTANCE.—In the case of a family that formerly received assistance from the State:*

*"(A) CURRENT SUPPORT PAYMENTS.—To the extent that the amount so collected does not exceed the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected to the family.*

*"(B) PAYMENTS OF ARREARAGES.—To the extent that the amount so collected exceeds the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected as follows:*

*"(i) DISTRIBUTION OF ARREARAGES THAT ACCRUED AFTER THE FAMILY CEASED TO RECEIVE ASSISTANCE.—*

*"(I) PRE-OCTOBER 1997.—The provisions of this section (other than subsection (b)(1)) as in effect on the day before the date of the enactment of section 12302 of the Personal Responsibility and Work Opportunity Act of 1995 shall apply with respect to the*

*distribution of support arrearages that—*

*"(aa) accrued after the family ceased to receive assistance, and*

*"(bb) are collected before October 1, 1997.*

*"(II) POST-SEPTEMBER 1997.—With respect to amounts collected on or after October 1, 1997—*

*"(aa) IN GENERAL.—The State shall distribute any amount collected (other than amounts described in clause (iv)) to the family to the extent necessary to satisfy any support arrearages with respect to the family that accrued after the family ceased to receive assistance from the State.*

*"(bb) REIMBURSEMENT OF GOVERNMENTS FOR ASSISTANCE PROVIDED TO THE FAMILY.—To the extent that division (aa) does not apply to the amount, the State shall retain the State share*

*of the amount so collected, and pay to the Federal Government the Federal share (as defined in subsection (c)(2)(A)) of the amount so collected, to the extent necessary to reimburse amounts paid to the family as assistance by the State.*

*"(cc) DISTRIBUTION OF THE REMAINDER TO THE FAMILY.—To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.*

*"(ii) DISTRIBUTION OF ARREARAGES THAT ACCRUED BEFORE THE FAMILY RECEIVED ASSISTANCE.—*

*"(I) PRE-OCTOBER 2000.—The provisions of this section (other than subsection (b)(1)) as in effect on the day before the date of the enactment of section 12302 of the Personal Responsibility and Work Opportunity Act of 1995 shall apply with respect to the*

*distribution of support arrearages that—*

*"(aa) accrued before the family received assistance, and*

*"(bb) are collected before October 1, 2000.*

*"(II) POST-SEPTEMBER 2000.—Unless based on the report required by paragraph (4), the Congress determines otherwise, with respect to amounts collected on or after October 1, 2000—*

*"(aa) IN GENERAL.—The State shall first distribute any amount collected (other than amounts described in clause (iv)) to the family to the extent necessary to satisfy any support arrears with respect to the family that accrued before the family received assistance from the State .*

*"(bb) REIMBURSEMENT OF GOVERNMENTS FOR ASSISTANCE PROVIDED TO THE FAMILY.—The State shall retain the State share of the amounts so collected in ex-*

*cess of those distributed pursuant to division (aa) and pay to the Federal Government the Federal share (as defined in subsection (c)(2)) of the amount so collected, to the extent necessary to reimburse all or part of the amounts paid to the family as assistance by the State.*

*"(cc) DISTRIBUTION OF THE REMAINDER TO THE FAMILY.—To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.*

*"(iii) DISTRIBUTION OF ARREARAGES THAT ACCRUED WHILE THE FAMILY RECEIVED ASSISTANCE.—In the case of a family described in this subparagraph, the provisions of paragraph (1) shall apply with respect to the distribution of support arrearages that accrued while the family received assistance.*

*"(iv) AMOUNTS COLLECTED PURSUANT TO SECTION 464.—Notwithstanding any other provision of this section, any amount of support collected pursuant to section 464 shall be retained by the State to the extent necessary to reimburse amounts paid to the family as assistance by the State. The State shall pay to the Federal Government the Federal share of the amounts so retained. To the extent the amount collected pursuant to section 464 exceeds the amount so retained, the State shall distribute the excess to the family.*

*"(v) ORDERING RULES FOR DISTRIBUTIONS.—For purposes of this subparagraph, the State shall treat any support arrearages collected as accruing in the following order:*

*"(I) to the period after the family ceased to receive assistance;*

*"(II) to the period before the family received assistance; and*

*"(III) to the period while the family was receiving assistance.*

*"(3) FAMILIES THAT NEVER RECEIVED ASSISTANCE.—In the case of any other family, the State shall distribute the amount so collected to the family.*

*"(4) STUDY AND REPORT.—Not later than October 1, 1998, the Secretary shall report to the Congress the Secretary's findings with respect to—*

*"(A) whether the distribution of post-assistance arrearages to families has been effective in moving people off of welfare and keeping them off of welfare;*

*"(B) whether early implementation of a pre-assistance arrearage program by some states has been effective in moving people off of welfare and keeping them off of welfare;*

*"(C) what the overall impact has been of the amendments made by the Personal Responsibility and Work Opportunity Act of 1995 with respect to child support enforcement in moving people off of welfare and keeping them off of welfare; and*

*"(D) based on the information and data the Secretary has obtained, what changes, if any, should be made in the policies related to the distribution of child support arrearages.*

*"(b) CONTINUATION OF ASSIGNMENTS.—Any rights to support obligations, which were assigned to a State as a condition of receiving assistance from the State under part A and which were in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995, shall remain assigned after such date.*

*"(c) DEFINITIONS.—As used in subsection (a):*

*"(1) ASSISTANCE.—The term 'assistance from the State' means—*

*"(A) assistance under the State program funded under part A or under the State plan approved under part A of this title (as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995); or*

*"(B) benefits under the State plan approved under part E of this title (as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995).*

*"(2) FEDERAL SHARE.—The term 'Federal share' means—*

*"(A) if the amounts collected and retained by the State (to the extent necessary to reimburse*

*amounts paid to families as assistance by the State) are equal to or greater than such amounts collected in fiscal year 1995 (reduced by amounts not retained by the State in fiscal year 1995 as a result of the application of subsection (b)(1) of this section as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995), the highest Federal medical assistance percentage in effect for the State in fiscal year 1995 or any succeeding year of the amount so collected; or*

*"(B) if the amounts so collected and retained by the State are less than such amounts collected in fiscal year 1995 (reduced by amounts not retained by the State in fiscal year 1995 as a result of the application of subsection (b)(1) of this section as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995), the amounts so collected and retained less the State share in fiscal year 1995.*

*"(3) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means—*

*"(A) the Federal medical assistance percentage (as defined in section 1118), in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa; or*

*"(B) the Federal medical assistance percentage (as defined in section 2122(c)) in the case of any other State.*

*"(4) STATE SHARE.—The term 'State share' means 100 percent minus the Federal share.*

*"(d) CONTINUATION OF SERVICES FOR FAMILIES CEASING TO RECEIVE ASSISTANCE UNDER THE STATE PROGRAM FUNDED UNDER PART A.—When a family with respect to which services are provided under a State plan approved under this part ceases to receive assistance under the State program funded under part A, the State shall provide appropriate notice to the family and continue to provide such services, subject to the same conditions and on the same basis as in the case of individuals to whom services are furnished under section 454, except that an application or other request to continue services shall not be required of such a family and section 454(6)(B) shall not apply to the family.".*

*(b) CONFORMING AMENDMENT.—Section 464(a)(1) (42 U.S.C. 664(a)(1)) is amended by striking "section 457(b)(4) or (d)(3)" and inserting "section 457".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on October 1, 1996, or earlier at the State's option.*

***SEC. 12303. PRIVACY SAFEGUARDS.***

*(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by section 12301(b) of this Act, is amended—*

*(1) by striking "and" at the end of paragraph (24);*

*(2) by striking the period at the end of paragraph (25) and inserting "; and"; and*

*(3) by adding after paragraph (25) the following new paragraph:*

*"(26) will have in effect safeguards, applicable to all confidential information handled by the State agency, that are designed to protect the privacy rights of the parties, including—*

*"(A) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish or enforce support;*

*"(B) prohibitions against the release of information on the whereabouts of 1 party to another party against whom a protective order*

*with respect to the former party has been entered; and*

*"(C) prohibitions against the release of information on the whereabouts of 1 party to another party if the State has reason to believe that the release of the information may result in physical or emotional harm to the former party.".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997.*

## *CHAPTER 2—LOCATE AND CASE TRACKING*

### *SEC. 12311. STATE CASE REGISTRY.*

*Section 454A, as added by section 12344(a)(2) of this Act, is amended by adding at the end the following new subsections:*

*"(e) STATE CASE REGISTRY.—*

*"(1) CONTENTS.—The automated system required by this section shall include a registry (which shall be known as the 'State case registry') that contains records with respect to—*

*"(A) each case in which services are being provided by the State agency under the State plan approved under this part; and*

*"(B) each support order established or modified in the State on or after October 1, 1998.*

*"(2) LINKING OF LOCAL REGISTRIES.—The State case registry may be established by linking local case registries of support orders through an automated information network, subject to this section.*

*"(3) USE OF STANDARDIZED DATA ELEMENTS.—Such records shall use standardized data elements for both parents (such as names, social security numbers and other uniform identification numbers, dates of birth, and case identification numbers), and contain such other information (such as on-case status) as the Secretary may require.*

*"(4) PAYMENT RECORDS.—Each case record in the State case registry with respect to which services are being provided under the State plan approved under this part and with respect to which a support order has been established shall include a record of—*

*"(A) the amount of monthly (or other periodic) support owed under the order, and other amounts (including arrearages, interest or late payment penalties, and fees) due or overdue under the order;*

*"(B) any amount described in subparagraph (A) that has been collected;*

*"(C) the distribution of such collected amounts;*

*"(D) the birth date of any child for whom the order requires the provision of support; and*

*"(E) the amount of any lien imposed with respect to the order pursuant to section 466(a)(4).*

*"(5) UPDATING AND MONITORING.—The State agency operating the automated system required by this section shall promptly establish and maintain, and regularly monitor, case records in the State case registry with respect to which services are being provided under the State plan approved under this part, on the basis of—*

*"(A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;*

*"(B) information obtained from comparison with Federal, State, or local sources of information;*

*"(C) information on support collections and distributions; and*

*"(D) any other relevant information.*

*"(f) INFORMATION COMPARISONS AND OTHER DISCLOSURES OF INFORMATION.—The State shall use the automated system required by this section to extract information from (at such times, and in such standardized format or formats, as may be required by the Secretary), to share and compare information with, and to receive information from, other data bases and information comparison services, in order to obtain (or provide) information necessary to enable the State agency (or the Secretary or other State or Federal agencies) to carry out this part, subject to section 6103 of the Internal Revenue Code of 1986. Such information comparison activities shall include the following:*

*"(1) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—Furnishing to the Federal Case Registry of Child Support Orders established under section 453(h) (and update as necessary, with information including notice of expiration of orders) the minimum amount of information on child support cases recorded in the State case registry that is necessary to operate the registry (as specified by the Secretary in regulations).*

*"(2) FEDERAL PARENT LOCATOR SERVICE.—Exchanging information with the Federal Parent Locator Service for the purposes specified in section 453.*

*"(3) TEMPORARY FAMILY ASSISTANCE AND MEDIGRANT AGENCIES.—Exchanging information with State agencies (of the State and of other States) administering programs funded under part A, programs operated under State plans under title XXI, and other programs designated by the Secretary, as necessary to perform State agency responsibilities under this part and under such programs.*

*"(4) INTRASTATE AND INTERSTATE INFORMATION COMPARISONS.—Exchanging information with other agencies of the State, agencies of other States, and interstate information networks, as necessary and appropriate to carry out (or assist other States to carry out) the purposes of this part.".*

***SEC. 12312. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.***

*(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 12301(b) and 12303(a) of this Act, is amended—*

*(1) by striking "and" at the end of paragraph (25);*

*(2) by striking the period at the end of paragraph (26) and inserting "; and"; and*

*(3) by adding after paragraph (26) the following new paragraph:*

*"(27) provide that, on and after October 1, 1998, the State agency will—*

*"(A) operate a State disbursement unit in accordance with section 454B; and*

*"(B) have sufficient State staff (consisting of State employees) and (at State option) contractors reporting directly to the State agency to—*

*"(i) monitor and enforce support collections through the unit (including carrying out the automated data processing responsibilities described in section 454A(g)); and*

*"(ii) take the actions described in section 466(c)(1) in appropriate cases.".*

*(b) ESTABLISHMENT OF STATE DISBURSEMENT UNIT.—Part D of title IV (42 U.S.C. 651–669), as amended by section 12344(a)(2) of this Act, is amended by inserting after section 454A the following new section:*

***"SEC. 454B. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.***

*"(a) STATE DISBURSEMENT UNIT.—*

*"(1) IN GENERAL.—In order for a State to meet the requirements of this section, the State agency must establish and operate a unit (which shall be*

*known as the 'State disbursement unit') for the collection and disbursement of payments under support orders in all cases being enforced by the State pursuant to section 454(4).*

*"(2) OPERATION.—The State disbursement unit shall be operated—*

*"(A) directly by the State agency (or 2 or more State agencies under a regional cooperative agreement), or (to the extent appropriate) by a contractor responsible directly to the State agency; and*

*"(B) in coordination with the automated system established by the State pursuant to section 454A.*

*"(3) LINKING OF LOCAL DISBURSEMENT UNITS.—The State disbursement unit may be established by linking local disbursement units through an automated information network, subject to this section, if the Secretary agrees that the system will not cost more nor take more time to establish or operate than a centralized system. In addition, employers shall be given 1 location to which income withholding is sent.*

*"(b) REQUIRED PROCEDURES.—The State disbursement unit shall use automated procedures, electronic proc-*

*esses, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures—*

*"(1) for receipt of payments from parents, employers, and other States, and for disbursements to custodial parents and other obligees, the State agency, and the agencies of other States;*

*"(2) for accurate identification of payments;*

*"(3) to ensure prompt disbursement of the custodial parent's share of any payment; and*

*"(4) to furnish to any parent, upon request, timely information on the current status of support payments under an order requiring payments to be made by or to the parent.*

*"(c) TIMING OF DISBURSEMENTS.—*

*"(1) IN GENERAL.—Except as provided in paragraph (2), the State disbursement unit shall distribute all amounts payable under section 457(a) within 2 business days after receipt from the employer or other source of periodic income, if sufficient information identifying the payee is provided.*

*"(2) PERMISSIVE RETENTION OF ARREARAGES.—The State disbursement unit may delay the distribution of collections toward arrearages until the resolu-*

*tion of any timely appeal with respect to such arrearages.*

*"(d) BUSINESS DAY DEFINED.—As used in this section, the term 'business day' means a day on which State offices are open for regular business.".*

*(c) USE OF AUTOMATED SYSTEM.—Section 454A, as added by section 12344(a)(2) and as amended by section 12311 of this Act, is amended by adding at the end the following new subsection:*

*"(g) COLLECTION AND DISTRIBUTION OF SUPPORT PAYMENTS.—*

*"(1) IN GENERAL.—The State shall use the automated system required by this section, to the maximum extent feasible, to assist and facilitate the collection and disbursement of support payments through the State disbursement unit operated under section 454B, through the performance of functions, including, at a minimum—*

*"(A) transmission of orders and notices to employers (and other debtors) for the withholding of wages and other income—*

*"(i) within 2 business days after receipt from a court, another State, an employer, the Federal Parent Locator Service, or another source recognized by the State of*

*notice of, and the income source subject to, such withholding; and*

*"(ii) using uniform formats prescribed by the Secretary;*

*"(B) ongoing monitoring to promptly identify failures to make timely payment of support; and*

*"(C) automatic use of enforcement procedures (including procedures authorized pursuant to section 466(c)) if payments are not timely made.*

*"(2) BUSINESS DAY DEFINED.—As used in paragraph (1), the term 'business day' means a day on which State offices are open for regular business.".*

*(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1998.*

***SEC. 12313. STATE DIRECTORY OF NEW HIRES.***

*(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 12301(b), 12303(a) and 12312(a) of this Act, is amended—*

*(1) by striking "and" at the end of paragraph (26);*

*(2) by striking the period at the end of paragraph (27) and inserting "; and"; and*

*(3) by adding after paragraph (27) the following new paragraph:*

*"(28) provide that, on and after October 1, 1997, the State will operate a State Directory of New Hires in accordance with section 453A.".*

*(b) STATE DIRECTORY OF NEW HIRES.—Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 453 the following new section:*

***"SEC. 453A. STATE DIRECTORY OF NEW HIRES.***

*"(a) ESTABLISHMENT.—*

*"(1) IN GENERAL.—*

*"(A) REQUIREMENT FOR STATES THAT HAVE NO DIRECTORY.—Except as provided in subparagraph (B), not later than October 1, 1997, each State shall establish an automated directory (to be known as the 'State Directory of New Hires') which shall contain information supplied in accordance with subsection (b) by employers on each newly hired employee.*

*"(B) STATES WITH NEW HIRE REPORTING IN EXISTENCE.—A State which has a new hire reporting law in existence on the date of the enactment of this section may continue to operate under the State law, but the State must meet the*

*requirements of this section (other than subsection (f)) not later than October 1, 1997.*

*"(2) DEFINITIONS.—As used in this section:*

*"(A) EMPLOYEE.—The term 'employee'—*

*"(i) means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986; and*

*"(ii) does not include an employee of a Federal or State agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting pursuant to paragraph (1) with respect to the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.*

*"(B) EMPLOYER.—*

*"(i) IN GENERAL.—The term 'employer' has the meaning given such term in section 3401(d) of the Internal Revenue Code of 1996 and includes any governmental entity and any labor organization.*

*"(ii) LABOR ORGANIZATION.—The term 'labor organization' shall have the meaning given such term in section 2(5) of the National Labor Relations Act, and in-*

*cludes any entity (also known as a 'hiring hall') which is used by the organization and an employer to carry out requirements described in section 8(f)(3) of such Act of an agreement between the organization and the employer.*

*"(b) EMPLOYER INFORMATION.—*

*"(1) REPORTING REQUIREMENT.—*

*"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), each employer shall furnish to the Directory of New Hires of the State in which a newly hired employee works, a report that contains the name, address, and social security number of the employee, and the name of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.*

*"(B) MULTISTATE EMPLOYERS.—An employer that has employees who are employed in 2 or more States and that transmits reports magnetically or electronically may comply with subparagraph (A) by designating 1 State in which such employer has employees to which the employer will transmit the report described in subparagraph (A), and transmitting such report*

*to such State. Any employer that transmits reports pursuant to this subparagraph shall notify the Secretary in writing as to which State such employer designates for the purpose of sending reports.*

*"(C) FEDERAL GOVERNMENT EMPLOYERS.—Any department, agency, or instrumentality of the United States shall comply with subparagraph (A) by transmitting the report described in subparagraph (A) to the National Directory of New Hires established pursuant to section 453.*

*"(2) TIMING OF REPORT.—Each State may provide the time within which the report required by paragraph (1) shall be made with respect to an employee, but such report shall be made not later than 20 days after the date the employer hires the employee.*

*"(c) REPORTING FORMAT AND METHOD.—Each report required by subsection (b) shall be made on a W–4 form or, at the option of the employer, an equivalent form, and may be transmitted by 1st class mail, magnetically, or electronically.*

*"(d) CIVIL MONEY PENALTIES ON NONCOMPLYING EMPLOYERS.—The State shall have the option to set a State civil money penalty which shall be less than—*

*"(1) $25; or*

*"(2) $500 if, under State law, the failure is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report.*

*"(e) ENTRY OF EMPLOYER INFORMATION.—Information shall be entered into the data base maintained by the State Directory of New Hires within 5 business days of receipt from an employer pursuant to subsection (b).*

*"(f) INFORMATION COMPARISONS.—*

*"(1) IN GENERAL.—Not later than May 1, 1998, an agency designated by the State shall, directly or by contract, conduct automated comparisons of the social security numbers reported by employers pursuant to subsection (b) and the social security numbers appearing in the records of the State case registry for cases being enforced under the State plan.*

*"(2) NOTICE OF MATCH.—When an information comparison conducted under paragraph (1) reveals a match with respect to the social security number of an individual required to provide support under a support order, the State Directory of New Hires shall*

*provide the agency administering the State plan approved under this part of the appropriate State with the name, address, and social security number of the employee to whom the social security number is assigned, and the name of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.*

*"(g) TRANSMISSION OF INFORMATION.—*

*"(1) TRANSMISSION OF WAGE WITHHOLDING NOTICES TO EMPLOYERS.—Within 2 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State agency enforcing the employee's child support obligation shall transmit a notice to the employer of the employee directing the employer to withhold from the wages of the employee an amount equal to the monthly (or other periodic) child support obligation (including any past due support obligation) of the employee, unless the employee's wages are not subject to withholding pursuant to section 466(b)(3).*

*"(2) TRANSMISSIONS TO THE NATIONAL DIRECTORY OF NEW HIRES.—*

*"(A) NEW HIRE INFORMATION.—Within 3 business days after the date information regarding a newly hired employee is entered into the*

*State Directory of New Hires, the State Directory of New Hires shall furnish the information to the National Directory of New Hires.*

*"(B) WAGE AND UNEMPLOYMENT COMPENSATION INFORMATION.—The State Directory of New Hires shall, on a quarterly basis, furnish to the National Directory of New Hires extracts of the reports required under section 303(a)(6) to be made to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals, by such dates, in such format, and containing such information as the Secretary of Health and Human Services shall specify in regulations.*

*"(3) BUSINESS DAY DEFINED.—As used in this subsection, the term 'business day' means a day on which State offices are open for regular business.*

*"(h) OTHER USES OF NEW HIRE INFORMATION.—*

*"(1) LOCATION OF CHILD SUPPORT OBLIGORS.—The agency administering the State plan approved under this part shall use information received pursuant to subsection (f)(2) to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations.*

*"(2) VERIFICATION OF ELIGIBILITY FOR CERTAIN PROGRAMS.—A State agency responsible for administering a program specified in section 1137(b) shall have access to information reported by employers pursuant to subsection (b) of this section for purposes of verifying eligibility for the program.*

*"(3) ADMINISTRATION OF EMPLOYMENT SECURITY AND WORKERS' COMPENSATION.—State agencies operating employment security and workers' compensation programs shall have access to information reported by employers pursuant to subsection (b) for the purposes of administering such programs.".*

*(c) QUARTERLY WAGE REPORTING.—Section 1137(a)(3) (42 U.S.C. 1320b–7(a)(3)) is amended—*

*(1) by inserting "(including State and local governmental entities and labor organizations (as defined in section 453A(a)(2)(B)(iii))" after "employers"; and*

*(2) by inserting ", and except that no report shall be filed with respect to an employee of a State or local agency performing intelligence or counterintelligence functions, if the head of such agency has determined that filing such a report could endanger the safety of the employee or compromise an ongoing*

*investigation or intelligence mission" after "paragraph (2)".*

***SEC. 12314. AMENDMENTS CONCERNING INCOME WITHHOLDING.***

*(a) MANDATORY INCOME WITHHOLDING.—*

*(1) IN GENERAL.—Section 466(a)(1) (42 U.S.C. 666(a)(1)) is amended to read as follows:*

*"(1)(A) Procedures described in subsection (b) for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.*

*"(B) Procedures under which the wages of a person with a support obligation imposed by a support order issued (or modified) in the State before October 1, 1996, if not otherwise subject to withholding under subsection (b), shall become subject to withholding as provided in subsection (b) if arrearages occur, without the need for a judicial or administrative hearing.".*

*(2) CONFORMING AMENDMENTS.—*

*(A) Section 466(b) (42 U.S.C. 666(b)) is amended in the matter preceding paragraph (1), by striking "subsection (a)(1)" and inserting "subsection (a)(1)(A)".*

*(B) Section 466(b)(4) (42 U.S.C. 666(b)(4)) is amended to read as follows:*

*"(4)(A) Such withholding must be carried out in full compliance with all procedural due process requirements of the State, and the State must send notice to each noncustodial parent to whom paragraph (1) applies—*

*"(i) that the withholding has commenced; and*

*"(ii) of the procedures to follow if the noncustodial parent desires to contest such withholding on the grounds that the withholding or the amount withheld is improper due to a mistake of fact.*

*"(B) The notice under subparagraph (A) of this paragraph shall include the information provided to the employer under paragraph (6)(A).".*

*(C) Section 466(b)(5) (42 U.S.C. 666(b)(5)) is amended by striking all that follows "administered by" and inserting "the State through the State disbursement unit established pursuant to section 454B, in accordance with the requirements of section 454B.".*

*(D) Section 466(b)(6)(A) (42 U.S.C. 666(b)(6)(A)) is amended—*

*(i) in clause (i), by striking "to the appropriate agency" and all that follows and*

*inserting "to the State disbursement unit within 2 business days after the date the amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part. The employer shall comply with the procedural rules relating to income withholding of the State in which the employee works, regardless of the State where the notice originates.".*

*(ii) in clause (ii), by inserting "be in a standard format prescribed by the Secretary, and" after "shall"; and*

*(iii) by adding at the end the following new clause:*

*"(iii) As used in this subparagraph, the term 'business day' means a day on which State offices are open for regular business.".*

*(E) Section 466(b)(6)(D) (42 U.S.C. 666(b)(6)(D)) is amended by striking "any employer" and all that follows and inserting "any employer who—*

*"(i) discharges from employment, refuses to employ, or takes disciplinary action against any noncustodial parent subject to wage withholding*

*required by this subsection because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer; or*

*"(ii) fails to withhold support from wages, or to pay such amounts to the State disbursement unit in accordance with this subsection.".*

*(F) Section 466(b) (42 U.S.C. 666(b)) is amended by adding at the end the following new paragraph:*

*"(11) Procedures under which the agency administering the State plan approved under this part may execute a withholding order without advance notice to the obligor, including issuing the withholding order through electronic means.".*

*(b) CONFORMING AMENDMENT.—Section 466(c) (42 U.S.C. 666(c)) is repealed.*

***SEC. 12315. LOCATOR INFORMATION FROM INTERSTATE NETWORKS.***

*Section 466(a) (42 U.S.C. 666(a)) is amended by adding at the end the following new paragraph:*

*"(12) LOCATOR INFORMATION FROM INTERSTATE NETWORKS.—Procedures to ensure that all Federal and State agencies conducting activities under this part have access to any system used by the State to*

*locate an individual for purposes relating to motor vehicles or law enforcement.".*

***SEC. 12316. EXPANSION OF THE FEDERAL PARENT LOCATOR SERVICE.***

*(a) EXPANDED AUTHORITY TO LOCATE INDIVIDUALS AND ASSETS.—Section 453 (42 U.S.C. 653) is amended—*

*(1) in subsection (a), by striking all that follows "subsection (c))" and inserting ", for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, or enforcing child custody or visitation orders—*

*"(1) information on, or facilitating the discovery of, the location of any individual—*

*"(A) who is under an obligation to pay child support or provide child custody or visitation rights;*

*"(B) against whom such an obligation is sought;*

*"(C) to whom such an obligation is owed, including the individual's social security number (or numbers), most recent address, and the name, address, and employer identification number of the individual's employer;*

*"(2) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and*

*"(3) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual."; and*

*(2) in subsection (b)—*

*(A) in the matter preceding paragraph (1), by striking "social security" and all that follows through "absent parent" and inserting "information described in subsection (a)"; and*

*(B) in the flush paragraph at the end, by adding the following: "No information shall be disclosed to any person if the State has notified the Secretary that the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent. Information received or transmitted pursuant to this section shall be subject to the safeguard provisions contained in section 454(26).".*

*(b) AUTHORIZED PERSON FOR INFORMATION REGARDING VISITATION RIGHTS.—Section 453(c) (42 U.S.C. 653(c)) is amended—*

*(1) in paragraph (1), by striking "support" and inserting "support or to seek to enforce orders providing child custody or visitation rights"; and*

*(2) in paragraph (2), by striking ", or any agent of such court; and" and inserting "or to issue an order against a resident parent for child custody or visitation rights, or any agent of such court;".*

*(c) REIMBURSEMENT FOR INFORMATION FROM FEDERAL AGENCIES.—Section 453(e)(2) (42 U.S.C. 653(e)(2)) is amended in the 4th sentence by inserting "in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information)" before the period.*

*(d) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES.—Section 453 (42 U.S.C. 653) is amended by adding at the end the following new subsection:*

*"(g) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES.—The Secretary may reimburse Federal and State agencies for the costs incurred by such entities in furnishing information requested by the Secretary under this section in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information).".*

*(e) CONFORMING AMENDMENTS.—*

*(1) Sections 452(a)(9), 453(a), 453(b), 463(a), 463(e), and 463(f) (42 U.S.C. 652(a)(9), 653(a), 653(b), 663(a), 663(e), and 663(f)) are each amended by inserting "Federal" before "Parent" each place such term appears.*

*(2) Section 453 (42 U.S.C. 653) is amended in the heading by adding "FEDERAL" before "PARENT".*

*(f) NEW COMPONENTS.—Section 453 (42 U.S.C. 653), as amended by subsection (d) of this section, is amended by adding at the end the following new subsections:*

*"(h) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—*

*"(1) IN GENERAL.—Not later than October 1, 1998, in order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated registry (which shall be known as the 'Federal Case Registry of Child Support Orders'), which shall contain abstracts of support orders and other information described in paragraph (2) with respect to each case in each State case registry maintained pursuant to section 454A(e), as furnished*

*(and regularly updated), pursuant to section 454A(f), by State agencies administering programs under this part.*

*"(2) CASE INFORMATION.—The information referred to in paragraph (1) with respect to a case shall be such information as the Secretary may specify in regulations (including the names, social security numbers or other uniform identification numbers, and State case identification numbers) to identify the individuals who owe or are owed support (or with respect to or on behalf of whom support obligations are sought to be established), and the State or States which have the case.*

*"(i) NATIONAL DIRECTORY OF NEW HIRES.—*

*"(1) IN GENERAL.—In order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the other purposes specified in this section, the Secretary shall, not later than October 1, 1996, establish and maintain in the Federal Parent Locator Service an automated directory to be known as the National Directory of New Hires, which shall contain the information supplied pursuant to section 453A(g)(2).*

*"(2) ENTRY OF DATA.—Information shall be entered into the data base maintained by the National Directory of New Hires within 2 business days of receipt pursuant to section 453A(g)(2).*

*"(3) ADMINISTRATION OF FEDERAL TAX LAWS.—The Secretary of the Treasury shall have access to the information in the National Directory of New Hires for purposes of administering section 32 of the Internal Revenue Code of 1986, or the advance payment of the earned income tax credit under section 3507 of such Code, and verifying a claim with respect to employment in a tax return.*

*"(4) LIST OF MULTISTATE EMPLOYERS.—The Secretary shall maintain within the National Directory of New Hires a list of multistate employers that report information regarding newly hired employees pursuant to section 453A(b)(1)(B), and the State which each such employer has designated to receive such information.*

*"(j) INFORMATION COMPARISONS AND OTHER DISCLOSURES.—*

*"(1) VERIFICATION BY SOCIAL SECURITY ADMINISTRATION.—*

*"(A) IN GENERAL.—The Secretary shall transmit information on individuals and em-*

*ployers maintained under this section to the Social Security Administration to the extent necessary for verification in accordance with subparagraph (B).*

*"(B) VERIFICATION BY SSA.—The Social Security Administration shall verify the accuracy of, correct, or supply to the extent possible, and report to the Secretary, the following information supplied by the Secretary pursuant to subparagraph (A):*

*"(i) The name, social security number, and birth date of each such individual.*

*"(ii) The employer identification number of each such employer.*

*"(2) INFORMATION COMPARISONS.—For the purpose of locating individuals in a paternity establishment case or a case involving the establishment, modification, or enforcement of a support order, the Secretary shall—*

*"(A) compare information in the National Directory of New Hires against information in the support case abstracts in the Federal Case Registry of Child Support Orders not less often than every 2 business days; and*

*"(B) within 2 such days after such a comparison reveals a match with respect to an individual, report the information to the State agency responsible for the case.*

*"(3) INFORMATION COMPARISONS AND DISCLOSURES OF INFORMATION IN ALL REGISTRIES FOR TITLE IV PROGRAM PURPOSES.—To the extent and with the frequency that the Secretary determines to be effective in assisting States to carry out their responsibilities under programs operated under this part and programs funded under part A, the Secretary shall—*

*"(A) compare the information in each component of the Federal Parent Locator Service maintained under this section against the information in each other such component (other than the comparison required by paragraph (2)), and report instances in which such a comparison reveals a match with respect to an individual to State agencies operating such programs; and*

*"(B) disclose information in such registries to such State agencies.*

*"(4) PROVISION OF NEW HIRE INFORMATION TO THE SOCIAL SECURITY ADMINISTRATION.—The National Directory of New Hires shall provide the Com-*

*missioner of Social Security with all information in the National Directory, which shall be used to determine the accuracy of payments under the supplemental security income program under title XVI and in connection with benefits under title II.*

*"(5) RESEARCH.—The Secretary may provide access to information reported by employers pursuant to section 453A(b) for research purposes found by the Secretary to be likely to contribute to achieving the purposes of part A or this part, but without personal identifiers.*

*"(k) FEES.—*

*"(1) FOR SSA VERIFICATION.—The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, for the costs incurred by the Commissioner in performing the verification services described in subsection (j).*

*"(2) FOR INFORMATION FROM STATE DIRECTORIES OF NEW HIRES.—The Secretary shall reimburse costs incurred by State directories of new hires in furnishing information as required by subsection (j)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for*

*the costs of obtaining, compiling, or maintaining such information).*

*"(3) FOR INFORMATION FURNISHED TO STATE AND FEDERAL AGENCIES.—A State or Federal agency that receives information from the Secretary pursuant to this section shall reimburse the Secretary for costs incurred by the Secretary in furnishing the information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and comparing the information).*

*"(l) RESTRICTION ON DISCLOSURE AND USE.—Information in the Federal Parent Locator Service, and information resulting from comparisons using such information, shall not be used or disclosed except as expressly provided in this section, subject to section 6103 of the Internal Revenue Code of 1986.*

*"(m) INFORMATION INTEGRITY AND SECURITY.—The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to—*

*"(1) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and*

*"(2) restrict access to confidential information in the Federal Parent Locator Service to authorized per-*

*sons, and restrict use of such information to authorized purposes.*

*"(n) FEDERAL GOVERNMENT REPORTING.—Each department, agency, and instrumentality of the United States shall on a quarterly basis report to the Federal Parent Locator Service the name and social security number of each employee and the wages paid to the employee during the previous quarter, except that such a report shall not be filed with respect to an employee of a department, agency, or instrumentality performing intelligence or counterintelligence functions, if the head of such department, agency, or instrumentality has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.".*

*(g) CONFORMING AMENDMENTS.—*

*(1) TO PART D OF TITLE IV OF THE SOCIAL SECURITY ACT.—*

*(A) Section 454(8)(B) (42 U.S.C. 654(8)(B)) is amended to read as follows:*

*"(B) the Federal Parent Locator Service established under section 453;".*

*(B) Section 454(13) (42 U.S.C.654(13)) is amended by inserting "and provide that information requests by parents who are residents of other States be treated with the same priority as*

*requests by parents who are residents of the State submitting the plan" before the semicolon.*

*(2) TO FEDERAL UNEMPLOYMENT TAX ACT.—Section 3304(a)(16) of the Internal Revenue Code of 1986 is amended—*

*(A) by striking "Secretary of Health, Education, and Welfare" each place such term appears and inserting "Secretary of Health and Human Services";*

*(B) in subparagraph (B), by striking "such information" and all that follows and inserting "information furnished under subparagraph (A) or (B) is used only for the purposes authorized under such subparagraph;";*

*(C) by striking "and" at the end of subparagraph (A);*

*(D) by redesignating subparagraph (B) as subparagraph (C); and*

*(E) by inserting after subparagraph (A) the following new subparagraph:*

*"(B) wage and unemployment compensation information contained in the records of such agency shall be furnished to the Secretary of Health and Human Services (in accordance with regulations promulgated by such Secretary) as*

*necessary for the purposes of the National Directory of New Hires established under section 453(i) of the Social Security Act, and".*

*(3) TO STATE GRANT PROGRAM UNDER TITLE III OF THE SOCIAL SECURITY ACT.—Subsection (h) of section 303 (42 U.S.C. 503) is amended to read as follows:*

*"(h)(1) The State agency charged with the administration of the State law shall, on a reimbursable basis—*

*"(A) disclose quarterly, to the Secretary of Health and Human Services wage and claim information, as required pursuant to section 453(i)(1), contained in the records of such agency;*

*"(B) ensure that information provided pursuant to subparagraph (A) meets such standards relating to correctness and verification as the Secretary of Health and Human Services, with the concurrence of the Secretary of Labor, may find necessary; and*

*"(C) establish such safeguards as the Secretary of Labor determines are necessary to insure that information disclosed under subparagraph (A) is used only for purposes of section 453(i)(1) in carrying out the child support enforcement program under title IV.*

*"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency*

*charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, the Secretary shall make no future certification to the Secretary of the Treasury with respect to the State.*

*"(3) For purposes of this subsection—*

*"(A) the term 'wage information' means information regarding wages paid to an individual, the social security account number of such individual, and the name, address, State, and the Federal employer identification number of the employer paying such wages to such individual; and*

*"(B) the term 'claim information' means information regarding whether an individual is receiving, has received, or has made application for, unemployment compensation, the amount of any such compensation being received (or to be received by such individual), and the individual's current (or most recent) home address.".*

*(4) DISCLOSURE OF CERTAIN INFORMATION TO AGENTS OF CHILD SUPPORT ENFORCEMENT AGENCIES.—*

*(A) IN GENERAL.—Paragraph (6) of section 6103(l) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local child support enforcement agencies) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:*

*"(B) DISCLOSURE TO CERTAIN AGENTS.—The address and social security account number (or numbers) of an individual with respect to any individual with respect to whom child support obligations are sought to be established or enforced may be disclosed by any child support enforcement agency to any agent of such agency which is under contract with such agency to carry out the purposes described in subparagraph (C)."*

*(B) CONFORMING AMENDMENTS.—*

*(i) Paragraph (3) of section 6103(a) of such Code is amended by striking "(l)(12)"*

*and inserting "paragraph (6) or (12) of subsection (l)".*

*(ii) Subparagraph (C) of section 6103(l)(6) of such Code, as redesignated by subsection (a), is amended to read as follows:*

*"(C) RESTRICTION ON DISCLOSURE.—Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations."*

*(iii) The material following subparagraph (F) of section 6103(p)(4) of such Code is amended by striking "subsection (l)(12)(B)" and inserting "paragraph (6)(A) or (12)(B) of subsection (l)".*

***SEC. 12317. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR USE IN CHILD SUPPORT ENFORCEMENT.***

*(a) STATE LAW REQUIREMENT.—Section 466(a) (42 U.S.C. 666(a)), as amended by section 12315 of this Act, is amended by adding at the end the following new paragraph:*

*"(13) RECORDING OF SOCIAL SECURITY NUMBERS IN CERTAIN FAMILY MATTERS.—Procedures requiring that the social security number of—*

*"(A) any applicant for a professional license, commercial driver's license, occupational license, or marriage license be recorded on the application;*

*"(B) any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter; and*

*"(C) any individual who has died be placed in the records relating to the death and be recorded on the death certificate.*

*For purposes of subparagraph (A), if a State allows the use of a number other than the social security number, the State shall so advise any applicants.".*

*(b) CONFORMING AMENDMENTS.—Section 205(c)(2)(C) (42 U.S.C. 405(c)(2)(C)), as amended by section 321(a)(9) of the Social Security Independence and Program Improvements Act of 1994, is amended—*

*(1) in clause (i), by striking "may require" and inserting "shall require";*

*(2) in clause (ii), by inserting after the 1st sentence the following: "In the administration of any*

*law involving the issuance of a marriage certificate or license, each State shall require each party named in the certificate or license to furnish to the State (or political subdivision thereof), or any State agency having administrative responsibility for the law involved, the social security number of the party.";*

*(3) in clause (ii), by inserting "or marriage certificate" after "Such numbers shall not be recorded on the birth certificate".*

*(4) in clause (vi), by striking "may" and inserting "shall"; and*

*(5) by adding at the end the following new clauses:*

*"(x) An agency of a State (or a political subdivision thereof) charged with the administration of any law concerning the issuance or renewal of a license, certificate, permit, or other authorization to engage in a profession, an occupation, or a commercial activity shall require all applicants for issuance or renewal of the license, certificate, permit, or other authorization to provide the applicant's social security number to the agency for the purpose of administering such laws, and for the purpose of re-*

*sponding to requests for information from an agency operating pursuant to part D of title IV.*

*"(xi) All divorce decrees, support orders, and paternity determinations issued, and all paternity acknowledgments made, in each State shall include the social security number of each party to the decree, order, determination, or acknowledgement in the records relating to the matter, for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV.".*

## *CHAPTER 3—STREAMLINING AND UNIFORMITY OF PROCEDURES*

### *SEC. 12321. ADOPTION OF UNIFORM STATE LAWS.*

*Section 466 (42 U.S.C. 666) is amended by adding at the end the following new subsection:*

*"(f) UNIFORM INTERSTATE FAMILY SUPPORT ACT.—*

*"(1) ENACTMENT AND USE.—In order to satisfy section 454(20)(A), on or after January 1, 1998, each State must have in effect the Uniform Interstate Family Support Act, as approved by the American Bar Association on February 9, 1993, together with any amendments officially adopted before January 1,*

*1998 by the National Conference of Commissioners on Uniform State Laws.*

*"(2) EMPLOYERS TO FOLLOW PROCEDURAL RULES OF STATE WHERE EMPLOYEE WORKS.—The State law enacted pursuant to paragraph (1) shall provide that an employer that receives an income withholding order or notice pursuant to section 501 of the Uniform Interstate Family Support Act follow the procedural rules that apply with respect to such order or notice under the laws of the State in which the obligor works.*

***SEC. 12322. IMPROVEMENTS TO FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.***

*Section 1738B of title 28, United States Code, is amended—*

*(1) in subsection (a)(2), by striking "subsection (e)" and inserting "subsections (e), (f), and (i)";*

*(2) in subsection (b), by inserting after the 2nd undesignated paragraph the following:*

*"'child's home State' means the State in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the State in which the child lived from*

*birth with any of them. A period of temporary absence of any of them is counted as part of the 6-month period.";*

*(3) in subsection (c), by inserting "by a court of a State" before "is made";*

*(4) in subsection (c)(1), by inserting "and subsections (e), (f), and (g)" after "located";*

*(5) in subsection (d)—*

*(A) by inserting "individual" before "contestant"; and*

*(B) by striking "subsection (e)" and inserting "subsections (e) and (f)";*

*(6) in subsection (e), by striking "make a modification of a child support order with respect to a child that is made" and inserting "modify a child support order issued";*

*(7) in subsection (e)(1), by inserting "pursuant to subsection (i)" before the semicolon;*

*(8) in subsection (e)(2)—*

*(A) by inserting "individual" before "contestant" each place such term appears; and*

*(B) by striking "to that court's making the modification and assuming" and inserting "with the State of continuing, exclusive jurisdiction for*

*a court of another State to modify the order and assume";*

*(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;*

*(10) by inserting after subsection (e) the following new subsection:*

*"(f) RECOGNITION OF CHILD SUPPORT ORDERS.—If 1 or more child support orders have been issued in this or another State with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:*

*"(1) If only 1 court has issued a child support order, the order of that court must be recognized.*

*"(2) If 2 or more courts have issued child support orders for the same obligor and child, and only 1 of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.*

*"(3) If 2 or more courts have issued child support orders for the same obligor and child, and more than 1 of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the*

*current home State of the child, the order most recently issued must be recognized.*

*"(4) If 2 or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court may issue a child support order, which must be recognized.*

*"(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction.";*

*(11) in subsection (g) (as so redesignated)—*

*(A) by striking "PRIOR" and inserting "MODIFIED"; and*

*(B) by striking "subsection (e)" and inserting "subsections (e) and (f)";*

*(12) in subsection (h) (as so redesignated)—*

*(A) in paragraph (2), by inserting "including the duration of current payments and other obligations of support" before the comma; and*

*(B) in paragraph (3), by inserting "arrears under" after "enforce"; and*

*(13) by adding at the end the following new subsection:*

*"(i) REGISTRATION FOR MODIFICATION.—If there is no individual contestant or child residing in the issuing*

*State, the party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another State shall register that order in a State with jurisdiction over the nonmovant for the purpose of modification.".*

***SEC. 12323. ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.***

*Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315 and 12317(a) of this Act, is amended by adding at the end the following new paragraph:*

*"(14) ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.—Procedures under which—*

*"(A)(i) the State shall respond within 5 business days to a request made by another State to enforce a support order; and*

*"(ii) the term 'business day' means a day on which State offices are open for regular business;*

*"(B) the State may, by electronic or other means, transmit to another State a request for assistance in a case involving the enforcement of a support order, which request—*

*"(i) shall include such information as will enable the State to which the request is transmitted to compare the information*

*about the case to the information in the data bases of the State; and*

*"(ii) shall constitute a certification by the requesting State—*

*"(I) of the amount of support under the order the payment of which is in arrears; and*

*"(II) that the requesting State has complied with all procedural due process requirements applicable to the case;*

*"(C) if the State provides assistance to another State pursuant to this paragraph with respect to a case, neither State shall consider the case to be transferred to the caseload of such other State; and*

*"(D) the State shall maintain records of—*

*"(i) the number of such requests for assistance received by the State;*

*"(ii) the number of cases for which the State collected support in response to such a request; and*

*"(iii) the amount of such collected support.".*

***SEC. 12324. USE OF FORMS IN INTERSTATE ENFORCEMENT.***

*(a) PROMULGATION.—Section 452(a) (42 U.S.C. 652(a)) is amended—*

*(1) by striking "and" at the end of paragraph (9);*

*(2) by striking the period at the end of paragraph (10) and inserting "; and"; and*

*(3) by adding at the end the following new paragraph:*

*"(11) not later than June 30, 1996, after consulting with the State directors of programs under this part, promulgate forms to be used by States in interstate cases for—*

*"(A) collection of child support through income withholding;*

*"(B) imposition of liens; and*

*"(C) administrative subpoenas.".*

*(b) USE BY STATES.—Section 454(9) (42 U.S.C. 654(9)) is amended—*

*(1) by striking "and" at the end of subparagraph (C);*

*(2) by inserting "and" at the end of subparagraph (D); and*

*(3) by adding at the end the following new subparagraph:*

*"(E) no later than October 1, 1996, in using the forms promulgated pursuant to section 452(a)(11) for income withholding, imposition of liens, and issuance of administrative subpoenas in interstate child support cases;".*

***SEC. 12325. STATE LAWS PROVIDING EXPEDITED PROCEDURES.***

*(a) STATE LAW REQUIREMENTS.—Section 466 (42 U.S.C. 666), as amended by section 12314 of this Act, is amended—*

*(1) in subsection (a)(2), by striking the 1st sentence and inserting the following: "Expedited administrative and judicial procedures (including the procedures specified in subsection (c)) for establishing paternity and for establishing, modifying, and enforcing support obligations."; and*

*(2) by inserting after subsection (b) the following new subsection:*

*"(c) EXPEDITED PROCEDURES.—The procedures specified in this subsection are the following:*

*"(1) ADMINISTRATIVE ACTION BY STATE AGENCY.—Procedures which give the State agency the authority to take the following actions relating to establishment or enforcement of support orders, without the necessity of obtaining an order from any other judi-*

*cial or administrative tribunal, and to recognize and enforce the authority of State agencies of other States) to take the following actions:*

*"(A) GENETIC TESTING.—To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).*

*"(B) FINANCIAL OR OTHER INFORMATION.—To subpoena any financial or other information needed to establish, modify, or enforce a support order, and to impose penalties for failure to respond to such a subpoena.*

*"(C) RESPONSE TO STATE AGENCY REQUEST.—To require all entities in the State (including for-profit, nonprofit, and governmental employers) to provide promptly, in response to a request by the State agency of that or any other State administering a program under this part, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor, and to sanction failure to respond to any such request.*

*"(D) ACCESS TO CERTAIN RECORDS.—To obtain access, subject to safeguards on privacy and information security, to the following*

*records (including automated access, in the case of records maintained in automated data bases):*

*"(i) Records of other State and local government agencies, including—*

*"(I) vital statistics (including records of marriage, birth, and divorce);*

*"(II) State and local tax and revenue records (including information on residence address, employer, income and assets);*

*"(III) records concerning real and titled personal property;*

*"(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;*

*"(V) employment security records;*

*"(VI) records of agencies administering public assistance programs;*

*"(VII) records of the motor vehicle department; and*

*"(VIII) corrections records.*

*"(ii) Certain records held by private entities, including—*

*"(I) customer records of public utilities and cable television companies; and*

*"(II) information (including information on assets and liabilities) on individuals who owe or are owed support (or against or with respect to whom a support obligation is sought) held by financial institutions (subject to limitations on liability of such entities arising from affording such access), as provided pursuant to agreements described in subsection (a)(18).*

*"(E) CHANGE IN PAYEE.—In cases in which support is subject to an assignment in order to comply with a requirement imposed pursuant to part A or section 1912, or to a requirement to pay through the State disbursement unit established pursuant to section 454B, upon providing notice to obligor and obligee, to direct the obligor or other payor to change the payee to the appropriate government entity.*

*"(F) INCOME WITHHOLDING.—To order income withholding in accordance with subsections (a)(1) and (b) of section 466.*

*"(G) SECURING ASSETS.—In cases in which there is a support arrearage, to secure assets to satisfy the arrearage by—*

*"(i) intercepting or seizing periodic or lump-sum payments from—*

*"(I) a State or local agency, including unemployment compensation, workers' compensation, and other benefits; and*

*"(II) judgments, settlements, and lotteries;*

*"(ii) attaching and seizing assets of the obligor held in financial institutions;*

*"(iii) attaching public and private retirement funds; and*

*"(iv) imposing liens in accordance with subsection (a)(4) and, in appropriate cases, to force sale of property and distribution of proceeds.*

*"(H) INCREASE MONTHLY PAYMENTS.—For the purpose of securing overdue support, to increase the amount of monthly support payments*

*to include amounts for arrearages, subject to such conditions or limitations as the State may provide.*

*Such procedures shall be subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal.*

*"(2) SUBSTANTIVE AND PROCEDURAL RULES.—The expedited procedures required under subsection (a)(2) shall include the following rules and authority, applicable with respect to all proceedings to establish paternity or to establish, modify, or enforce support orders:*

*"(A) LOCATOR INFORMATION; PRESUMPTIONS CONCERNING NOTICE.—Procedures under which—*

*"(i) each party to any paternity or child support proceeding is required (subject to privacy safeguards) to file with the tribunal and the State case registry upon entry of an order, and to update as appropriate, information on location and identity of the party, including social security number, residential and mailing addresses, telephone*

*number, driver's license number, and name, address, and name and telephone number of employer; and*

*"(ii) in any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the tribunal may deem State due process requirements for notice and service of process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the tribunal pursuant to clause (i).*

*"(B) STATEWIDE JURISDICTION.—Procedures under which—*

*"(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties; and*

*"(ii) in a State in which orders are issued by courts or administrative tribunals, a case may be transferred between local jurisdictions in the State without need for*

*any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.*

*"(3) COORDINATION WITH ERISA.—Notwithstanding subsection (d) of section 514 of the Employee Retirement Income Security Act of 1974 (relating to effect on other laws), nothing in this subsection shall be construed to alter, amend, modify, invalidate, impair, or supersede subsections (a), (b), and (c) of such section 514 as it applies with respect to any procedure referred to in paragraph (1) and any expedited procedure referred to in paragraph (2), except to the extent that such procedure would be consistent with the requirements of section 206(d)(3) of such Act (relating to qualified domestic relations orders) or the requirements of section 609(a) of such Act (relating to qualified medical child support orders) if the reference in such section 206(d)(3) to a domestic relations order and the reference in such section 609(a) to a medical child support order were a reference to a support order referred to in paragraphs (1) and (2) relating to the same matters, respectively.".*

*(b) AUTOMATION OF STATE AGENCY FUNCTIONS.—Section 454A, as added by section 12344(a)(2) and as*

*amended by sections 12311 and 12312(c) of this Act, is amended by adding at the end the following new subsection:*

*"(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—The automated system required by this section shall be used, to the maximum extent feasible, to implement the expedited administrative procedures required by section 466(c).".*

## *CHAPTER 4—PATERNITY ESTABLISHMENT*

### *SEC. 12331. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.*

*(a) STATE LAWS REQUIRED.—Section 466(a)(5) (42 U.S.C. 666(a)(5)) is amended to read as follows:*

*"(5) PROCEDURES CONCERNING PATERNITY ESTABLISHMENT.—*

*"(A) ESTABLISHMENT PROCESS AVAILABLE FROM BIRTH UNTIL AGE 18.—*

*"(i) Procedures which permit the establishment of the paternity of a child at any time before the child attains 18 years of age.*

*"(ii) As of August 16, 1984, clause (i) shall also apply to a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was then in effect in the State.*

*"(B) PROCEDURES CONCERNING GENETIC TESTING.—*

*"(i) GENETIC TESTING REQUIRED IN CERTAIN CONTESTED CASES.—Procedures under which the State is required, in a contested paternity case (unless otherwise barred by State law) to require the child and all other parties (other than individuals found under section 454(29) to have good cause for refusing to cooperate) to submit to genetic tests upon the request of any such party, if the request is supported by a sworn statement by the party—*

*"(I) alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or*

*"(II) denying paternity, and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties.*

*"(ii) OTHER REQUIREMENTS.—Procedures which require the State agency, in any case in which the agency orders genetic testing—*

*"(I) to pay costs of such tests, subject to recoupment (if the State so elects) from the alleged father if paternity is established; and*

*"(II) to obtain additional testing in any case if an original test result is contested, upon request and advance payment by the contestant.*

*"(C) VOLUNTARY PATERNITY ACKNOWLEDGMENT.—*

*"(i) SIMPLE CIVIL PROCESS.—Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the mother and the putative father must be given notice, orally and in writing, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.*

*"(ii) HOSPITAL-BASED PROGRAM.—Such procedures must include a hospital-*

*based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child, subject to such good cause exceptions, taking into account the best interests of the child, as the State may establish.*

*"(iii) PATERNITY ESTABLISHMENT SERVICES.—*

*"(I) STATE-OFFERED SERVICES.—Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.*

*"(II) REGULATIONS.—*

*"(aa) SERVICES OFFERED BY HOSPITALS AND BIRTH RECORD AGENCIES.—The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies.*

*"(bb) SERVICES OFFERED BY OTHER ENTITIES.—The Secretary shall prescribe regulations specifying the types of other entities that*

*may offer voluntary paternity establishment services, and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, use the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as the provision of such services is evaluated by, voluntary paternity establishment programs of hospitals and birth record agencies.*

*"(iv) USE OF PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Such procedures must require the State to develop and use an affidavit for the voluntary acknowledgment of paternity which includes the minimum requirements of the affidavit developed by the Secretary under section 452(a)(7) for the voluntary acknowledgment of paternity, and to give full faith and credit to such an*

*affidavit signed in any other State according to its procedures.*

*"(D) STATUS OF SIGNED PATERNITY ACKNOWLEDGMENT.—*

*"(i) INCLUSION IN BIRTH RECORDS.— Procedures under which the name of the father shall be included on the record of birth of the child only if—*

*"(I) the father and mother have signed a voluntary acknowledgment of paternity; or*

*"(II) a court or an administrative agency of competent jurisdiction has issued an adjudication of paternity.*

*Nothing in this clause shall preclude a State agency from obtaining an admission of paternity from the father for submission in a judicial or administrative proceeding, or prohibit the issuance of an order in a judicial or administrative proceeding which bases a legal finding of paternity on an admission of paternity by the father and any other additional showing required by State law.*

*"(ii) LEGAL FINDING OF PATERNITY.—Procedures under which a signed voluntary acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within the earlier of—*

*"(I) 60 days; or*

*"(II) the date of an administrative or judicial proceeding relating to the child (including a proceeding to establish a support order) in which the signatory is a party.*

*"(iii) CONTEST.—Procedures under which, after the 60-day period referred to in clause (ii), a signed voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown.*

*"(E) BAR ON ACKNOWLEDGMENT RATIFICATION PROCEEDINGS.—Procedures under which judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.*

*"(F) ADMISSIBILITY OF GENETIC TESTING RESULTS.—Procedures—*

*"(i) requiring the admission into evidence, for purposes of establishing paternity, of the results of any genetic test that is—*

*"(I) of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary; and*

*"(II) performed by a laboratory approved by such an accreditation body;*

*"(ii) requiring an objection to genetic testing results to be made in writing not later than a specified number of days before any hearing at which the results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of the results); and*

*"(iii) making the test results admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy, unless objection is made.*

*"(G) PRESUMPTION OF PATERNITY IN CERTAIN CASES.—Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity upon genetic testing results indicating a threshold probability that the alleged father is the father of the child.*

*"(H) DEFAULT ORDERS.—Procedures requiring a default order to be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by State law.*

*"(I) NO RIGHT TO JURY TRIAL.—Procedures providing that the parties to an action to establish paternity are not entitled to a trial by jury.*

*"(J) TEMPORARY SUPPORT ORDER BASED ON PROBABLE PATERNITY IN CONTESTED CASES.—Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of*

*parentage, if there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).*

*"(K) PROOF OF CERTAIN SUPPORT AND PATERNITY ESTABLISHMENT COSTS.—Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child.*

*"(L) STANDING OF PUTATIVE FATHERS.—Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.*

*"(M) FILING OF ACKNOWLEDGMENTS AND ADJUDICATIONS IN STATE REGISTRY OF BIRTH RECORDS.—Procedures under which voluntary acknowledgments and adjudications of paternity by judicial or administrative processes are filed with the State registry of birth records for comparison with information in the State case registry.".*

*(b) NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended*

*by inserting ", and develop an affidavit to be used for the voluntary acknowledgment of paternity which shall include the social security number of each parent and, after consultation with the States, other common elements as determined by such designee" before the semicolon.*

*(c) CONFORMING AMENDMENT.—Section 468 (42 U.S.C. 668) is amended by striking "a simple civil process for voluntarily acknowledging paternity and".*

***SEC. 12332. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.***

*Section 454(23) (42 U.S.C. 654(23)) is amended by inserting "and will publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support by means the State deems appropriate" before the semicolon.*

***SEC. 12333. COOPERATION BY APPLICANTS FOR AND RECIPIENTS OF TEMPORARY FAMILY ASSISTANCE.***

*Section 454 (42 U.S.C. 654), as amended by sections 12301(b), 12303(a), 12312(a), and 12313(a) of this Act, is amended—*

*(1) by striking "and" at the end of paragraph (27);*

*(2) by striking the period at the end of paragraph (28) and inserting "; and"; and*

*(3) by inserting after paragraph (28) the following new paragraph:*

*"(29) provide that the State agency responsible for administering the State plan—*

*"(A) shall make the determination (and redetermination at appropriate intervals) as to whether an individual who has applied for or is receiving assistance under the State program funded under part A or the State program under title XXI is cooperating in good faith with the State in establishing the paternity of, or in establishing, modifying, or enforcing a support order for, any child of the individual by providing the State agency with the name of, and such other information as the State agency may require with respect to, the noncustodial parent of the child, subject to such good cause exceptions, taking into account the best interests of the child, as the State may establish through the State agency, or at the option of the State, through the State agencies administering the State programs funded under part A and title XXI;*

*"(B) shall require the individual to supply additional necessary information and appear at interviews, hearings, and legal proceedings;*

*"(C) shall require the individual and the child to submit to genetic tests pursuant to judicial or administrative order;*

*"(D) may request that the individual sign a voluntary acknowledgment of paternity, after notice of the rights and consequences of such an acknowledgment, but may not require the individual to sign an acknowledgment or otherwise relinquish the right to genetic tests as a condition of cooperation and eligibility for assistance under the State program funded under part A or the State program under title XXI; and*

*"(E) shall promptly notify the individual and the State agency administering the State program funded under part A and the State agency administering the State program under title XXI of each such determination, and if noncooperation is determined, the basis therefore.".*

## *CHAPTER 5—PROGRAM ADMINISTRATION AND FUNDING*

### *SEC. 12341. PERFORMANCE-BASED INCENTIVES AND PENALTIES.*

*(a) DEVELOPMENT OF NEW SYSTEM.—The Secretary of Health and Human Services, in consultation with State directors of programs under part D of title IV of the Social*

*Security Act, shall develop a new incentive system to replace the system under section 458 of such Act. The new system shall provide additional payments to any State based on such State's performance under such a program.*

*(b) CONFORMING AMENDMENTS TO PRESENT SYSTEM.—Section 458 (42 U.S.C. 658) is amended—*

*(1) in subsection (a), by striking "aid to families with dependent children under a State plan approved under part A of this title" and inserting "assistance under a program funded under part A";*

*(2) in subsection (b)(1)(A), by striking "section 402(a)(26)" and inserting "section 407(a)(4)";*

*(3) in subsections (b) and (c)—*

*(A) by striking "AFDC collections" each place it appears and inserting "title IV–A collections", and*

*(B) by striking "non-AFDC collections" each place it appears and inserting "non-title IV–A collections"; and*

*(4) in subsection (c), by striking "combined AFDC/non-AFDC administrative costs" both places it appears and inserting "combined title IV–A/non-title IV–A administrative costs".*

*(c) CALCULATION OF IV–D PATERNITY ESTABLISHMENT PERCENTAGE.—*

*(1) Section 452(g)(1) (42 U.S.C. 652(g)(1)) is amended in each of subparagraphs (A) and (B), by striking "75" and inserting "90".*

*(2) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended in the matter preceding clause (i)—*

*(A) by striking "paternity establishment percentage" and inserting "IV–D paternity establishment percentage"; and*

*(B) by striking "(or all States, as the case may be)".*

*(3) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended by adding at the end the following new sentence: "In meeting the 90 percent paternity establishment requirement, a State may calculate either the paternity establishment rate of cases in the program funded under this part or the paternity establishment rate of all out-of-wedlock births in the State.".*

*(4) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is amended—*

*(A) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;*

*(B) in subparagraph (A) (as so redesignated), by striking "the percentage of children*

*born out-of-wedlock in a State" and inserting "the percentage of children in a State who are born out of wedlock or for whom support has not been established"; and*

*(C) in subparagraph (B) (as so redesignated) by inserting "and securing support" before the period.*

*(d) EFFECTIVE DATES.—*

*(1) INCENTIVE ADJUSTMENTS.—*

*(A) IN GENERAL.—The system developed under subsection (a) and the amendments made by subsection (b) shall become effective on October 1, 1997, except to the extent provided in subparagraph (B).*

*(B) APPLICATION OF SECTION 458.—Section 458 of the Social Security Act, as in effect on the day before the date of the enactment of this section, shall be effective for purposes of incentive payments to States for fiscal years before fiscal year 1999.*

*(2) PENALTY REDUCTIONS.—The amendments made by subsection (c) shall become effective with respect to calendar quarters beginning on or after the date of the enactment of this Act.*

***SEC. 12342. FEDERAL AND STATE REVIEWS AND AUDITS.***

*(a) STATE AGENCY ACTIVITIES.—Section 454 (42 U.S.C. 654) is amended—*

*(1) in paragraph (14), by striking "(14)" and inserting "(14)(A)";*

*(2) by redesignating paragraph (15) as subparagraph (B) of paragraph (14); and*

*(3) by inserting after paragraph (14) the following new paragraph:*

*"(15) provide for—*

*"(A) a process for annual reviews of and reports to the Secretary on the State program operated under the State plan approved under this part, including such information as may be necessary to measure State compliance with Federal requirements for expedited procedures, using such standards and procedures as are required by the Secretary, under which the State agency will determine the extent to which the program is operated in compliance with this part; and*

*"(B) a process of extracting from the automated data processing system required by paragraph (16) and transmitting to the Secretary data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators (including IV–D paternity establishment percent-*

*ages to the extent necessary for purposes of sections 452(g) and 458.".*

*(b) FEDERAL ACTIVITIES.—Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended to read as follows:*

*"(4)(A) review data and calculations transmitted by State agencies pursuant to section 454(15)(B) on State program accomplishments with respect to performance indicators for purposes of subsection (g) of this section and section 458;*

*"(B) review annual reports submitted pursuant to section 454(15)(A) and, as appropriate, provide to the State comments, recommendations for additional or alternative corrective actions, and technical assistance; and*

*"(C) conduct audits, in accordance with the Government auditing standards of the Comptroller General of the United States—*

*"(i) at least once every 3 years (or more frequently, in the case of a State which fails to meet the requirements of this part concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used in calculating perform-*

*ance indicators under subsection (g) of this section and section 458;*

*"(ii) of the adequacy of financial management of the State program operated under the State plan approved under this part, including assessments of—*

*"(I) whether Federal and other funds made available to carry out the State program are being appropriately expended, and are properly and fully accounted for; and*

*"(II) whether collections and disbursements of support payments are carried out correctly and are fully accounted for; and*

*"(iii) for such other purposes as the Secretary may find necessary;".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to calendar quarters beginning 12 months or more after the date of the enactment of this Act.*

***SEC. 12343. REQUIRED REPORTING PROCEDURES.***

*(a) ESTABLISHMENT.—Section 452(a)(5) (42 U.S.C. 652(a)(5)) is amended by inserting ", and establish procedures to be followed by States for collecting and reporting information required to be provided under this part, and*

*establish uniform definitions (including those necessary to enable the measurement of State compliance with the requirements of this part relating to expedited processes) to be applied in following such procedures" before the semicolon.*

*(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 12301(b), 12303(a), 12312(a), 12313(a), and 12333 of this Act, is amended—*

*(1) by striking "and" at the end of paragraph (28);*

*(2) by striking the period at the end of paragraph (29) and inserting "; and"; and*

*(3) by adding after paragraph (29) the following new paragraph:*

*"(30) provide that the State shall use the definitions established under section 452(a)(5) in collecting and reporting information as required under this part.".*

***SEC. 12344. AUTOMATED DATA PROCESSING REQUIREMENTS.***

*(a) REVISED REQUIREMENTS.—*

*(1) IN GENERAL.—Section 454(16) (42 U.S.C. 654(16)) is amended—*

*(A) by striking ", at the option of the State,";*

*(B) by inserting "and operation by the State agency" after "for the establishment";*

*(C) by inserting "meeting the requirements of section 454A" after "information retrieval system";*

*(D) by striking "in the State and localities thereof, so as (A)" and inserting "so as";*

*(E) by striking "(i)"; and*

*(F) by striking "(including" and all that follows and inserting a semicolon.*

*(2) AUTOMATED DATA PROCESSING.—Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 454 the following new section:*

***"SEC. 454A. AUTOMATED DATA PROCESSING.***

*"(a) IN GENERAL.—In order for a State to meet the requirements of this section, the State agency administering the State program under this part shall have in operation a single statewide automated data processing and information retrieval system which has the capability to perform the tasks specified in this section with the frequency and in the manner required by or under this part.*

*"(b) PROGRAM MANAGEMENT.—The automated system required by this section shall perform such functions as the Secretary may specify relating to management of the State program under this part, including—*

*"(1) controlling and accounting for use of Federal, State, and local funds in carrying out the program; and*

*"(2) maintaining the data necessary to meet Federal reporting requirements under this part on a timely basis.*

*"(c) CALCULATION OF PERFORMANCE INDICATORS.—In order to enable the Secretary to determine the incentive payments and penalty adjustments required by sections 452(g) and 458, the State agency shall—*

*"(1) use the automated system—*

*"(A) to maintain the requisite data on State performance with respect to paternity establishment and child support enforcement in the State; and*

*"(B) to calculate the IV–D paternity establishment percentage for the State for each fiscal year; and*

*"(2) have in place systems controls to ensure the completeness and reliability of, and ready access to, the data described in paragraph (1)(A), and the accuracy of the calculations described in paragraph (1)(B).*

*"(d) INFORMATION INTEGRITY AND SECURITY.—The State agency shall have in effect safeguards on the integrity,*

*accuracy, and completeness of, access to, and use of data in the automated system required by this section, which shall include the following (in addition to such other safeguards as the Secretary may specify in regulations):*

*"(1) POLICIES RESTRICTING ACCESS.—Written policies concerning access to data by State agency personnel, and sharing of data with other persons, which—*

*"(A) permit access to and use of data only to the extent necessary to carry out the State program under this part; and*

*"(B) specify the data which may be used for particular program purposes, and the personnel permitted access to such data.*

*"(2) SYSTEMS CONTROLS.—Systems controls (such as passwords or blocking of fields) to ensure strict adherence to the policies described in paragraph (1).*

*"(3) MONITORING OF ACCESS.—Routine monitoring of access to and use of the automated system, through methods such as audit trails and feedback mechanisms, to guard against and promptly identify unauthorized access or use.*

*"(4) TRAINING AND INFORMATION.—Procedures to ensure that all personnel (including State and local*

*agency staff and contractors) who may have access to or be required to use confidential program data are informed of applicable requirements and penalties (including those in section 6103 of the Internal Revenue Code of 1986), and are adequately trained in security procedures.*

*"(5) PENALTIES.—Administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential data.".*

*(3) REGULATIONS.—The Secretary of Health and Human Services shall prescribe final regulations for implementation of section 454A of the Social Security Act not later than 2 years after the date of the enactment of this Act.*

*(4) IMPLEMENTATION TIMETABLE.—Section 454(24) (42 U.S.C. 654(24)), as amended by section 12303(a)(1) of this Act, is amended to read as follows:*

*"(24) provide that the State will have in effect an automated data processing and information retrieval system—*

*"(A) by October 1, 1997, which meets all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988, and*

*"(B) by October 1, 1999, which meets all requirements of this part enacted on or before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995, except that such deadline shall be extended by 1 day for each day (if any) by which the Secretary fails to meet the deadline imposed by section 12344(a)(3) of the Personal Responsibility and Work Opportunity Act of 1995;".*

*(b) SPECIAL FEDERAL MATCHING RATE FOR DEVELOPMENT COSTS OF AUTOMATED SYSTEMS.—*

*(1) IN GENERAL.—Section 455(a) (42 U.S.C. 655(a)) is amended—*

*(A) in paragraph (1)(B)—*

*(i) by striking "90 percent" and inserting "the percent specified in paragraph (3)";*

*(ii) by striking "so much of"; and*

*(iii) by striking "which the Secretary" and all that follows and inserting ", and"; and*

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

*"(3)(A) The Secretary shall pay to each State, for each quarter in fiscal years 1996 and 1997, 90 percent of so*

*much of the State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16) (as in effect on September 30, 1995) but limited to the amount approved for States in the advance planning documents of such States submitted on or before May 1, 1995.*

*"(B)(i) The Secretary shall pay to each State, for each quarter in fiscal years 1997 through 2001, the percentage specified in clause (ii) of so much of the State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements of sections 454(16) and 454A.*

*"(ii) The percentage specified in this clause is 80 percent.".*

*(2) TEMPORARY LIMITATION ON PAYMENTS UNDER SPECIAL FEDERAL MATCHING RATE.—*

*(A) IN GENERAL.—The Secretary of Health and Human Services may not pay more than $400,000,000 in the aggregate under section 455(a)(3) of the Social Security Act for fiscal years 1996, 1997, 1998, 1999, and 2000.*

*(B) ALLOCATION OF LIMITATION AMONG STATES.—The total amount payable to a State under section 455(a)(3) of such Act for fiscal years 1996, 1997, 1998, 1999, and 2000 shall*

*not exceed the limitation determined for the State by the Secretary of Health and Human Services in regulations.*

*(C) ALLOCATION FORMULA.—The regulations referred to in subparagraph (B) shall prescribe a formula for allocating the amount specified in subparagraph (A) among States with plans approved under part D of title IV of the Social Security Act, which shall take into account—*

*(i) the relative size of State caseloads under such part; and*

*(ii) the level of automation needed to meet the automated data processing requirements of such part.*

*(c) CONFORMING AMENDMENT.—Section 123(c) of the Family Support Act of 1988 (102 Stat. 2352; Public Law 100–485) is repealed.*

***SEC. 12345. TECHNICAL ASSISTANCE.***

*(a) FOR TRAINING OF FEDERAL AND STATE STAFF, RESEARCH AND DEMONSTRATION PROGRAMS, AND SPECIAL PROJECTS OF REGIONAL OR NATIONAL SIGNIFICANCE.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following new subsection:*

*"(j) Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 1 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the 3rd calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for—*

*"(1) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs under this part (including technical assistance concerning State automated systems required by this part); and*

*"(2) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part.".*

*(b) OPERATION OF FEDERAL PARENT LOCATOR SERVICE.—Section 453 (42 U.S.C. 653), as amended by section 12316 of this Act, is amended by adding at the end the following new subsection:*

*"(o) RECOVERY OF COSTS.—Out of any money in the Treasury of the United States not otherwise appropriated,*

*there is hereby appropriated to the Secretary for each fiscal year an amount equal to 2 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the 3rd calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for operation of the Federal Parent Locator Service under this section, to the extent such costs are not recovered through user fees.".*

***SEC. 12346. REPORTS AND DATA COLLECTION BY THE SECRETARY.***

*(a) ANNUAL REPORT TO CONGRESS.—*

*(1) Section 452(a)(10)(A) (42 U.S.C. 652(a)(10)(A)) is amended—*

*(A) by striking "this part;" and inserting "this part, including—"; and*

*(B) by adding at the end the following new clauses:*

*"(i) the total amount of child support payments collected as a result of services furnished during the fiscal year to individuals receiving services under this part;*

*"(ii) the cost to the States and to the Federal Government of so furnishing the services; and*

*"(iii) the number of cases involving families—*

*"(I) who became ineligible for assistance under State programs funded under part A during a month in the fiscal year; and*

*"(II) with respect to whom a child support payment was received in the month;".*

*(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—*

*(A) in the matter preceding clause (i)—*

*(i) by striking "with the data required under each clause being separately stated for cases" and inserting "separately stated for (1) cases";*

*(ii) by striking "cases where the child was formerly receiving" and inserting "or formerly received";*

*(iii) by inserting "or 1912" after "471(a)(17)"; and*

*(iv) by inserting "(2)" before "all other";*

*(B) in each of clauses (i) and (ii), by striking ", and the total amount of such obligations";*

*(C) in clause (iii), by striking "described in" and all that follows and inserting "in which support was collected during the fiscal year;";*

*(D) by striking clause (iv); and*

*(E) by redesignating clause (v) as clause (vii), and inserting after clause (iii) the following new clauses:*

*"(iv) the total amount of support collected during such fiscal year and distributed as current support;*

*"(v) the total amount of support collected during such fiscal year and distributed as arrearages;*

*"(vi) the total amount of support due and unpaid for all fiscal years; and".*

*(3) Section 452(a)(10)(G) (42 U.S.C. 652(a)(10)(G)) is amended by striking "on the use of Federal courts and".*

*(4) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended—*

*(A) in subparagraph (H), by striking "and";*

*(B) in subparagraph (I), by striking the period and inserting "; and"; and*

*(C) by inserting after subparagraph (I) the following new subparagraph:*

*"(J) compliance, by State, with the standards established pursuant to subsections (h) and (i).".*

*(5) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended by striking all that follows subparagraph (J), as added by paragraph (4).*

*(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to fiscal year 1996 and succeeding fiscal years.*

## *CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS*

### *SEC. 12351. SIMPLIFIED PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS.*

*Section 466(a)(10) (42 U.S.C. 666(a)(10)) is amended to read as follows:*

*"(10) REVIEW AND ADJUSTMENT OF SUPPORT ORDERS UPON REQUEST.—Procedures under which the State shall review and adjust each support order being enforced under this part upon the request of ei-*

*ther parent or the State if there is an assignment. Such procedures shall provide the following:*

*"(A) IN GENERAL.—*

*"(i) 3-YEAR CYCLE.—Except as provided in subparagraphs (B) and (C), the State shall review and, as appropriate, adjust the support order every 3 years, taking into account the best interests of the child involved.*

*"(ii) METHODS OF ADJUSTMENT.—The State may elect to review and, if appropriate, adjust an order pursuant to clause (i) by—*

*"(I) reviewing and, if appropriate, adjusting the order in accordance with the guidelines established pursuant to section 467(a) if the amount of the child support award under the order differs from the amount that would be awarded in accordance with the guidelines; or*

*"(II) applying a cost-of-living adjustment to the order in accordance with a formula developed by the State and permit either party to contest the*

*adjustment, within 30 days after the date of the notice of the adjustment, by making a request for review and, if appropriate, adjustment of the order in accordance with the child support guidelines established pursuant to section 467(a).*

*"(iii) NO PROOF OF CHANGE IN CIRCUMSTANCES NECESSARY.—Any adjustment under this subparagraph (A) shall be made without a requirement for proof or showing of a change in circumstances.*

*"(B) AUTOMATED METHOD.—The State may use automated methods (including automated comparisons with wage or State income tax data) to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment to the orders eligible for adjustment under the threshold established by the State.*

*"(C) REQUEST UPON SUBSTANTIAL CHANGE IN CIRCUMSTANCES.—The State shall, at the request of either parent subject to such an order or of any State child support enforcement agency, review and, if appropriate, adjust the order in*

*accordance with the guidelines established pursuant to section 467(a) based upon a substantial change in the circumstances of either parent.*

*"(D) NOTICE OF RIGHT TO REVIEW.—The State shall provide notice not less than once every 3 years to the parents subject to such an order informing them of their right to request the State to review and, if appropriate, adjust the order pursuant to this paragraph. The notice may be included in the order.".*

***SEC. 12352. FURNISHING CONSUMER REPORTS FOR CERTAIN PURPOSES RELATING TO CHILD SUPPORT.***

*Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended by adding at the end the following new paragraphs:*

*"(4) In response to a request by the head of a State or local child support enforcement agency (or a State or local government official authorized by the head of such an agency), if the person making the request certifies to the consumer reporting agency that—*

*"(A) the consumer report is needed for the purpose of establishing an individual's capacity*

*to make child support payments or determining the appropriate level of such payments;*

*"(B) the paternity of the consumer for the child to which the obligation relates has been established or acknowledged by the consumer in accordance with State laws under which the obligation arises (if required by those laws);*

*"(C) the person has provided at least 10 days' prior notice to the consumer whose report is requested, by certified or registered mail to the last known address of the consumer, that the report will be requested; and*

*"(D) the consumer report will be kept confidential, will be used solely for a purpose described in subparagraph (A), and will not be used in connection with any other civil, administrative, or criminal proceeding, or for any other purpose.*

*"(5) To an agency administering a State plan under section 454 of the Social Security Act (42 U.S.C. 654) for use to set an initial or modified child support award.".*

***SEC. 12353. NONLIABILITY FOR FINANCIAL INSTITUTIONS PROVIDING FINANCIAL RECORDS TO STATE CHILD SUPPORT ENFORCEMENT AGENCIES IN CHILD SUPPORT CASES.***

*(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, a financial institution shall not be liable under any Federal or State law to any person for disclosing any financial record of an individual to a State child support enforcement agency attempting to establish, modify, or enforce a child support obligation of such individual.*

*(b) PROHIBITION OF DISCLOSURE OF FINANCIAL RECORD OBTAINED BY STATE CHILD SUPPORT ENFORCEMENT AGENCY.—A State child support enforcement agency which obtains a financial record of an individual from a financial institution pursuant to subsection (a) may disclose such financial record only for the purpose of, and to the extent necessary in, establishing, modifying, or enforcing a child support obligation of such individual.*

*(c) CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE.—*

*(1) DISCLOSURE BY STATE OFFICER OR EMPLOYEE.—If any person knowingly, or by reason of negligence, discloses a financial record of an individual in violation of subsection (b), such individual*

*may bring a civil action for damages against such person in a district court of the United States.*

*(2) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this subsection with respect to any disclosure which results from a good faith, but erroneous, interpretation of subsection (b).*

*(3) DAMAGES.—In any action brought under paragraph (1), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—*

*(A) the greater of—*

*(i) $1,000 for each act of unauthorized disclosure of a financial record with respect to which such defendant is found liable; or*

*(ii) the sum of—*

*(I) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure; plus*

*(II) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages; plus*

*(B) the costs (including attorney's fees) of the action.*

*(d) DEFINITIONS.—For purposes of this section—*

*(1) FINANCIAL INSTITUTION.—The term "financial institution" means—*

*(A) a depository institution, as defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));*

*(B) an institution-affiliated party, as defined in section 3(u) of such Act (12 U.S.C. 1813(v));*

*(C) any Federal credit union or State credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752), including an institution-affiliated party of such a credit union, as defined in section 206(r) of such Act (12 U.S.C. 1786(r)); and*

*(D) any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity authorized to do business in the State.*

*(2) FINANCIAL RECORD.—The term "financial record" has the meaning given such term in section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401).*

*(3) STATE CHILD SUPPORT ENFORCEMENT AGENCY.—The term "State child support enforcement agen-*

*cy" means a State agency which administers a State program for establishing and enforcing child support obligations.*

## *CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS*

### *SEC. 12361. INTERNAL REVENUE SERVICE COLLECTION OF ARREARAGES.*

*(a) COLLECTION OF FEES.—Section 6305(a) of the Internal Revenue Code of 1986 (relating to collection of certain liability) is amended—*

*(1) by striking "and" at the end of paragraph (3);*

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

*(3) by adding at the end the following new paragraph:*

*"(5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor."; and*

*(4) by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".*

*(b) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1997.*

***SEC. 12362. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.***

*(a) CONSOLIDATION AND STREAMLINING OF AUTHORITIES.—Section 459 (42 U.S.C. 659) is amended to read as follows:*

***"SEC. 459. CONSENT BY THE UNITED STATES TO INCOME WITHHOLDING, GARNISHMENT, AND SIMILAR PROCEEDINGS FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS.***

*"(a) CONSENT TO SUPPORT ENFORCEMENT.—Notwithstanding any other provision of law (including section 207 of this Act and section 5301 of title 38, United States Code), effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States or the District of Columbia (including any agency, subdivision, or instrumentality thereof) to any individual, including members of the Armed Forces of the United States, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to withholding in accordance with State law enacted pursuant to subsections (a)(1) and (b) of section 466 and regulations of the Secretary under such subsections, and to any other legal process brought, by a State agency administering a program under a State plan approved under this part or*

*by an individual obligee, to enforce the legal obligation of the individual to provide child support or alimony.*

*"(b) CONSENT TO REQUIREMENTS APPLICABLE TO PRIVATE PERSON.—With respect to notice to withhold income pursuant to subsection (a)(1) or (b) of section 466, or any other order or process to enforce support obligations against an individual (if the order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), each governmental entity specified in subsection (a) shall be subject to the same requirements as would apply if the entity were a private person, except as otherwise provided in this section.*

*"(c) DESIGNATION OF AGENT; RESPONSE TO NOTICE OR PROCESS—*

*"(1) DESIGNATION OF AGENT.—The head of each agency subject to this section shall—*

*"(A) designate an agent or agents to receive orders and accept service of process in matters relating to child support or alimony; and*

*"(B) annually publish in the Federal Register the designation of the agent or agents, identified by title or position, mailing address, and telephone number.*

*"(2) RESPONSE TO NOTICE OR PROCESS.—If an agent designated pursuant to paragraph (1) of this subsection receives notice pursuant to State procedures in effect pursuant to subsection (a)(1) or (b) of section 466, or is effectively served with any order, process, or interrogatory, with respect to an individual's child support or alimony payment obligations, the agent shall—*

*"(A) as soon as possible (but not later than 15 days) thereafter, send written notice of the notice or service (together with a copy of the notice or service) to the individual at the duty station or last-known home address of the individual;*

*"(B) within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to such State procedures, comply with all applicable provisions of section 466; and*

*"(C) within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatory, respond to the order, process, or interrogatory.*

*"(d) PRIORITY OF CLAIMS.—If a governmental entity specified in subsection (a) receives notice or is served with*

*process, as provided in this section, concerning amounts owed by an individual to more than 1 person—*

*"(1) support collection under section 466(b) must be given priority over any other process, as provided in section 466(b)(7);*

*"(2) allocation of moneys due or payable to an individual among claimants under section 466(b) shall be governed by section 466(b) and the regulations prescribed under such section; and*

*"(3) such moneys as remain after compliance with paragraphs (1) and (2) shall be available to satisfy any other such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.*

*"(e) NO REQUIREMENT TO VARY PAY CYCLES.—A governmental entity that is affected by legal process served for the enforcement of an individual's child support or alimony payment obligations shall not be required to vary its normal pay and disbursement cycle in order to comply with the legal process.*

*"(f) RELIEF FROM LIABILITY.—*

*"(1) Neither the United States, nor the government of the District of Columbia, nor any disbursing officer shall be liable with respect to any payment*

*made from moneys due or payable from the United States to any individual pursuant to legal process regular on its face, if the payment is made in accordance with this section and the regulations issued to carry out this section.*

*"(2) No Federal employee whose duties include taking actions necessary to comply with the requirements of subsection (a) with regard to any individual shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by the employee in connection with the carrying out of such actions.*

*"(g) REGULATIONS.—Authority to promulgate regulations for the implementation of this section shall, insofar as this section applies to moneys due from (or payable by)—*

*"(1) the United States (other than the legislative or judicial branches of the Federal Government) or the government of the District of Columbia, be vested in the President (or the designee of the President);*

*"(2) the legislative branch of the Federal Government, be vested jointly in the President pro tempore of the Senate and the Speaker of the House of Representatives (or their designees), and*

*"(3) the judicial branch of the Federal Government, be vested in the Chief Justice of the United States (or the designee of the Chief Justice).*

*"(h) MONEYS SUBJECT TO PROCESS.—*

*"(1) IN GENERAL.—Subject to paragraph (2), moneys paid or payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section—*

*"(A) consist of—*

*"(i) compensation paid or payable for personal services of the individual, whether the compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay);*

*"(ii) periodic benefits (including a periodic benefit as defined in section 228(h)(3)) or other payments—*

*"(I) under the insurance system established by title II;*

*"(II) under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits,*

*or similar amounts payable on account of personal services performed by the individual or any other individual;*

*"(III) as compensation for death under any Federal program;*

*"(IV) under any Federal program established to provide 'black lung' benefits; or*

*"(V) by the Secretary of Veterans Affairs as pension, or as compensation for a service-connected disability or death; and*

*"(iii) worker's compensation benefits paid under Federal or State law but*

*"(B) do not include any payment—*

*"(i) by way of reimbursement or otherwise, to defray expenses incurred by the individual in carrying out duties associated with the employment of the individual; or*

*"(ii) as allowances for members of the uniformed services payable pursuant to chapter 7 of title 37, United States Code, as prescribed by the Secretaries concerned (defined by section 101(5) of such title) as necessary for the efficient performance of duty.*

*"(2) CERTAIN AMOUNTS EXCLUDED.—In determining the amount of any moneys due from, or payable by, the United States to any individual, there shall be excluded amounts which—*

*"(A) are owed by the individual to the United States;*

*"(B) are required by law to be, and are, deducted from the remuneration or other payment involved, including Federal employment taxes, and fines and forfeitures ordered by court-martial;*

*"(C) are properly withheld for Federal, State, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he was entitled (the withholding of additional amounts pursuant to section 3402(i) of the Internal Revenue Code of 1986 may be permitted only when the individual presents evidence of a tax obligation which supports the additional withholding);*

*"(D) are deducted as health insurance premiums;*

*"(E) are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage); or*

*"(F) are deducted as normal life insurance premiums from salary or other remuneration for employment (not including amounts deducted for supplementary coverage).*

*"(i) DEFINITIONS.—For purposes of this section—*

*"(1) UNITED STATES.—The term 'United States' includes any department, agency, or instrumentality of the legislative, judicial, or executive branch of the Federal Government, the United States Postal Service, the Postal Rate Commission, any Federal corporation created by an Act of Congress that is wholly owned by the Federal Government, and the governments of the territories and possessions of the United States.*

*"(2) CHILD SUPPORT.—The term 'child support', when used in reference to the legal obligations of an individual to provide such support, means amounts required to be paid under a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has at-*

*tained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages or reimbursement, and which may include other related costs and fees, interest and penalties, income withholding, attorney's fees, and other relief.*

*"(3) ALIMONY.—*

*"(A) IN GENERAL.—The term 'alimony', when used in reference to the legal obligations of an individual to provide the same, means periodic payments of funds for the support and maintenance of the spouse (or former spouse) of the individual, and (subject to and in accordance with State law) includes separate maintenance, alimony pendente lite, maintenance, and spousal support, and includes attorney's fees, interest, and court costs when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction.*

*"(B) EXCEPTIONS.—Such term does not include—*

*"(i) any child support; or*

*"(ii) any payment or transfer of property or its value by an individual to the spouse or a former spouse of the individual in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.*

*"(4) PRIVATE PERSON.—The term 'private person' means a person who does not have sovereign or other special immunity or privilege which causes the person not to be subject to legal process.*

*"(5) LEGAL PROCESS.—The term 'legal process' means any writ, order, summons, or other similar process in the nature of garnishment—*

*"(A) which is issued by—*

*"(i) a court or an administrative agency of competent jurisdiction in any State, territory, or possession of the United States;*

*"(ii) a court or an administrative agency of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor the process; or*

*"(iii) an authorized official pursuant to an order of such a court or an administrative agency of competent jurisdiction or pursuant to State or local law; and*

*"(B) which is directed to, and the purpose of which is to compel, a governmental entity which holds moneys which are otherwise payable to an individual to make a payment from the moneys to another party in order to satisfy a legal obligation of the individual to provide child support or make alimony payments.".*

*(b) CONFORMING AMENDMENTS.—*

*(1) TO PART D OF TITLE IV.—Sections 461 and 462 (42 U.S.C. 661 and 662) are repealed.*

*(2) TO TITLE 5, UNITED STATES CODE.—Section 5520a of title 5, United States Code, is amended, in subsections (h)(2) and (i), by striking "sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)" and inserting "section 459 of the Social Security Act (42 U.S.C. 659)".*

*(c) MILITARY RETIRED AND RETAINER PAY.—*

*(1) DEFINITION OF COURT.—Section 1408(a)(1) of title 10, United States Code, is amended—*

*(A) by striking "and" at the end of subparagraph (B);*

*(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and*

*(C) by adding after subparagraph (C) the following: new subparagraph*

*"(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a program under a State plan approved under part D of title IV of the Social Security Act), and, for purposes of this subparagraph, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.".*

*(2) DEFINITION OF COURT ORDER.—Section 1408(a)(2) of such title is amended—*

*(A) by inserting "or a support order, as defined in section 453(p) of the Social Security Act (42 U.S.C. 653(p)),'' before "which—";*

*(B) in subparagraph (B)(i), by striking "(as defined in section 462(b) of the Social Security Act (42 U.S.C. 662(b)))" and inserting "(as defined in section 459(i)(2) of the Social Security Act (42 U.S.C. 662(i)(2)))"; and*

*(C) in subparagraph (B)(ii), by striking "(as defined in section 462(c) of the Social Secu-*

*rity Act (42 U.S.C. 662(c)))" and inserting "(as defined in section 459(i)(3) of the Social Security Act (42 U.S.C. 662(i)(3)))".*

*(3) PUBLIC PAYEE.—Section 1408(d) of such title is amended—*

*(A) in the heading, by inserting "(OR FOR BENEFIT OF)" before "SPOUSE OR"; and*

*(B) in paragraph (1), in the 1st sentence, by inserting "(or for the benefit of such spouse or former spouse to a State disbursement unit established pursuant to section 454B of the Social Security Act or other public payee designated by a State, in accordance with part D of title IV of the Social Security Act, as directed by court order, or as otherwise directed in accordance with such part D)" before "in an amount sufficient".*

*(4) RELATIONSHIP TO PART D OF TITLE IV.—Section 1408 of such title is amended by adding at the end the following new subsection:*

*"(j) RELATIONSHIP TO OTHER LAWS.—In any case involving an order providing for payment of child support (as defined in section 459(i)(2) of the Social Security Act) by a member who has never been married to the other parent of the child, the provisions of this section shall not*

*apply, and the case shall be subject to the provisions of section 459 of such Act.".*

*(d) EFFECTIVE DATE.—The amendments made by this section shall become effective 6 months after the date of the enactment of this Act.*

***SEC. 12363. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.***

*(a) AVAILABILITY OF LOCATOR INFORMATION.—*

*(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Transportation, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.*

*(2) TYPE OF ADDRESS.—*

*(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.*

*(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the loca-*

*tor service shall be the duty address of that member in the case of a member—*

*(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or*

*(ii) with respect to whom the Secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.*

*(3) UPDATING OF LOCATOR INFORMATION.—Within 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.*

*(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service established under section 453 of the Social Security Act.*

*(b) FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS.—*

*(1) REGULATIONS.—The Secretary of each military department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to facilitate the granting of leave to a member of the Armed Forces under the jurisdiction of that Secretary in a case in which—*

*(A) the leave is needed for the member to attend a hearing described in paragraph (2);*

*(B) the member is not serving in or with a unit deployed in a contingency operation (as defined in section 101 of title 10, United States Code); and*

*(C) the exigencies of military service (as determined by the Secretary concerned) do not otherwise require that such leave not be granted.*

*(2) COVERED HEARINGS.—Paragraph (1) applies to a hearing that is conducted by a court or pursuant to an administrative process established under State law, in connection with a civil action—*

*(A) to determine whether a member of the Armed Forces is a natural parent of a child; or*

*(B) to determine an obligation of a member of the Armed Forces to provide child support.*

*(3) DEFINITIONS.—For purposes of this subsection—*

*(A) The term "court" has the meaning given that term in section 1408(a) of title 10, United States Code.*

*(B) The term "child support" has the meaning given such term in section 459(i) of the Social Security Act (42 U.S.C. 659(i)).*

*(c) PAYMENT OF MILITARY RETIRED PAY IN COMPLIANCE WITH CHILD SUPPORT ORDERS.—*

*(1) DATE OF CERTIFICATION OF COURT ORDER.—Section 1408 of title 10, United States Code, as amended by section 362(c)(4) of this Act, is amended—*

*(A) by redesignating subsections (i) and (j) as subsections (j) and (k), respectively; and*

*(B) by inserting after subsection (h) the following new subsection:*

*"(i) CERTIFICATION DATE.—It is not necessary that the date of a certification of the authenticity or completeness of a copy of a court order for child support received by the Secretary concerned for the purposes of this section be recent in relation to the date of receipt by the Secretary.".*

*(2) PAYMENTS CONSISTENT WITH ASSIGNMENTS OF RIGHTS TO STATES.—Section 1408(d)(1) of such*

*title is amended by inserting after the 1st sentence the following new sentence: "In the case of a spouse or former spouse who, pursuant to section 407(a)(4) of the Social Security Act (42 U.S.C. 607(a)(4)), assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with that assignment of rights.".*

*(3) ARREARAGES OWED BY MEMBERS OF THE UNIFORMED SERVICES.—Section 1408(d) of such title is amended by adding at the end the following new paragraph:*

*"(6) In the case of a court order for which effective service is made on the Secretary concerned on or after the date of the enactment of this paragraph and which provides for payments from the disposable retired pay of a member to satisfy the amount of child support set forth in the order, the authority provided in paragraph (1) to make payments from the disposable retired pay of a member to satisfy the amount of child support set forth in a court order shall apply to payment of any amount of child support arrearages set forth in that order as well as to amounts of child support that currently become due.".*

*(4) PAYROLL DEDUCTIONS.—The Secretary of Defense shall begin payroll deductions within 30 days after receiving notice of withholding, or for the 1st pay period that begins after such 30-day period.*

***SEC. 12364. VOIDING OF FRAUDULENT TRANSFERS.***

*Section 466 (42 U.S.C. 666), as amended by section 321 of this Act, is amended by adding at the end the following new subsection:*

*"(g) LAWS VOIDING FRAUDULENT TRANSFERS.—In order to satisfy section 454(20)(A), each State must have in effect—*

*"(1)(A) the Uniform Fraudulent Conveyance Act of 1981;*

*"(B) the Uniform Fraudulent Transfer Act of 1984; or*

*"(C) another law, specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to avoid payment to a child support creditor, which the Secretary finds affords comparable rights to child support creditors; and*

*"(2) procedures under which, in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must—*

*"(A) seek to void such transfer; or*

*"(B) obtain a settlement in the best interests of the child support creditor.".*

***SEC. 12365. WORK REQUIREMENT FOR PERSONS OWING PAST-DUE CHILD SUPPORT.***

*(a) IN GENERAL.—Section 466(a) of the Social Security Act (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), and 12323 of this Act, is amended by adding at the end the following new paragraph:*

*"(15) PROCEDURES TO ENSURE THAT PERSONS OWING PAST-DUE SUPPORT WORK OR HAVE A PLAN FOR PAYMENT OF SUCH SUPPORT.—*

*"(A) IN GENERAL.—Procedures under which the State has the authority, in any case in which an individual owes past-due support with respect to a child receiving assistance under a State program funded under part A, to seek a court order that requires the individual to—*

*"(i) pay such support in accordance with a plan approved by the court, or, at the option of the State, a plan approved by the State agency administering the State program under this part; or*

*"(ii) if the individual is subject to such a plan and is not incapacitated, participate*

*in such work activities (as defined in section 406(d)) as the court, or, at the option of the State, the State agency administering the State program under this part, deems appropriate.*

*"(B) PAST-DUE SUPPORT DEFINED.—For purposes of subparagraph (A), the term 'past-due support' means the amount of a delinquency, determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a child, or of a child and the parent with whom the child is living.".*

*(b) CONFORMING AMENDMENT.—The flush paragraph at the end of section 466(a) (42 U.S.C.666(a)) is amended by striking "and (7)" and inserting "(7), and (15)".*

***SEC. 12366. DEFINITION OF SUPPORT ORDER.***

*Section 453 (42 U.S.C. 653) as amended by sections 12316 and 12345(b) of this Act, is amended by adding at the end the following new subsection:*

*"(p) SUPPORT ORDER DEFINED.—As used in this part, the term 'support order' means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a*

*child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees, and other relief.".*

***SEC. 12367. REPORTING ARREARAGES TO CREDIT BUREAUS.***

*Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended to read as follows:*

*"(7) REPORTING ARREARAGES TO CREDIT BUREAUS.—*

*"(A) IN GENERAL.—Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) the name of any noncustodial parent who is delinquent in the payment of support, and the amount of overdue support owed by such parent.*

*"(B) SAFEGUARDS.—Procedures ensuring that, in carrying out subparagraph (A), information with respect to a noncustodial parent is reported—*

*"(i) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and*

*"(ii) only to an entity that has furnished evidence satisfactory to the State that the entity is a consumer reporting agency (as so defined).".*

***SEC. 12368. LIENS.***

*Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended to read as follows:*

*"(4) LIENS.—Procedures under which—*

*"(A) liens arise by operation of law against real and personal property for amounts of overdue support owed by a noncustodial parent who resides or owns property in the State; and*

*"(B) the State accords full faith and credit to liens described in subparagraph (A) arising in another State, without registration of the underlying order.".*

***SEC. 12369. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.***

*Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), 12323, and 12365 of this Act, is amended by adding at the end the following:*

*"(16) AUTHORITY TO WITHHOLD OR SUSPEND LICENSES.—Procedures under which the State has (and uses in appropriate cases) authority to withhold or suspend, or to restrict the use of driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.".*

***SEC. 12370. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.***

*(a) AUTHORITY FOR INTERNATIONAL AGREEMENTS.—Part D of title IV, as amended by section 362(a) of this Act, is amended by adding after section 459 the following new section:*

***"SEC. 459A. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.***

*"(a) AUTHORITY FOR DECLARATIONS.—*

*"(1) DECLARATION.—The Secretary of State, with the concurrence of the Secretary of Health and Human Services, is authorized to declare any foreign*

*country (or a political subdivision thereof) to be a foreign reciprocating country if the foreign country has established, or undertakes to establish, procedures for the establishment and enforcement of duties of support owed to obligees who are residents of the United States, and such procedures are substantially in conformity with the standards prescribed under subsection (b).*

*"(2) REVOCATION.—A declaration with respect to a foreign country made pursuant to paragraph (1) may be revoked if the Secretaries of State and Health and Human Services determine that—*

*"(A) the procedures established by the foreign nation regarding the establishment and enforcement of duties of support have been so changed, or the foreign nation's implementation of such procedures is so unsatisfactory, that such procedures do not meet the criteria for such a declaration; or*

*"(B) continued operation of the declaration is not consistent with the purposes of this part.*

*"(3) FORM OF DECLARATION.—A declaration under paragraph (1) may be made in the form of an international agreement, in connection with an inter-*

*national agreement or corresponding foreign declaration, or on a unilateral basis.*

*"(b) STANDARDS FOR FOREIGN SUPPORT ENFORCEMENT PROCEDURES.—*

*"(1) MANDATORY ELEMENTS.—Child support enforcement procedures of a foreign country which may be the subject of a declaration pursuant to subsection (a)(1) shall include the following elements:*

*"(A) The foreign country (or political subdivision thereof) has in effect procedures, available to residents of the United States—*

*"(i) for establishment of paternity, and for establishment of orders of support for children and custodial parents; and*

*"(ii) for enforcement of orders to provide support to children and custodial parents, including procedures for collection and appropriate distribution of support payments under such orders.*

*"(B) The procedures described in subparagraph (A), including legal and administrative assistance, are provided to residents of the United States at no cost.*

*"(C) An agency of the foreign country is designated as a Central Authority responsible for—*

*"(i) facilitating child support enforcement in cases involving residents of the foreign nation and residents of the United States; and*

*"(ii) ensuring compliance with the standards established pursuant to this subsection.*

*"(2) ADDITIONAL ELEMENTS.—The Secretary of Health and Human Services and the Secretary of State, in consultation with the States, may establish such additional standards as may be considered necessary to further the purposes of this section.*

*"(c) DESIGNATION OF UNITED STATES CENTRAL AUTHORITY.—It shall be the responsibility of the Secretary of Health and Human Services to facilitate child support enforcement in cases involving residents of the United States and residents of foreign nations that are the subject of a declaration under this section, by activities including—*

*"(1) development of uniform forms and procedures for use in such cases;*

*"(2) notification of foreign reciprocating countries of the State of residence of individuals sought for support enforcement purposes, on the basis of infor-*

*mation provided by the Federal Parent Locator Service; and*

*"(3) such other oversight, assistance, and coordination activities as the Secretary may find necessary and appropriate.*

*"(d) EFFECT ON OTHER LAWS.—States may enter into reciprocal arrangements for the establishment and enforcement of child support obligations with foreign countries that are not the subject of a declaration pursuant to subsection (a), to the extent consistent with Federal law.".*

*(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 12301(b), 12303(a), 12312(b), 12313(a), 12333, and 12343(b) of this Act, is amended—*

*(1) by striking "and" at the end of paragraph (29);*

*(2) by striking the period at the end of paragraph (30) and inserting "; and"; and*

*(3) by adding after paragraph (30) the following new paragraph:*

*"(31)(A) provide that any request for services under this part by a foreign reciprocating country or a foreign country with which the State has an arrangement described in section 459A(d)(2) shall be treated as a request by a State;*

*"(B) provide, at State option, notwithstanding paragraph (4) or any other provision of this part, for services under the plan for enforcement of a spousal support order not described in paragraph (4)(B) entered by such a country (or subdivision); and*

*"(C) provide that no applications will be required from, and no costs will be assessed for such services against, the foreign reciprocating country or foreign obligee (but costs may at State option be assessed against the obligor).".*

***SEC. 12371. FINANCIAL INSTITUTION DATA MATCHES.***

*Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), 12323, 12365, and 12369 of this Act, is amended by adding at the end the following new paragraph:*

*"(17) FINANCIAL INSTITUTION DATA MATCHES.—*

*"(A) IN GENERAL.—Procedures under which the State agency shall enter into agreements with financial institutions doing business in the State—*

*"(i) to develop and operate, in coordination with such financial institutions, a data match system, using automated data exchanges to the maximum extent feasible, in which each such financial institution is*

*required to provide for each calendar quarter the name, record address, social security number or other taxpayer identification number, and other identifying information for each noncustodial parent who maintains an account at such institution and who owes past-due support, as identified by the State by name and social security number or other taxpayer identification number; and*

*"(ii) in response to a notice of lien or levy, encumber or surrender, as the case may be, assets held by such institution on behalf of any noncustodial parent who is subject to a child support lien pursuant to paragraph (4).*

*"(B) REASONABLE FEES.—The State agency may pay a reasonable fee to a financial institution for conducting the data match provided for in subparagraph (A)(i), not to exceed the actual costs incurred by such financial institution.*

*"(C) LIABILITY.—A financial institution shall not be liable under any Federal or State law to any person—*

*"(i) for any disclosure of information to the State agency under subparagraph (A)(i);*

*"(ii) for encumbering or surrendering any assets held by such financial institution in response to a notice of lien or levy issued by the State agency as provided for in subparagraph (A)(ii); or*

*"(iii) for any other action taken in good faith to comply with the requirements of subparagraph (A).*

*"(D) DEFINITIONS.—For purposes of this paragraph—*

*"(i) FINANCIAL INSTITUTION.—The term 'financial institution' means any Federal or State commercial savings bank, including savings association or cooperative bank, Federal- or State-chartered credit union, benefit association, insurance company, safe deposit company, money-market mutual fund, or any similar entity authorized to do business in the State; and*

*"(ii) ACCOUNT.—The term 'account' means a demand deposit account, checking or negotiable withdrawal order account,*

*savings account, time deposit account, or money-market mutual fund account.".*

***SEC. 12372. ENFORCEMENT OF ORDERS AGAINST PATERNAL OR MATERNAL GRANDPARENTS IN CASES OF MINOR PARENTS.***

*Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), 12323, 12365, 12369, and 12371 of this Act, is amended by adding at the end the following new paragraph:*

*"(18) ENFORCEMENT OF ORDERS AGAINST PATERNAL OR MATERNAL GRANDPARENTS.—Procedures under which, at the State's option, any child support order enforced under this part with respect to a child of minor parents, if the custodial parents of such child is receiving assistance under the State program under part A, shall be enforceable, jointly and severally, against the parents of the noncustodial parents of such child.".*

## *CHAPTER 8—MEDICAL SUPPORT*

***SEC. 12376. CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER.***

*(a) IN GENERAL.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended—*

*(1) by striking "issued by a court of competent jurisdiction";*

*(2) by striking the period at the end of clause (ii) and inserting a comma; and*

*(3) by adding, after and below clause (ii), the following:*

*"if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued through an administrative process established under State law and has the force and effect of law under applicable State law.".*

*(b) EFFECTIVE DATE.—*

*(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.*

*(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1996.—Any amendment to a plan required to be made by an amendment made by this section shall not be required to be made before the 1st plan year beginning on or after January 1, 1996, if—*

*(A) during the period after the date before the date of the enactment of this Act and before such 1st plan year, the plan is operated in accordance with the requirements of the amendments made by this section; and*

*(B) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such 1st plan year.*

*A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.*

***SEC. 12377. ENFORCEMENT OF ORDERS FOR HEALTH CARE COVERAGE.***

*Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), 12323, 12365, 12369, 12371, and 12372 of this Act, is amended by adding at the end the following new paragraph:*

*"(19) HEALTH CARE COVERAGE.—Procedures under which all child support orders enforced pursuant to this part shall include a provision for the health care coverage of the child, and in the case in which a noncustodial parent provides such coverage and changes employment, and the new employer provides health care coverage, the State agency shall transfer notice of the provision to the employer, which notice shall operate to enroll the child in the noncustodial parent's health plan, unless the noncustodial parent contests the notice.".*

## *CHAPTER 9—ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NON-RESIDENTIAL PARENTS*

### *SEC. 12381. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.*

*Part D of title IV (42 U.S.C. 651–669) is amended by adding at the end the following:*

### *"SEC. 469A. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.*

*"(a) IN GENERAL.—The Administration for Children and Families shall make grants under this section to enable States to establish and administer programs to support and facilitate noncustodial parents' access to and visitation of their children, by means of activities including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision and neutral drop-off and pickup), and development of guidelines for visitation and alternative custody arrangements.*

*"(b) AMOUNT OF GRANT.—The amount of the grant to be made to a State under this section for a fiscal year shall be an amount equal to the lesser of—*

*"(1) 90 percent of State expenditures during the fiscal year for activities described in subsection (a); or*

*"(2) the allotment of the State under subsection (c) for the fiscal year.*

*"(c) ALLOTMENTS TO STATES.—*

*"(1) IN GENERAL.—The allotment of a State for a fiscal year is the amount that bears the same ratio to the amount appropriated for grants under this section for the fiscal year as the number of children in the State living with only 1 biological parent bears to the total number of such children in all States.*

*"(2) MINIMUM ALLOTMENT.—The Administration for Children and Families shall adjust allotments to States under paragraph (1) as necessary to ensure that no State is allotted less than—*

*"(A) $50,000 for fiscal year 1996 or 1997; or*

*"(B) $100,000 for any succeeding fiscal year.*

*"(d) NO SUPPLANTATION OF STATE EXPENDITURES FOR SIMILAR ACTIVITIES.—A State to which a grant is made under this section may not use the grant to supplant expenditures by the State for activities specified in subsection (a), but shall use the grant to supplement such expenditures at a level at least equal to the level of such expenditures for fiscal year 1995.*

*"(e) STATE ADMINISTRATION.—Each State to which a grant is made under this section—*

*"(1) may administer State programs funded with the grant, directly or through grants to or contracts with courts, local public agencies, or non-profit private entities;*

*"(2) shall not be required to operate such programs on a statewide basis; and*

*"(3) shall monitor, evaluate, and report on such programs in accordance with regulations prescribed by the Secretary.".*

## *CHAPTER 10—EFFECT OF ENACTMENT*

### *SEC. 12391. EFFECTIVE DATES.*

*(a) IN GENERAL.—Except as otherwise specifically provided (but subject to subsections (b) and (c))—*

*(1) the provisions of this subtitle requiring the enactment or amendment of State laws under section 466 of the Social Security Act, or revision of State plans under section 454 of such Act, shall be effective with respect to periods beginning on and after October 1, 1996; and*

*(2) all other provisions of this subtitle shall become effective upon the date of the enactment of this Act.*

*(b) GRACE PERIOD FOR STATE LAW CHANGES.—The provisions of this subtitle shall become effective with respect to a State on the later of—*

*(1) the date specified in this subtitle, or*

*(2) the effective date of laws enacted by the legislature of such State implementing such provisions,*

*but in no event later than the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.*

*(c) GRACE PERIOD FOR STATE CONSTITUTIONAL AMENDMENT.—A State shall not be found out of compliance with any requirement enacted by this subtitle if the State is unable to so comply without amending the State constitution until the earlier of—*

*(1) 1 year after the effective date of the necessary State constitutional amendment; or*

*(2) 5 years after the date of the enactment of this Act.*

# *Subtitle D—Restricting Welfare and Public Benefits for Aliens*

## *CHAPTER 1—ELIGIBILITY FOR FEDERAL BENEFITS*

### *SEC. 12401. ALIENS WHO ARE NOT QUALIFIED ALIENS INELIGIBLE FOR FEDERAL PUBLIC BENEFITS.*

*(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), an alien who is not a qualified alien (as defined section 12431) is not eligible for any Federal public benefit (as defined in subsection (c)).*

*(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following Federal public benefits:*

*(1) Emergency medical services under title XIX or XXI of the Social Security Act.*

*(2) Short-term, non-cash, in-kind emergency disaster relief.*

*(3)(A) Public health assistance for immunizations.*

*(B) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.*

*(4) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.*

*(5) Programs for housing or community development assistance or financial assistance administered by the Secretary of Housing and Urban Development, any program under title V of the Housing Act of 1949, or any assistance under section 306C of the Consolidated Farm and Rural Development Act, to the extent that the alien is receiving such a benefit on the date of the enactment of this Act.*

*(c) FEDERAL PUBLIC BENEFIT DEFINED.—*

*(1) Except as provided in paragraph (2), for purposes of this subtitle the term "Federal public benefit" means a Federal public benefit providing direct spending for—*

*(A) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and*

*(B) any retirement, welfare, health, disability, public or assisted housing, post-secondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.*

*(2) Such term shall not apply—*

*(A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States; or*

*(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the*

*Attorney General, after consultation with the Secretary of State.*

***SEC. 12402. LIMITED ELIGIBILITY OF CERTAIN QUALIFIED ALIENS FOR CERTAIN FEDERAL PROGRAMS.***

*(a) LIMITED ELIGIBILITY FOR SPECIFIED FEDERAL PROGRAMS.—*

*(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in paragraph (2), an alien who is a qualified alien (as defined in section 12431) is not eligible for any specified Federal program (as defined in paragraph (3)).*

*(2) EXCEPTIONS.—*

*(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—Paragraph (1) shall not apply to an alien until 5 years after the date—*

*(i) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;*

*(ii) an alien is granted asylum under section 208 of such Act; or*

*(iii) an alien's deportation is withheld under section 243(h) of such Act.*

*(B) CERTAIN PERMANENT RESIDENT ALIENS.—Paragraph (1) shall not apply to an alien who—*

*(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and*

*(ii)(I) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act, and (II) did not receive any Federal means-tested public benefit (as defined in section 12403(c)) during any such quarter.*

*(C) VETERAN AND ACTIVE DUTY EXCEPTION.—Paragraph (1) shall not apply to an alien who is lawfully residing in any State and is—*

*(i) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,*

*(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or*

*(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii).*

*(D) TRANSITION FOR ALIENS CURRENTLY RECEIVING BENEFITS.—Paragraph (1) shall*

*apply to the eligibility of an alien for a program for months beginning on or after January 1, 1997, if, on the date of the enactment of this Act, the alien is lawfully residing in any State and is receiving benefits under such program on the date of the enactment of this Act.*

*(3) SPECIFIED FEDERAL PROGRAM DEFINED.—For purposes of this subtitle, the term "specified Federal program" means any of the following:*

*(A) SSI.—The supplemental security income program under title XVI of the Social Security Act.*

*(B) FOOD STAMPS.—The food stamp program as defined in section 3(h) of the Food Stamp Act of 1977.*

*(b) LIMITED ELIGIBILITY FOR DESIGNATED FEDERAL PROGRAMS.—*

*(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in section 12403 and paragraph (2), a State is authorized to determine the eligibility of an alien who is a qualified alien (as defined in section 12431) for any designated Federal program (as defined in paragraph (3)).*

*(2) EXCEPTIONS.—Qualified aliens under this paragraph shall be eligible for any designated Federal program.*

*(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—*

*(i) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until 5 years after the date of an alien's entry into the United States.*

*(ii) An alien who is granted asylum under section 208 of such Act until 5 years after the date of such grant of asylum.*

*(iii) An alien whose deportation is being withheld under section 243(h) of such Act until 5 years after such withholding.*

*(B) CERTAIN PERMANENT RESIDENT ALIENS.—An alien who—*

*(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and*

*(ii)(I) has worked 40 qualifying quarters of coverage to be a fully insured individual for old-age retirement benefits under title II of the Social Security Act, (II) did*

*not receive any Federal means-tested public benefit (as defined in section 12403(c)) during any such quarter, and (III) at the time of application is otherwise eligible for such benefits.*

*(C) VETERAN AND ACTIVE DUTY EXCEPTION.—An alien who is lawfully residing in any State and is—*

*(i) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,*

*(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or*

*(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii).*

*(D) TRANSITION FOR THOSE CURRENTLY RECEIVING BENEFITS.—An alien who on the date of the enactment of this Act is lawfully residing in any State and is receiving benefits under such program on the date of the enactment of this Act shall continue to be eligible to receive such benefits until January 1, 1997.*

*(3) DESIGNATED FEDERAL PROGRAM DEFINED.—For purposes of this subtitle, the term "designated Federal program" means any of the following:*

*(A) TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.—The program of block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act.*

*(B) SOCIAL SERVICES BLOCK GRANT.—The program of block grants to States for social services under title XX of the Social Security Act.*

*(C) MEDICAID AND MEDIGRANT.—The program of medical assistance under title XIX and XXI of the Social Security Act.*

***SEC. 12403. FIVE-YEAR LIMITED ELIGIBILITY OF QUALIFIED ALIENS FOR FEDERAL MEANS-TESTED PUBLIC BENEFIT.***

*(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), an alien who is a qualified alien (as defined in section 12431) and who enters the United States on or after the date of the enactment of this Act is not eligible for any Federal means-tested public benefit (as defined in subsection (c)) for a period of five years beginning on the date of the alien's*

*entry into the United States with a status within the meaning of the term "qualified alien".*

*(b) EXCEPTIONS.—The limitation under subsection (a) shall not apply to the following aliens:*

*(1) EXCEPTION FOR REFUGEES AND ASYLEES.—*

*(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act.*

*(B) An alien who is granted asylum under section 208 of such Act.*

*(C) An alien whose deportation is being withheld under section 243(h) of such Act.*

*(2) VETERAN AND ACTIVE DUTY EXCEPTION.—An alien who is lawfully residing in any State and is—*

*(A) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,*

*(B) on active duty (other than active duty for training) in the Armed Forces of the United States, or*

*(C) the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B).*

*(c) FEDERAL MEANS-TESTED PUBLIC BENEFIT DEFINED.—*

*(1) Except as provided in paragraph (2), for purposes of this subtitle, the term "Federal means-tested public benefit" means a Federal public benefit providing direct spending (including cash, medical, housing, and food assistance and social services) by the Federal Government in which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.*

*(2) Such term does not include the following:*

*(A) Emergency medical services under title XIX or XXI of the Social Security Act.*

*(B) Short-term, non-cash, in-kind emergency disaster relief.*

*(C) Assistance or benefits under the National School Lunch Act.*

*(D) Assistance or benefits under the Child Nutrition Act of 1966.*

*(E)(i) Public health assistance for immunizations.*

*(ii) Public health assistance for testing and treatment of a serious communicable*

*disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.*

*(F) Payments for foster care and adoption assistance under part B of title IV of the Social Security Act for a child who would, in the absence of subsection (a), be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent or parents of such child are not described under subsection (a).*

*(G) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.*

*(H) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965.*

*(I) Means-tested programs under the Elementary and Secondary Education Act of 1965.*

## *CHAPTER 2—ATTRIBUTION OF INCOME AND AFFIDAVITS OF SUPPORT*

### *SEC. 12421. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN.*

*(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (c), in determining the eligibility and the amount of benefits of an alien for any means-tested public benefits program (as defined in subsection (e)) the income and resources of the alien shall be deemed to include the following:*

*(1) The income and resources of any person who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as added by section 12422) in behalf of such alien.*

*(2) The income and resources of the spouse (if any) of the person.*

*(b) APPLICATION.—Subsection (a) shall apply with respect to an alien until such time as the alien achieves United States citizenship through naturalization pursuant to*

*chapter 2 of title III of the Immigration and Nationality Act.*

*(c) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following Federal public benefits:*

*(1) Emergency medical services under title XIX or XXI of the Social Security Act.*

*(2) Short-term, non-cash, in-kind emergency disaster relief.*

*(3) Assistance or benefits under the National School Lunch Act.*

*(4) Assistance or benefits under the Child Nutrition Act of 1966.*

*(5)(A) Public health assistance for immunizations.*

*(B) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.*

*(6) Payments for foster care and adoption assistance under part B of title IV of the Social Security Act for a child who would, in the absence of subsection (a), be eligible to have such payments made on the child's behalf under such part, but only if the fos-*

*ter or adoptive parent or parents of such child are not described under subsection (a).*

*(7) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.*

*(8) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965.*

*(d) REVIEW OF INCOME AND RESOURCES OF ALIEN UPON REAPPLICATION.—Whenever an alien is required to reapply for benefits under any means-tested public benefits program, the applicable agency shall review the income and resources attributed to the alien under subsection (a).*

*(e) MEANS-TESTED PUBLIC BENEFITS PROGRAM DEFINED.—The term "means-tested public benefits program" means a program of Federal public benefits providing di-*

*rect spending (including cash, medical, housing, and food assistance and social services) by the Federal government in which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.*

*(f) APPLICATION.—*

*(1) If on the date of the enactment of this Act, a means-tested public benefits program attributes a sponsor's income and resources to an alien in determining the alien's eligibility and the amount of benefits for an alien, this section shall apply to any such determination beginning on the day after the date of the enactment of this Act.*

*(2) If on the date of the enactment of this Act, a means-tested public benefits program does not attribute a sponsor's income and resources to an alien in determining the alien's eligibility and the amount of benefits for an alien, this section shall apply to any such determination beginning 180 days after the date of the enactment of this Act.*

***SEC. 12422. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.***

*(a) IN GENERAL.—Title II of the Immigration and Nationality Act is amended by inserting after section 213 the following new section:*

*"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT*

*"SEC. 213A. (a) ENFORCEABILITY.—(1) No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) unless such affidavit is executed as a contract—*

*"(A) which is legally enforceable against the sponsor by the sponsored alien, the Federal Government, and by any State (or any political subdivision of such State) which provides any means-tested public benefits program, but not later than 10 years after the alien last receives any such benefit;*

*"(B) in which the sponsor agrees to financially support the alien, so that the alien will not become a public charge; and*

*"(C) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (e)(2).*

*"(2) A contract under paragraph (1) shall be enforceable with respect to benefits provided to the alien until such*

*time as the alien achieves United States citizenship through naturalization pursuant to chapter 2 of title III.*

*"(b) FORMS.—Not later than 90 days after the date of enactment of this section, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall formulate an affidavit of support consistent with the provisions of this section.*

*"(c) REMEDIES.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.*

*"(d) NOTIFICATION OF CHANGE OF ADDRESS.—*

*"(1) IN GENERAL.—The sponsor shall notify the Attorney General and the State in which the sponsored alien is currently resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(2).*

*"(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of—*

*"(A) not less than $250 or more than $2,000, or*

*"(B) if such failure occurs with knowledge that the alien has received any means-tested public benefit, not less than $2,000 or more than $5,000.*

*"(e) REIMBURSEMENT OF GOVERNMENT EXPENSES.—(1)(A) Upon notification that a sponsored alien has received any benefit under any means-tested public benefits program, the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such assistance.*

*"(B) The Attorney General, in consultation with the Secretary of Health and Human Services, shall prescribe such regulations as may be necessary to carry out subparagraph (A).*

*"(2) If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought against the sponsor pursuant to the affidavit of support.*

*"(3) If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.*

*"(4) No cause of action may be brought under this subsection later than 10 years after the alien last received any benefit under any means-tested public benefits program.*

*"(5) If, pursuant to the terms of this subsection, a Federal, State, or local agency requests reimbursement from the sponsor in the amount of assistance provided, or brings an action against the sponsor pursuant to the affidavit of support, the appropriate agency may appoint or hire an individual or other person to act on behalf of such agency acting under the authority of law for purposes of collecting any moneys owed. Nothing in this subsection shall preclude any appropriate Federal, State, or local agency from directly requesting reimbursement from a sponsor for the amount of assistance provided, or from bringing an action against a sponsor pursuant to an affidavit of support.*

*"(f) DEFINITIONS.—For the purposes of this section—*

*"(1) SPONSOR.—The term 'sponsor' means an individual who—*

*"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;*

*"(B) is 18 years of age or over;*

*"(C) is domiciled in any State; and*

*"(D) is the person petitioning for the admission of the alien under section 204.*

*"(2) MEANS-TESTED PUBLIC BENEFITS PROGRAM DEFINED.—The term 'means-tested public benefits program' means a program of Federal public benefits providing direct spending (including cash, medical, housing, and food assistance and social services) by the Federal Government in which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.".*

*(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 213 the following:*

*"Sec. 213A. Requirements for sponsor's affidavit of support.".*

*(c) EFFECTIVE DATE.—Subsection (a) of section 213A of the Immigration and Nationality Act, as inserted by subsection (a) of this section, shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under subsection (b) of such section.*

*(d) BENEFITS NOT SUBJECT TO REIMBURSEMENT.—Requirements for reimbursement by a sponsor for benefits provided to a sponsored alien pursuant to an affidavit of support under section 213A of the Immigration and Nationality Act shall not apply with respect to the following:*

*(1) Emergency medical services under title XIX or XXI of the Social Security Act.*

*(2) Short-term, non-cash, in-kind emergency disaster relief.*

*(3) Assistance or benefits under the National School Lunch Act.*

*(4) Assistance or benefits under the Child Nutrition Act of 1966.*

*(5)(A) Public health assistance for immunizations.*

*(B) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.*

*(6) Payments for foster care and adoption assistance under part B of title IV of the Social Security Act for a child who would, in the absence of subsection (a), be eligible to have such payments made on the child's behalf under such part, but only if the fos-*

*ter or adoptive parent or parents of such child are not described under subsection (a).*

*(7) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.*

*(8) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965.*

***SEC. 12423. COSIGNATURE OF ALIEN STUDENT LOANS.***

*Section 484(b) of the Higher Education Act of 1965 (20 U.S.C. 1091(b)) is amended by adding at the end the following new paragraph:*

*"(6) Notwithstanding sections 427(a)(2)(C), 428B(a), 428C(b)(4)(A), and 464(c)(1)(E), a student who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act*

*shall not be eligible for a loan under this title unless the loan is endorsed and cosigned by the alien's sponsor under section 213A of the Immigration and Nationality Act or by another individual who is a United States citizen.".*

## *CHAPTER 3—GENERAL PROVISIONS*

***SEC. 12431. DEFINITIONS.***

*(a) IN GENERAL.—Except as otherwise provided in this subtitle, the terms used in this subtitle have the same meaning given such terms in section 101(a) of the Immigration and Nationality Act.*

*(b) QUALIFIED ALIEN.—For purposes of this subtitle, the term "qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is—*

*(1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act,*

*(2) an alien who is granted asylum under section 208 of such Act,*

*(3) a refugee who is admitted to the United States under section 207 of such Act,*

*(4) an alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year,*

*(5) an alien whose deportation is being withheld under section 243(h) of such Act, or*

*(6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980.*

***SEC. 12432. REAPPLICATION FOR SSI BENEFITS.***

*(a) APPLICATION AND NOTICE.—Notwithstanding any other provision of law, in the case of an individual who is receiving supplemental security income benefits under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits would terminate by reason of the application of section 12402(a)(2)(D), the Commissioner of Social Security shall so notify the individual not later than 90 days after the date of the enactment of this Act.*

*(b) REAPPLICATION.—*

*(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, each individual notified pursuant to subsection (a) who desires to reapply for benefits under title XVI of the Social Security Act shall reapply to the Commissioner of Social Security.*

*(2) DETERMINATION OF ELIGIBILITY.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall deter-*

*mine the eligibility of each individual who reapplies for benefits under paragraph (1) pursuant to the procedures of such title XVI.*

***SEC. 12433. STATUTORY CONSTRUCTION.***

*(a) LIMITATION.—*

*(1) Nothing in this subtitle may be construed as an entitlement or a determination of an individual's eligibility or fulfillment of the requisite requirements for any Federal, State, or local governmental program, assistance, or benefits. For purposes of this subtitle, eligibility relates only to the general issue of eligibility or ineligibility on the basis of alienage.*

*(2) Nothing in this subtitle may be construed as addressing alien eligibility for a basic public education as determined by the Supreme Court of the United States under Plyler v. Doe (457 U.S. 202)(1982).*

*(b) NOT APPLICABLE TO FOREIGN ASSISTANCE.—This subtitle does not apply to any Federal, State, or local governmental program, assistance, or benefits provided to an alien under any program of foreign assistance as determined by the Secretary of State in consultation with the Attorney General.*

*(c) SEVERABILITY.—If any provision of this subtitle or the application of such provision to any person or cir-*

*cumstance is held to be unconstitutional, the remainder of this subtitle and the application of the provisions of such to any person or circumstance shall not be affected thereby.*

## *Subtitle E—Teaching Hospital and Graduate Medical Education Trust Fund*

### *CHAPTER 1—TRUST FUND*

#### *SEC. 12501. ESTABLISHMENT OF FUND; PAYMENTS TO TEACHING HOSPITALS.*

*The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding after title XXI the following title:*

*"TITLE XXII—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND*

*"TABLE OF CONTENTS OF TITLE*

*"PART A—ESTABLISHMENT OF FUND*

*"Sec. 2201. Establishment of Fund.*

*"PART B—PAYMENTS TO TEACHING HOSPITALS*

*"Subpart 1—Requirement of Payments*

*"Sec. 2211. Formula payments to teaching hospitals.*
*"Sec. 2212. Additional provisions regarding annual payment document.*

*"Subpart 2—Amount Relating to MedicarePlus Program*

*"Sec. 2221. Determination of amount relating to MedicarePlus program.*

*"Subpart 3—Amount Relating to Indirect Costs of Graduate Medical Education*

*"Sec. 2231. Determination of amount relating to indirect costs.*
*"Sec. 2232. Indirect costs; special rules regarding payments from general account.*

*"Subpart 4—Amount Relating to Direct Costs of Graduate Medical Education*

*"Sec. 2241. Determination of amount relating to direct costs.*

*"Sec. 2242. Direct costs; special rules regarding payments from general account.*
*"Sec. 2243. Direct costs; authority for payments to consortia of providers.*

1 *"PART A—ESTABLISHMENT OF FUND*

2 ***"SEC. 2201. ESTABLISHMENT OF FUND.***

3 *"(a) IN GENERAL.—There is established in the Treas-*
4 *ury of the United States a fund to be known as the Teaching*
5 *Hospital and Graduate Medical Education Trust Fund (in*
6 *this title referred to as the 'Fund'), consisting of amounts*
7 *appropriated to the Fund in subsections (d), (f)(3), and (g),*
8 *and amounts transferred to the Fund under section 1886(j).*
9 *Amounts in the Fund are available until expended.*

10 *"(b) EXPENDITURES FROM FUND.—Amounts in the*
11 *Fund are available to the Secretary for making payments*
12 *under section 2211.*

13 *"(c) ACCOUNTS IN FUND.—There are established with-*
14 *in the Fund the following accounts:*

15 *"(1) The General MedicarePlus Incentive Ac-*
16 *count.*

17 *"(2) The General Indirect-Costs Medical Edu-*
18 *cation Account.*

19 *"(3) The General Direct-Costs Medical Edu-*
20 *cation Account.*

21 *"(4) The Medicare Indirect-Costs Medical Edu-*
22 *cation Account.*

23 *"(5) The Medicare Direct-Costs Medical Edu-*
24 *cation Account.*

*"(d) GENERAL TRANSFERS TO FUND.—*

*"(1) IN GENERAL.—For fiscal year 1997 and each subsequent fiscal year, there are appropriated to the Fund (effective on the date specified in paragraph (2)), out of any money in the Treasury not otherwise appropriated, the following amounts (as applicable to the fiscal year involved):*

*"(A) For fiscal year 1997, $1,100,000,000.*

*"(B) For fiscal year 1998, $1,300,000,000.*

*"(C) For fiscal year 1999, $2,000,000,000.*

*"(D) For fiscal year 2000, $2,600,000,000.*

*"(E) For fiscal year 2001, $3,100,000,000.*

*"(F) For fiscal year 2002, $3,400,000,000.*

*"(G) For fiscal year 2003 and each subsequent fiscal year, the greater of the amount appropriated for the preceding fiscal year or an amount equal to the product of—*

*"(i) the amount appropriated for the preceding fiscal year; and*

*"(ii) 1 plus the percentage increase in the nominal gross domestic product for the one-year period ending upon July 1 of such preceding fiscal year.*

*"(2) EFFECTIVE DATE FOR ANNUAL APPROPRIATION.—For purposes of paragraph (1), the date speci-*

*fied in this paragraph for a fiscal year is the first day of the fiscal year.*

*"(3) ALLOCATION FOR GENERAL MEDICAREPLUS INCENTIVE ACCOUNT.—Of the amount appropriated in paragraph (1) for a fiscal year, there shall be allocated to the General MedicarePlus Incentive Account the following percentage (as applicable to the fiscal year involved):*

*"(A) For fiscal year 1997, 20 percent.*

*"(B) For fiscal year 1998, 30 percent.*

*"(C) For fiscal year 1999, 40 percent.*

*"(D) For fiscal year 2000 and each subsequent fiscal year, 50 percent.*

*"(4) ALLOCATIONS FOR GENERAL MEDICAL EDUCATION ACCOUNTS.—*

*"(A) IN GENERAL.—Of the amount appropriated in paragraph (1) for a fiscal year and remaining after the allocation required in paragraph (3) for the year has been made—*

*"(i) there shall be allocated to the General Indirect-Costs Medical Education Account the percentage determined under subparagraph (B)(ii); and*

*"(ii) there shall be allocated to the General Direct-Costs Medical Education Ac-*

*count the percentage determined under subparagraph (B)(iii).*

*"(B) DETERMINATION OF FIXED PERCENTAGES.—The Secretary of Health and Human Services, acting through the Administrator of the Health Care Financing Administration, shall determine the following:*

*"(i) The total amount of payments that were made under subsections (d)(5)(B) and (h) of section 1886 for fiscal year 1994.*

*"(ii) The percentage of such total that was constituted by payments under subsection (d)(5)(B) of such section.*

*"(iii) The percentage of such total that was constituted by payments under subsection (h) of such section.*

*"(e) TRANSFERS FROM MEDICARE PROGRAM.—Amounts shall, in accordance with section 1886(j), be transferred to the Fund from the trust funds established under parts A and B of title XVIII.*

*"(f) INVESTMENT.—*

*"(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be*

*made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.*

*"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.*

*"(3) AVAILABILITY OF INCOME.—Any interest derived from obligations acquired by the Fund, and proceeds from any sale or redemption of such obligations, are hereby appropriated to the Fund.*

*"(g) MONETARY GIFTS TO FUND.—There are appropriated to the Fund such amounts as may be unconditionally donated to the Federal Government as gifts to the Fund.*

*"PART B—PAYMENTS TO TEACHING HOSPITALS*

*"Subpart 1—Requirement of Payments*

***"SEC. 2211. FORMULA PAYMENTS TO TEACHING HOSPITALS.***

*"(a) IN GENERAL.—Subject to subsection (d), in the case of each teaching hospital that in accordance with subsection (b) submits to the Secretary a payment document for fiscal year 1997 or any subsequent fiscal year, the Secretary shall make payments for the year to the teaching hospital for the direct and indirect costs of operating ap-*

*proved medical residency training programs. Such payments shall be made from the Fund, and the total of the payments to the hospital for the fiscal year shall equal the sum of the following:*

*"(1) An amount determined under section 2221 (relating to the MedicarePlus program).*

*"(2) An amount determined under section 2231 (relating to the indirect costs of graduate medical education).*

*"(3) An amount determined under section 2241 (relating to the direct costs of graduate medical education).*

*"(b) PAYMENT DOCUMENT.—For purposes of subsection (a), a payment document is a document containing such information as may be necessary for the Secretary to make payments under such subsection to a teaching hospital during a fiscal year. The document is submitted in accordance with this subsection if the document is submitted not later than the date specified by the Secretary, and the document is in such form and is made in such manner as the Secretary may require. This subsection is subject to section 2212.*

*"(c) PERIODIC PAYMENTS.—Payments under subsection (a) for a teaching hospital for a fiscal year shall be made periodically, at such intervals and in such*

*amounts as the Secretary determines to be appropriate (subject to applicable Federal law regarding Federal payments).*

*"(d) SPECIAL RULES.—*

*"(1) PAYMENTS TO CONSORTIA OF PROVIDERS.—In the case of payments under subsection (a) that are determined under section 2241:*

*"(A) The requirement under such subsection to make the payments to teaching hospitals is subject to the authority of the Secretary under section 2243(a) to make payments to qualifying consortia.*

*"(B) If the Secretary authorizes payments to a consortium under section 2243(a), subsections (a) and (b) of this section (other than subsection (a)(2)) apply to the consortium to the same extent and in the same manner as the subsections apply to teaching hospitals.*

*"(2) HOSPITALS IN STATES WITH CERTAIN DEMONSTRATION PROJECTS.—Paragraph (2) of subsection (a) is subject to section 2232(d)(1)(B), and paragraph (3) of such subsection is subject to section 2242(d)(1)(B).*

*"(e) ADMINISTRATOR OF PROGRAMS.—This part, and the subsequent parts of this title, shall be carried out by*

*the Secretary acting through the Administrator of the Health Care Financing Administration.*

*"(f) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM .—For purposes of this title, the term 'approved medical residency training program' has the meaning given such term in section 1886(h)(5)(A).*

***"SEC. 2212. ADDITIONAL PROVISIONS REGARDING ANNUAL PAYMENT DOCUMENT.***

*"(a) PERIODIC REPORTS.—In collecting information under section 2211(b), the Secretary may require that information be submitted to the Secretary in periodic reports.*

*"(b) INFORMATION RELATING TO MEDICARE PROGRAM.—Information collected by the Secretary under section 2211(b) with respect to a teaching hospital for a fiscal year shall include information on the following:*

*"(1) The number of inpatient discharges for the fiscal year attributable to individuals enrolled in the MedicarePlus program under part C of title XVIII.*

*"(2) For each discharge with respect to which payment is received from the Secretary pursuant to part A of title XVIII, the diagnosis-related group within which the discharge is classified (as determined in accordance with section 1886(d)(4)(A)).*

*"(3) The medicare patient load of the hospital (as defined in section 1886(h)(3)(C)).*

*"Subpart 2—Amount Relating to MedicarePlus Program*

***"SEC. 2221. DETERMINATION OF AMOUNT RELATING TO MEDICAREPLUS PROGRAM.***

*"(a) IN GENERAL.—For purposes of section 2211(a)(1), the amount determined under this section for a teaching hospital for a fiscal year is the product of—*

*"(1) the amount in the General MedicarePlus Incentive Account on the date specified in section 2201(d)(2) (once the appropriation under such section is made); and*

*"(2) the percentage determined for the hospital under subsection (b) for the fiscal year.*

*"(b) ANNUAL HOSPITAL-SPECIFIC PERCENTAGE.—For purposes of subsection (a)(2), the percentage determined under this subsection for a teaching hospital for a fiscal year is the percentage constituted by the ratio of—*

*"(1) the number of inpatient discharges for the fiscal year attributable to individuals enrolled in the MedicarePlus program under part C of title XVIII; to*

*"(2) the sum of the respective numbers determined under paragraph (1) for the fiscal year for all teaching hospitals.*

*"Subpart 3—Amount Relating to Indirect Costs of Graduate Medical Education*

***"SEC. 2231. DETERMINATION OF AMOUNT RELATING TO INDIRECT COSTS.***

*"(a) IN GENERAL.—For purposes of section 2211(a)(2), the amount determined under this section for a teaching hospital for a fiscal year is the sum of—*

*"(1) the amount determined under subsection (b) (relating to the General Indirect-Costs Medical Education Account); and*

*"(2) the amount determined under subsection (c) (relating to the Medicare Indirect-Costs Medical Education Account), subject to section 2232(d)(1)(B).*

*"(b) PAYMENT FROM GENERAL ACCOUNT.—*

*"(1) IN GENERAL.—For purposes of subsection (a)(1), the amount determined under this subsection for a teaching hospital for a fiscal year is the product of—*

*"(A) the amount in the General Indirect-Costs Medical Education Account on the date specified in section 2201(d)(2) (once the appropriation under such section is made); and*

*"(B) the percentage determined for the hospital under paragraph (2).*

*"(2) FIXED HOSPITAL-SPECIFIC PERCENTAGE.—*

*"(A) IN GENERAL.—For purposes of paragraph (1)(B), the percentage determined under this paragraph for a teaching hospital is the mean average of the respective percentages determined under subparagraph (C) for each fiscal year of the applicable period (as defined in subparagraph (B)), adjusted by the Secretary (upward or downward, as the case may be) on a pro rata basis to the extent necessary to ensure that the sum of the percentages determined under this paragraph for all teaching hospitals is equal to 100 percent. The preceding sentence is subject to section 2232.*

*"(B) APPLICABLE PERIOD REGARDING RELEVANT DATA; FISCAL YEARS 1992 THROUGH 1994.—For purposes of this part, the term 'applicable period' means the period beginning on the first day of fiscal year 1992 and continuing through the end of fiscal year 1994.*

*"(C) RESPECTIVE DETERMINATIONS FOR FISCAL YEARS OF APPLICABLE PERIOD.—For purposes of subparagraph (A), the percentage determined under this subparagraph for a teaching hospital for a fiscal year of the applicable period is the percentage constituted by the ratio of—*

*"(i) the total amount of payments received by the hospital under section 1886(d)(5)(B) for discharges occurring during the fiscal year involved; to*

*"(ii) the sum of the respective amounts determined under clause (i) for the fiscal year for all teaching hospitals.*

*"(3) AVAILABILITY OF DATA.—If a teaching hospital received the payments specified in paragraph (2)(C)(i) during the applicable period but a complete set of the relevant data is not available to the Secretary for purposes of determining an amount under such paragraph for the fiscal year involved, the Secretary shall for purposes of such subsection make an estimate on the basis of such data as are available to the Secretary for the applicable period.*

*"(c) PAYMENT FROM MEDICARE ACCOUNT.—For purposes of subsection (a)(2), the amount determined under this subsection for a teaching hospital for a fiscal year is an amount determined in accordance with the methodology in effect under section 1886(d)(5)(B) for such year. Payments made under section 2211 pursuant to the preceding sentence shall be made from the Medicare Indirect-Costs Medical Education Account.*

***"SEC. 2232. INDIRECT COSTS; SPECIAL RULES REGARDING PAYMENTS FROM GENERAL ACCOUNT.***

*"(a) SPECIAL RULE REGARDING FISCAL YEARS 1995 AND 1996.—*

*"(1) IN GENERAL.—In the case of a teaching hospital whose first payments under section 1886(d)(5)(B) were for discharges occurring in fiscal year 1995 or in fiscal year 1996 (referred to in this subsection individually as a 'first payment year'), the percentage determined under paragraph (2) for the hospital is deemed to be the percentage applicable under section 2231(b)(2) to the hospital, subject to paragraph (3).*

*"(2) DETERMINATION OF FIXED PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for a teaching hospital is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:*

*"(A)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the total amount of payments received by the hospital under section 1886(d)(5)(B) for discharges occurring during fiscal year 1995.*

*"(ii) If the first payment year for the hospital is fiscal year 1996, the amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(d)(5)(B) for discharges occurring during fiscal year 1995 if such section, as in effect for fiscal year 1996, had applied to the hospital for discharges occurring during fiscal year 1995.*

*"(B)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the aggregate total of the payments received by teaching hospitals under section 1886(d)(5)(B) for discharges occurring during fiscal year 1995.*

*"(ii) If the first payment year for the hospital is fiscal year 1996—*

*"(I) the Secretary shall make an estimate in accordance with subparagraph (A)(ii) for all teaching hospitals; and*

*"(II) the amount determined under this subparagraph is the sum of the estimates made by the Secretary under subclause (I).*

*"(3) ADJUSTMENT OF PERCENTAGE.—The percentage determined under paragraph (2) shall be adjusted by the Secretary in accordance with section 2231(b)(2)(A) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.*

*"(b) NEW TEACHING HOSPITALS.—*

*"(1) IN GENERAL.—In the case of a teaching hospital that did not receive payments under section 1886(d)(5)(B) for any of the fiscal years 1992 through 1996, the percentage determined under paragraph (3) for the hospital is deemed to be the percentage applicable under section 2231(b)(2) to the hospital, subject to paragraphs (4) and (5).*

*"(2) DESIGNATED FISCAL YEAR REGARDING DATA.—The determination under paragraph (3) of a percentage for a teaching hospital described in paragraph (1) shall be made for the most recent fiscal year for which the Secretary has sufficient data to make the determination (referred to in this subsection as the 'designated fiscal year').*

*"(3) DETERMINATION OF FIXED PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for the teaching hospital involved is the percentage constituted by the ratio of*

*the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:*

*"(A) The amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(d)(5)(B) for the designated fiscal year if such section, as in effect for the first fiscal year for which payments pursuant to this subsection are to be made to the hospital, had applied to the hospital for the designated fiscal year.*

*"(B) The Secretary shall make an estimate in accordance with subparagraph (A) for all teaching hospitals. The amount determined under this subparagraph is the sum of the estimates made by the Secretary under the preceding sentence.*

*"(4) ADJUSTMENT OF PERCENTAGE.—The percentage determined under paragraph (3) shall be adjusted by the Secretary in accordance with section 2231(b)(2)(A) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.*

*"(5) LIMITATION.—This subsection does not apply to a teaching hospital described in paragraph (1) if the hospital is in a State for which a demonstration project under section 1814(b)(3) is in effect.*

*"(c) CONSOLIDATIONS AND MERGERS.—In the case of two or more teaching hospitals that have each received payments pursuant to section 2231 for one or more fiscal years and that undergo a consolidation or merger, the percentage applicable to the resulting teaching hospital for purposes of section 2231(b)(2) is the sum of the respective percentages that would have applied pursuant to such section if the hospitals had not undergone the consolidation or merger.*

*"(d) STATES WITH CERTAIN DEMONSTRATION PROJECTS.—*

*"(1) IN GENERAL.—In the case of a teaching hospital in a State for which a demonstration project under section 1814(b)(3) is in effect—*

*"(A) the percentage determined under paragraph (2) for the hospital is deemed to be the percentage applicable under section 2231(b)(2) to the hospital; and*

*"(B) the hospital is not eligible for any payments from the Medicare Indirect-Costs Medical Education Account.*

*"(2) DETERMINATION OF FIXED PERCENTAGE.—For purposes of paragraph (1)(A):*

*"(A) The Secretary shall make an estimate of the total amount of payments that would have been received under section 1886(d)(5)(b) by the hospital involved with respect to each of the fiscal years of the applicable period if such section (as in effect for such fiscal years) had applied to the hospital for such years.*

*"(B) The percentage determined under this paragraph for the hospital for a fiscal year is a mean average percentage determined for the hospital in accordance with the methodology of section 2231(b)(2), except that the estimate made by the Secretary under subparagraph (A) of this paragraph for a fiscal year of the applicable period is deemed to be the amount that applies for purposes of section 2231(b)(2)(C)(i) for such year.*

*"Subpart 4—Amount Relating to Direct Costs of Graduate Medical Education*

***"SEC. 2241. DETERMINATION OF AMOUNT RELATING TO DIRECT COSTS.***

*"(a) IN GENERAL.—For purposes of section 2211(a)(3), the amount determined under this section for a teaching hospital for a fiscal year is the sum of—*

*"(1) the amount determined under subsection (b) (relating to the General Direct-Costs Medical Education Account); and*

*"(2) the amount determined under subsection (c) (relating to the Medicare Direct-Costs Medical Education Account), subject to section 2242(d)(1)(B).*

*"(b) PAYMENT FROM GENERAL ACCOUNT.—*

*"(1) IN GENERAL.—For purposes of subsection (a)(1), the amount determined under this subsection for a teaching hospital for a fiscal year is the product of—*

*"(A) the amount in the General Direct-Costs Medical Education Account on the applicable date under section 2201(d)(2) (once the appropriation under such section is made); and*

*"(B) the percentage determined for the hospital under paragraph (2).*

*"(2) FIXED HOSPITAL-SPECIFIC PERCENTAGE.—*

*"(A) IN GENERAL.—For purposes of paragraph (1)(B), the percentage determined under this paragraph for a teaching hospital is the mean average of the respective percentages determined under subparagraph (B) for each fiscal year of the applicable period (as defined in section 2231(b)(2)(B)), adjusted by the Secretary (upward or downward, as the case may be) on a pro rata basis to the extent necessary to ensure that the sum of the percentages determined under this subparagraph for all teaching hospitals is equal to 100 percent. The preceding sentence is subject to section 2242.*

*"(B) RESPECTIVE DETERMINATIONS FOR FISCAL YEARS OF APPLICABLE PERIOD.—For purposes of subparagraph (A), the percentage determined under this subparagraph for a teaching hospital for a fiscal year of the applicable period is the percentage constituted by the ratio of—*

*"(i) the total amount of payments received by the hospital under section 1886(h) for cost reporting periods beginning during the fiscal year involved; to*

*"(ii) the sum of the respective amounts determined under clause (i) for the fiscal year for all teaching hospitals.*

*"(3) AVAILABILITY OF DATA.—If a teaching hospital received the payments specified in paragraph (2)(B)(i) during the applicable period but a complete set of the relevant data is not available to the Secretary for purposes of determining an amount under such paragraph for the fiscal year involved, the Secretary shall for purposes of such paragraph make an estimate on the basis of such data as are available to the Secretary for the applicable period.*

*"(c) PAYMENT FROM MEDICARE ACCOUNT.—For purposes of subsection (a)(2), the amount determined under this subsection for a teaching hospital for a fiscal year is an amount determined in accordance with the methodology in effect under section 1886(h) for such year. Payments made under section 2211 pursuant to the preceding sentence shall be made from the Medicare Direct-Costs Medical Education Account.*

***"SEC. 2242. DIRECT COSTS; SPECIAL RULES REGARDING PAYMENTS FROM GENERAL ACCOUNT.***

*"(a) SPECIAL RULE REGARDING FISCAL YEARS 1995 AND 1996.—*

*"(1) IN GENERAL.—In the case of a teaching hospital whose first payments under section 1886(h) were for the cost reporting period beginning in fiscal year 1995 or in fiscal year 1996 (referred to in this subsection individually as a 'first payment year'), the percentage determined under paragraph (2) for the hospital is deemed to be the percentage applicable under section 2241(b)(2) to the hospital, subject to paragraph (3).*

*"(2) DETERMINATION OF FIXED PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for a teaching hospital is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:*

*"(A)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the total amount of payments received by the hospital under section 1886(h) for cost reporting periods beginning in fiscal year 1995.*

*"(ii) If the first payment year for the hospital is fiscal year 1996, the amount determined under this subparagraph is an amount equal to*

*an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(h) for cost reporting periods beginning in fiscal year 1995 if such section, as in effect for fiscal year 1996, had applied to the hospital for fiscal year 1995.*

*"(B)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the aggregate total of the payments received by teaching hospitals under section 1886(h) for cost reporting periods beginning in fiscal year 1995.*

*"(ii) If the first payment year for the hospital is fiscal year 1996—*

*"(I) the Secretary shall make an estimate in accordance with subparagraph (A)(ii) for all teaching hospitals; and*

*"(II) the amount determined under this subparagraph is the sum of the estimates made by the Secretary under subclause (I).*

*"(3) ADJUSTMENT OF PERCENTAGE.—The percentage determined under paragraph (2) shall be adjusted by the Secretary in accordance with section 2241(b)(2)(A) to the extent determined by the Sec-*

*retary to be necessary with respect to a sum that equals 100 percent.*

*"(b) NEW TEACHING HOSPITALS.—*

*"(1) IN GENERAL.—In the case of a teaching hospital that did not receive payments under section 1886(h) for any of the fiscal years 1992 through 1996, the percentage determined under paragraph (3) for the hospital is deemed to be the percentage applicable under section 2241(b)(2) to the hospital, subject to paragraphs (4) and (5).*

*"(2) DESIGNATED FISCAL YEAR REGARDING DATA.—The determination under paragraph (3) of a percentage for a teaching hospital described in paragraph (1) shall be made for the most recent fiscal year for which the Secretary has sufficient data to make the determination (referred to in this subsection as the 'designated fiscal year').*

*"(3) DETERMINATION OF FIXED PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for the teaching hospital involved is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:*

*"(A) The amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(h) for the designated fiscal year if such section, as in effect for the first fiscal year for which payments pursuant to this subsection are to be made to the hospital, had applied to the hospital for cost reporting periods beginning in the designated fiscal year.*

*"(B) The Secretary shall make an estimate in accordance with subparagraph (A) for all teaching hospitals. The amount determined under this subparagraph is the sum of the estimates made by the Secretary under the preceding sentence.*

*"(4) ADJUSTMENT OF PERCENTAGE.—The percentage determined under paragraph (3) shall be adjusted by the Secretary in accordance with section 2223(b)(2)(A) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.*

*"(5) LIMITATION.—This subsection does not apply to a teaching hospital described in paragraph (1) if the hospital is in a State for which a dem-*

*onstration project under section 1814(b)(3) is in effect.*

*"(c) CONSOLIDATIONS AND MERGERS.—In the case of two or more teaching hospitals that have each received payments pursuant to section 2241 for one or more fiscal years and that undergo a consolidation or merger, the percentage applicable to the resulting teaching hospital for purposes of section 2241(b)(2) is the sum of the respective percentages that would have applied pursuant to such section if the hospitals had not undergone the consolidation or merger.*

*"(d) STATES WITH CERTAIN DEMONSTRATION PROJECTS.—*

*"(1) IN GENERAL.—In the case of a teaching hospital in a State for which a demonstration project under section 1814(b)(3) is in effect—*

*"(A) the percentage determined under paragraph (2) for the hospital is deemed to be the percentage applicable under section 2241(b)(2) to the hospital; and*

*"(B) the hospital is not eligible for any payments from the Medicare Direct-Costs Medical Education Account.*

*"(2) DETERMINATION OF FIXED PERCENTAGE.—For purposes of paragraph (1)(A):*

*"(A) The Secretary shall make an estimate of the total amount of payments that would have been received under section 1886(h) by the hospital involved with respect to each of the fiscal years of the applicable period if such section (as in effect for such fiscal years) had applied to the hospital for such years.*

*"(B) The percentage determined under this paragraph for the hospital for a fiscal year is a mean average percentage determined for the hospital in accordance with the methodology of section 2241(b)(2), except that the estimate made by the Secretary under subparagraph (A) of this paragraph for a fiscal year of the applicable period is deemed to be the amount that applies for purposes of section 2241(b)(2)(B)(i) for such year.*

***"SEC. 2243. DIRECT COSTS; AUTHORITY FOR PAYMENTS TO CONSORTIA OF PROVIDERS.***

*"(a) IN GENERAL.—In lieu of making payments to teaching hospitals pursuant to sections 2221 and 2241, the Secretary may make payments under this section to consortia that meet the requirements of subsection (b).*

*"(b) QUALIFYING CONSORTIUM.—For purposes of subsection (a), a consortium meets the requirements of this sub-*

*section if the consortium is in compliance with the following:*

*"(1) The consortium consists of a teaching hospital and one or more of the following entities:*

*"(A) Schools of allopathic medicine or osteopathic medicine.*

*"(B) Other teaching hospitals.*

*"(C) Approved medical residency training programs.*

*"(D) Federally qualified health centers.*

*"(E) Medical group practices.*

*"(F) Managed care entities.*

*"(G) Entities furnishing outpatient services.*

*"(H) Such other entities as the Secretary determines to be appropriate.*

*"(2) The members of the consortium have agreed to collaborate in the programs of graduate medical education that are operated by such members.*

*"(3) With respect to the receipt by the consortium of payments made pursuant to this section, the members of the consortium have agreed on a method for allocating the payments among the members.*

*"(4) The consortium meets such additional requirements as the Secretary may establish.*

*"(c) PAYMENTS FROM ACCOUNTS.—The total amount of payments to a qualifying consortium for a fiscal year pursuant to subsection (a) shall be the sum of—*

*"(1) the aggregate amount determined for the teaching hospitals of the consortium pursuant to section 2221(a) (relating to the General MedicarePlus Incentive Account);*

*"(2) the aggregate amount determined for the teaching hospitals of the consortium pursuant to section 2241(a)(1) (relating to the General Direct-Costs Account); and*

*"(3) an amount determined for the consortium in accordance with the methodology in effect under section 1886(j)(2)(C)(i) for the fiscal year (relating to the Medicare Direct-Costs Account).*

*"(d) DEFINITION.—For purposes of this title, the term 'qualifying consortium' means a consortium that meets the requirements of subsection (b).".*

## *CHAPTER 2—AMENDMENTS TO MEDICARE PROGRAM*

### *SEC. 12511. TRANSFER OF FUNDS.*

*Section 1886 (42 U.S.C. 1395ww) is amended—*

*(1) in subsection (d)(5)(B), in the matter preceding clause (i), by striking "The Secretary shall provide" and inserting the following: "For discharges oc-*

*curring on or before September 30, 1996, the Secretary shall provide";*

*(2) in subsection (h)—*

*(A) in paragraph (1), in the first sentence, by striking "the Secretary shall provide" and inserting "the Secretary shall, subject to paragraph (6), provide"; and*

*(B) by adding at the end the following paragraph:*

*"(6) LIMITATION.—*

*"(A) IN GENERAL.—The authority to make payments under this subsection applies only with respect to cost reporting periods ending on or before September 30, 1996, except as provided in subparagraph (B).*

*"(B) RULE REGARDING PORTION OF LAST COST REPORTING PERIOD.—In the case of a cost reporting period that extends beyond September 30, 1996, payments under this subsection shall be made with respect to such portion of the period as has lapsed as of such date.*

*"(C) RULE OF CONSTRUCTION.—This paragraph may not be construed as authorizing any payment under section 1861(v) with respect to graduate medical education."; and*

*(3) by adding at the end the following subsection:*

*"(j) TRANSFERS TO TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.—*

*"(1) INDIRECT COSTS OF MEDICAL EDUCATION.—*

*"(A) IN GENERAL.—From the Federal Hospital Insurance Trust Fund, the Secretary shall, for fiscal year 1997 and each subsequent fiscal year, transfer to the Medicare Indirect-Costs Medical Education Account under section 2201 an amount determined by the Secretary in accordance with subparagraph (B).*

*"(B) DETERMINATION OF AMOUNTS.—The Secretary shall make an estimate for the fiscal year involved of the nationwide total of the amounts that would have been paid under subsection (d)(5)(B) to hospitals during the fiscal year if such payments had not been terminated for discharges occurring after September 30, 1996. For purposes of subparagraph (A), the amount determined under this subparagraph for the fiscal year is the estimate made by the Secretary under the preceding sentence.*

*"(C) SUPPLEMENTAL TRANSFERS.—If the Secretary determines that the amount of a trans-*

*fer under subparagraph (A) for a fiscal year is insufficient for making payments in the amounts required pursuant to section 2231(a)(2) for the year, the Secretary shall make such additional transfers for the year between the funds and accounts involved as the Secretary determines to be necessary for making the payments.*

*"(2) DIRECT COSTS OF MEDICAL EDUCATION.—*

*"(A) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 1997 and each subsequent fiscal year, transfer to the Medicare Direct-Costs Medical Education Account (under section 2201) the sum of—*

*"(i) an amount determined by the Secretary in accordance with subparagraph (B); and*

*"(ii) as applicable, an amount determined by the Secretary in accordance with subparagraph (C)(ii).*

*"(B) DETERMINATION OF AMOUNTS.—For each hospital (other than a hospital that is a member of a qualifying consortium referred to in subparagraph (C)), the Secretary shall make an*

*estimate for the fiscal year involved of the amount that would have been paid under subsection (h) to the hospital during the fiscal year if such payments had not been terminated for cost reporting periods ending on or before September 30, 1996. For purposes of subparagraph (A)(i), the amount determined under this subparagraph for the fiscal year is the sum of all estimates made by the Secretary under the preceding sentence.*

*"(C) ESTIMATES REGARDING QUALIFYING CONSORTIA.—If the Secretary authorizes payments under section 2243(a) to one or more qualifying consortia, the Secretary shall carry out the following:*

*"(i) The Secretary shall establish a methodology for making payments to qualifying consortia with respect to the reasonable direct costs of such consortia in carrying out programs of graduate medical education. The methodology shall be the methodology established in subsection (h), modified to the extent necessary to take into account the participation in such programs of entities other than hospitals.*

*"(ii) For each qualifying consortium, the Secretary shall make an estimate for the fiscal year involved of the amount that would have been paid to the consortium during the fiscal year if, using the methodology under clause (i), payments had been made to the consortium for the fiscal year as reimbursements with respect to cost reporting periods. For purposes of subparagraph (A)(ii), the amount determined under this clause for the fiscal year is the sum of all estimates made by the Secretary under the preceding sentence.*

*"(D) ALLOCATION BETWEEN FUNDS.—In providing for a transfer under subparagraph (A) for a fiscal year, the Secretary shall provide for an allocation of the amounts involved between part A and part B (and the trust funds established under the respective parts) as reasonably reflects the proportion of direct graduate medical education costs of hospitals associated with the provision of services under each respective part.*

*"(E) SUPPLEMENTAL TRANSFERS.—If the Secretary determines that the amount of a transfer under subparagraph (A) for a fiscal year is*

*insufficient for making payments in the amounts required pursuant to sections 2241(a)(2) and 2243(c)(3) for the year, the Secretary shall make such additional transfers for the year between the funds and accounts involved as the Secretary determines to be necessary for making the payments.*

*"(3) APPLICABILITY OF CERTAIN AMENDMENTS.—Amendments made to subsection (d)(5)(B) and subsection (h) that are effective on or after October 1, 1996, apply only for purposes of estimates under paragraphs (1) and (2) and for purposes of determining the amount of payments under 2211. Such amendments do not require any adjustment to amounts paid under subsection (d)(5)(B) or (h) with respect to fiscal year 1996 or any prior fiscal year.*

*"(4) RELATIONSHIP TO CERTAIN DEMONSTRATION PROJECTS.—In the case of a State for which a demonstration project under section 1814(b)(3) is in effect, the Secretary, in making determinations of the rates of increase under such section, shall include all amounts transferred under this subsection. Such amounts shall be so included to the same extent and in the same manner as amounts determined under subsections (d)(5)(B) and (h) were included in such*

*determination under the provisions of this title in effect on September 30, 1996.".*

# *Title XII—Other Provisions*

## *Subtitle F—National Defense Stockpile*

### *SEC. 12601. DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE FOR DEFICIT REDUCTION.*

*(a) DISPOSALS REQUIRED.—(1) During fiscal year 1996, the President shall dispose of all cobalt contained in the National Defense Stockpile that, as of the date of the enactment of this Act, is authorized for disposal under any law (other than this Act).*

*(2) In addition to the disposal of cobalt under paragraph (1), the President shall dispose of additional quantities of cobalt and quantities of other materials contained in the National Defense Stockpile and specified in the table in subsection (b) so as to result in receipts to the United States in amounts equal to—*

*(A) $21,000,000 during the fiscal year ending September 30, 1996;*

*(B) $338,000,000 during the five-fiscal year period ending on September 30, 2000; and*

*(C) $649,000,000 during the seven-fiscal year period ending on September 30, 2002.*

*(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a)(2) may not exceed the amounts set forth in the following table:*

**Authorized Stockpile Disposals**

| Material for disposal | Quantity |
|---|---|
| *Aluminum* | *62,881 short tons* |
| *Cobalt* | *30,000,000 pounds contained* |
| *Columbium Ferro* | *930,911 pounds contained* |
| *Germanium Metal* | *40,000 kilograms* |
| *Indium* | *35,000 troy ounces* |
| *Palladium* | *15,000 troy ounces* |
| *Platinum* | *10,000 troy ounces* |
| *Rubber, Natural* | *125,138 long tons* |
| *Tantalum, Carbide Powder* | *6,000 pounds contained* |
| *Tantalum, Minerals* | *750,000 pounds contained* |
| *Tantalum, Oxide* | *40,000 pounds contained* |

*(c) DEPOSIT OF RECEIPTS.—Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a)(2) shall be deposited into the general fund of the Treasury for the purpose of deficit reduction.*

*(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a)(2) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.*

*(e) TERMINATION OF DISPOSAL AUTHORITY.—The President may not use the disposal authority provided in subsection (a)(2) after the date on which the total amount of receipts specified in subparagraph (C) of such subsection is achieved.*

*(f) DEFINITION.—The term "National Defense Stockpile" means the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).*

## *Subtitle G——Child Protection Block Grant Program And Foster Care and Adoption Assistance*

### *SEC. 12701. ESTABLISHMENT OF PROGRAM.*

*Title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by striking subpart 2 of part B and inserting the following:*

### *"Subpart 2—Block Grants to States for the Protection of Children and Matching Payments for Foster Care and Adoption Assistance*

### *"SEC. 430. ELIGIBLE STATES.*

*"(a) IN GENERAL.—As used in this subpart, the term 'eligible State' means a State that has submitted to the Secretary, not later than October 1, 1996, and every 3 years thereafter, a plan which has been signed by the chief executive officer of the State and that includes the following:*

*"(1) OUTLINE OF CHILD PROTECTION PROGRAM.—A written document that outlines the activities the State intends to conduct to achieve the child*

*protection goals of the program funded under this subpart, including the procedures to be used for—*

*"(A) receiving and assessing reports of child abuse or neglect;*

*"(B) investigating such reports;*

*"(C) with respect to families in which abuse or neglect has been confirmed, providing services or referral for services for families and children where the State makes a determination that the child may safely remain with the family;*

*"(D) protecting children by removing them from dangerous settings and ensuring their placement in a safe environment;*

*"(E) providing training for individuals mandated to report suspected cases of child abuse or neglect;*

*"(F) protecting children in foster care;*

*"(G) promoting timely adoptions;*

*"(H) protecting the rights of families, using adult relatives as the preferred placement for children separated from their parents where such relatives meet the relevant State child protection standards;*

*"(I) providing services to individuals, families, or communities, either directly or through*

*referral, that are aimed at preventing the occurrence of child abuse and neglect; and*

*"(J) establishing and responding to citizen review panels under section 434.*

*"(2) CERTIFICATION OF STATE LAW REQUIRING THE REPORTING OF CHILD ABUSE AND NEGLECT.—A certification that the State has in effect laws that require public officials and other professionals to report, in good faith, actual or suspected instances of child abuse or neglect.*

*"(3) CERTIFICATION OF PROCEDURES FOR SCREENING, SAFETY ASSESSMENT, AND PROMPT INVESTIGATION.—A certification that the State has in effect procedures for receiving and responding to reports of child abuse or neglect, including the reports described in paragraph (2), and for the immediate screening, safety assessment, and prompt investigation of such reports.*

*"(4) CERTIFICATION OF STATE PROCEDURES FOR REMOVAL AND PLACEMENT OF ABUSED OR NEGLECTED CHILDREN.—A certification that the State has in effect procedures for the removal from families and placement of abused or neglected children and of any other child in the same household who may also be in danger of abuse or neglect.*

*"(5) CERTIFICATION OF PROVISIONS FOR IMMUNITY FROM PROSECUTION.—A certification that the State has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.*

*"(6) CERTIFICATION OF PROVISIONS AND PROCEDURES FOR EXPUNGEMENT OF CERTAIN RECORDS.—A certification that the State has in effect laws and procedures requiring the facilitation of the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false.*

*"(7) CERTIFICATION OF PROVISIONS AND PROCEDURES RELATING TO APPEALS.—A certification that not later then 2 years after the date of the enactment of this subpart, the State shall have laws and procedures in effect affording individuals an opportunity to appeal an official finding of abuse or neglect.*

*"(8) CERTIFICATION OF STATE PROCEDURES FOR DEVELOPING AND REVIEWING WRITTEN PLANS FOR PERMANENT PLACEMENT OF REMOVED CHILDREN.—A certification that the State has in effect procedures for ensuring that a written plan is prepared for children*

*who have been removed from their families. Such plan shall specify the goals for achieving a permanent placement for the child in a timely fashion, for ensuring that the written plan is reviewed every 6 months (until such placement is achieved), and for ensuring that information about such children is collected regularly and recorded in case records, and include a description of such procedures.*

*"(9) CERTIFICATION OF STATE PROGRAM TO PROVIDE INDEPENDENT LIVING SERVICES.—A certification that the State has in effect a program to provide independent living services, for assistance in making the transition to self-sufficient adulthood, to individuals in the child protection program of the State who are 16, but who are not 20 (or, at the option of the State, 22), years of age, and who do not have a family to which to be returned.*

*"(10) CERTIFICATION OF STATE PROCEDURES TO RESPOND TO REPORTING OF MEDICAL NEGLECT OF DISABLED INFANTS.—*

*"(A) IN GENERAL.—A certification that the State has in place for the purpose of responding to the reporting of medical neglect of infants (including instances of withholding of medically indicated treatment from disabled infants with*

*life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—*

*"(i) coordination and consultation with individuals designated by and within appropriate health-care facilities;*

*"(ii) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and*

*"(iii) authority, under State law, for the State child protective service to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.*

*"(B) WITHHOLDING OF MEDICALLY INDICATED TREATMENT.—As used in subparagraph (A), the term 'withholding of medically indicated treatment' means the failure to respond to the*

*infant's life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that such term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician's or physicians' reasonable medical judgment—*

*"(i) the infant is chronically and irreversibly comatose;*

*"(ii) the provision of such treatment would—*

*"(I) merely prolong dying;*

*"(II) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or*

*"(III) otherwise be futile in terms of the survival of the infant; or*

*"(iii) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself*

*under such circumstances would be inhumane.*

*"(11) IDENTIFICATION OF CHILD PROTECTION GOALS.—The quantitative goals of the State child protection program.*

*"(12) CERTIFICATION OF CHILD PROTECTION STANDARDS.—With respect to fiscal years beginning on or after April 1, 1996, a certification that the State—*

*"(A) has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined—*

*"(i) the appropriateness of, and necessity for, the foster care placement;*

*"(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and*

*"(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;*

*"(B) is operating, to the satisfaction of the Secretary—*

*"(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;*

*"(ii) a case review system for each child receiving foster care under the supervision of the State;*

*"(iii) a service program designed to help children—*

*"(I) where appropriate, return to families from which they have been removed; or*

*"(II) be placed for adoption, with a legal guardian, or if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement; and*

*"(iv) a preplacement preventive services program designed to help children at risk for foster care placement remain with their families; and*

*"(C)(i) has reviewed (or not later than October 1, 1997, will review) State policies and administrative and judicial procedures in effect for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of such children); and*

*"(ii) is implementing (or not later than October 1, 1997, will implement) such policies and procedures as the State determines, on the basis of the review described in clause (i), to be necessary to enable permanent decisions to be made expeditiously with respect to the placement of such children.*

*"(13) CERTIFICATION OF REASONABLE EFFORTS BEFORE PLACEMENT OF CHILDREN IN FOSTER CARE.—A certification that the State in each case will—*

*"(A) make reasonable efforts prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from the child's home, and to make it possible for the child to return home; and*

*"(B) with respect to families in which abuse or neglect has been confirmed, provide services or referral for services for families and children*

*where the State makes a determination that the child may safely remain with the family.*

*"(14) CERTIFICATION OF COOPERATIVE EFFORTS.—A certification by the State, where appropriate, that all steps will be taken, including cooperative efforts with the State agencies administering the plans approved under parts A and D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this subpart.*

*"(b) DETERMINATIONS.—The Secretary shall determine whether a plan submitted pursuant to subsection (a) contains the material required by subsection (a), other than the material described in paragraph (10) of such subsection. The Secretary may not require a State to include in such a plan any material not described in subsection (a).*

***"SEC. 431. GRANTS TO STATES FOR CHILD PROTECTION AND PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE..***

*"(a) FUNDING OF BLOCK GRANTS.—Each eligible State shall be entitled to receive from the Secretary for each fiscal year specified in subsection (c)(1) a grant in an amount equal to the State share of the child protection amount for the fiscal year.*

*"(b) MAINTENANCE PAYMENTS.—*

*"(1) IN GENERAL.—In addition to the grants described in subsection (a), each eligible State shall be entitled to receive from the Secretary for each quarter of each fiscal year specified in subsection (c)(1) an amount equal to the sum of—*

*"(A) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act as in effect on the day before the date of enactment of this subpart) of the total amount expended during such quarter as foster care maintenance payments under the child protection program under this subpart for children in foster family homes or child-care institutions; plus*

*"(B) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act (as so in effect)) of the total amount expended during such quarter as adoption assistance payments under the child protection program under this subpart pursuant to adoption assistance agreements.*

*"(2) ESTIMATES BY THE SECRETARY.—*

*"(A) IN GENERAL.—The Secretary shall, prior to the beginning of each quarter, estimate the amount to which a State will be entitled to*

*receive under paragraph (1) for such quarter, such estimates to be based on—*

*"(i) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with paragraph (1), and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived;*

*"(ii) records showing the number of children in the State receiving assistance under this subpart; and*

*"(iii) such other information as the Secretary may find necessary.*

*"(B) PAYMENTS.—The Secretary shall pay to the States the amounts so estimated under subparagraph (A), reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this subsection to such State for any prior quar-*

*ter and with respect to which adjustment has not already been made under this paragraph.*

*"(C) PRO RATA SHARE.— The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to foster care and adoption assistance furnished under this subpart shall be considered an overpayment to be adjusted under this paragraph.*

*"(3) ALLOWANCE OR DISALLOWANCE OF CLAIM.—*

*"(A) IN GENERAL.—Within 60 days after receipt of a State claim for expenditures pursuant to paragraph (2)(A), the Secretary shall allow, disallow, or defer such claim.*

*"(B) NOTICE.—Within 15 days after a decision to defer a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine the allowability of the claim.*

*"(C) DECISION.—Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall—*

*"(i) disallow the claim, if able to complete the review and determine that the claim is not allowable; or*

*"(ii) in any other case, allow the claim, subject to disallowance (as necessary)—*

*"(I) upon completion of the review, if it is determined that the claim is not allowable; or*

*"(II) on the basis of findings of an audit or financial management review.*

*"(c) DEFINITIONS.—As used in this section:*

*"(1) CHILD PROTECTION AMOUNT.—The term 'child protection amount' means—*

*"(A) $1,936,000,000 for fiscal year 1996;*

*"(B) $1,942,000,000 for fiscal year 1997;*

*"(C) $2,063,000,000 for fiscal year 1998;*

*"(D) $2,167,000,000 for fiscal year 1999;*

*"(E) $2,297,000,000 for fiscal year 2000;*

*"(F) $2,432,000,000 for fiscal year 2001; and*

*"(G) $2,593,000,000 for fiscal year 2002;*

*"(2) STATE SHARE.—*

*"(A) IN GENERAL.—The term 'State share' means the qualified child protection expenses of the State divided by the sum of the qualified child protection expenses of all of the States.*

*"(B) QUALIFIED CHILD PROTECTION EXPENSES.—The term 'qualified child protection expenses' means, with respect to a State the greater of—*

*"(i) the total amount of—*

*"(I) ⅓ of the total obligations to the State under the provisions of law specified in clauses (i), (ii), and (iii) of subparagraph (C) for fiscal years 1992, 1993, and 1994; and*

*"(II) ⅓ of the total claims submitted by the State (without regard to disputed claims) under the provision of law specified in subparagraph (C)(iv) for fiscal years 1992, 1993, and 1994; or*

*"(ii) the total amount of—*

*"(I) the total obligations to the State under the provisions of law specified in clauses (i), (ii), and (iii) of*

*subparagraph (C) for fiscal year 1995; and*

*"(II) the total claims submitted by the State (without regard to disputed claims) under the provision of law specified in subparagraph (C)(iv) for fiscal year 1995.*

*"(C) PROVISIONS OF LAW.—The provisions of law specified in this subparagraph are the following (as in effect on the day before the date of enactment of this subpart):*

*"(i) Section 434 of this Act.*

*"(ii) Section 474(a)(4) of this Act.*

*"(iii) Section 474(a)(3) of this Act.*

*"(d) USE OF GRANT.—*

*"(1) IN GENERAL.—A State to which a grant is made under this section may use the grant in any manner that the State deems appropriate to accomplish the child protection goals of the State program funded under this subpart.*

*"(2) TIMING OF EXPENDITURES.—A State to which a grant is made under this section for a fiscal year shall expend the total amount of the grant not later than the end of the immediately succeeding fiscal year.*

*"(3) RULE OF INTERPRETATION.—This subpart shall not be interpreted to prohibit short- and long-term foster care facilities operated for profit from receiving funds provided under this subpart.*

*"(e) TIMING OF PAYMENTS.—The Secretary shall pay each eligible State the amount of the grant payable to the State under this section in quarterly installments.*

*"(f) PENALTIES.—*

*"(1) FOR USE OF GRANT IN VIOLATION OF THIS SUBPART.—If an audit conducted pursuant to chapter 75 of title 31, United States Code, finds that an amount paid to a State under this section for a fiscal year has been used in violation of this subpart, then the Secretary shall reduce the amount of the grant that would (in the absence of this paragraph) be payable to the State under this section for the immediately succeeding fiscal year by the amount so used, plus 5 percent of the grant paid under this section to the State for such fiscal year.*

*"(2) FOR FAILURE TO MAINTAIN EFFORT.—*

*"(A) IN GENERAL.—If an audit conducted pursuant to chapter 75 of title 31, United States Code, finds that the amount expended by a State (other than from amounts provided by the Federal Government) during the fiscal years speci-*

*fied in subparagraph (B), to carry out the State program funded under this subpart is less than the applicable percentage specified in such subparagraph of the total amount expended by the State (other than from amounts provided by the Federal Government) during fiscal year 1995 under subpart 2 of part B and part E of this title (as in effect on the day before the date of the enactment of this subpart), then the Secretary shall reduce the amount of the grant that would (in the absence of this paragraph) be payable to the State under this section for the immediately succeeding fiscal year by the amount of the difference, plus 5 percent of the grant paid under this section to the State for such fiscal year.*

*"(B) SPECIFICATION OF FISCAL YEARS AND APPLICABLE PERCENTAGES.—The fiscal years and applicable percentages specified in this subparagraph are as follows:*

*"(i) For fiscal years 1996 and 1997, 100 percent.*

*"(ii) For fiscal years 1998 through 2002, 75 percent.*

*"(3) FOR FAILURE TO SUBMIT REQUIRED REPORT.—*

*"(A) IN GENERAL.—The Secretary shall reduce by 3 percent the amount of the grant that would (in the absence of this paragraph) be payable to a State under this section for a fiscal year if the Secretary determines that the State has not submitted the report required by section 436(b) for the immediately preceding fiscal year, within 6 months after the end of the immediately preceding fiscal year.*

*"(B) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a State under subparagraph (A) with respect to a report for a fiscal year if the State submits the report before the end of the immediately succeeding fiscal year.*

*"(4) FOR FAILURE TO COMPLY WITH SAMPLING METHODS REQUIREMENTS.—The Secretary may reduce by not more than 1 percent the amount of the grant that would (in the absence of this paragraph) be payable to a State under this section for a succeeding fiscal year if the Secretary determines that the State has not complied with the Secretary's sampling*

*methods requirements under section 436(c)(2) during the prior fiscal year.*

*"(5) STATE FUNDS TO REPLACE REDUCTIONS IN GRANT.—A State which has a penalty imposed against it under this subsection for a fiscal year shall expend additional State funds in an amount equal to the amount of the penalty for the purpose of carrying out the State program under this subpart during the immediately succeeding fiscal year.*

*"(6) REASONABLE CAUSE EXCEPTION.—The Secretary may not impose a penalty on a State under this subsection with respect to a requirement if the Secretary determines that the State has reasonable cause for failing to comply with the requirement.*

*"(7) CORRECTIVE COMPLIANCE PLAN.—*

*"(A) IN GENERAL.—*

*"(i) NOTIFICATION OF VIOLATION.—Notwithstanding any other provision of law, the Federal Government shall, before assessing a penalty against a State under this subsection, notify the State of the violation of law for which the penalty would be assessed and allow the State the opportunity to enter into a corrective compliance plan in accordance with this subsection which*

*outlines how the State will correct any such violations and how the State will insure continuing compliance with the requirements of this subpart.*

*"(ii) 60-DAY PERIOD TO PROPOSE A CORRECTIVE COMPLIANCE PLAN.—Any State notified under clause (i) shall have 60 days in which to submit to the Federal Government a corrective compliance plan to correct any violations described in clause (i).*

*"(iii) ACCEPTANCE OF PLAN.—The Federal Government shall have 60 days to accept or reject the State's corrective compliance plan and may consult with the State during this period to modify the plan. If the Federal Government does not accept or reject the corrective compliance plan during the period, the corrective compliance plan shall be deemed to be accepted.*

*"(B) FAILURE TO CORRECT.—If a corrective compliance plan is accepted by the Federal Government, no penalty shall be imposed with respect to a violation described in this subsection if the State corrects the violation pursuant to the*

*plan. If a State has not corrected the violation in a timely manner under the plan, some or all of the penalty shall be assessed.*

*"(8) LIMITATION ON AMOUNT OF PENALTY.—*

*"(A) IN GENERAL.—In imposing the penalties described in this subsection, the Secretary shall not reduce any quarterly payment to a State by more than 25 percent.*

*"(B) CARRYFORWARD OF UNRECOVERED PENALTIES.—To the extent that subparagraph (A) prevents the Secretary from recovering during a fiscal year the full amount of all penalties imposed on a State under this subsection for a prior fiscal year, the Secretary shall apply any remaining amount of such penalties to the grant payable to the State under section 431(a) for the immediately succeeding fiscal year.*

*"(g) TREATMENT OF TERRITORIES.—*

*"(1) IN GENERAL.—A territory, as defined in section 1108(b)(1), shall carry out a child protection program in accordance with the provisions of this subpart.*

*"(2) PAYMENTS.—Each territory, as so defined, shall be entitled to receive from the Secretary for any fiscal year an amount, in accordance with section*

*1108, which shall be used for the purpose of carrying out a child protection program in accordance with the provisions of this subpart.*

*"(h) LIMITATION ON FEDERAL AUTHORITY.—Except as expressly provided in this Act, the Secretary may not regulate the conduct of States under this subpart or enforce any provision of this subpart.*

***"SEC. 432. REQUIREMENTS FOR FOSTER CARE MAINTENANCE PAYMENTS.***

*"(a) IN GENERAL.—Each State operating a program under this subpart shall make foster care maintenance payments under section 431(b) with respect to a child who would meet the requirements of section 406(a) or of section 407 (as in effect on the day before the date of the enactment of this subpart) but for the removal of the child from the home of a relative (specified in section 406(a)(as so in effect)), if—*

*"(1) the removal from the home occurred pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian, or was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child and that reasonable efforts of the type described in section 430(a)(13) have been made;*

*"(2) such child's placement and care are the responsibility of—*

*"(A) the State; or*

*"(B) any other public agency with whom the State has made an agreement for the administration of the State program under this subpart which is still in effect;*

*"(3) such child has been placed in a foster family home or child-care institution as a result of the voluntary placement agreement or judicial determination referred to in paragraph (1); and*

*"(4) such child—*

*"(A) would have been eligible to receive aid under the eligibility standards under the State plan approved under section 402 (as in effect on the day before the date of the enactment of this subpart and adjusted for inflation, in accordance with regulations issued by the Secretary) in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated; or*

*"(B) would have received such aid in or for such month if application had been made therefore, or the child had been living with a relative*

*specified in section 406(a) (as so in effect) within 6 months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month such child had been living with such a relative and application therefore had been made.*

*"(b) LIMITATION ON FOSTER CARE PAYMENTS.—Foster care maintenance payments may be made under this subpart only on behalf of a child described in subsection (a) of this section who is—*

*"(1) in the foster family home of an individual, whether the payments therefore are made to such individual or to a public or private child-placement or child-care agency; or*

*"(2) in a child-care institution, whether the payments therefore are made to such institution or to a public or private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term 'foster care maintenance payments' (as defined in section 437(6)).*

*"(c) VOLUNTARY PLACEMENTS.—*

*"(1) SATISFACTION OF CHILD PROTECTION STANDARDS.—Notwithstanding any other provision of*

*this section, Federal payments may be made under this subpart with respect to amounts expended by any State as foster care maintenance payments under this subpart, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a), only if (at the time such amounts were expended) the State has fulfilled all of the requirements of section 435(b) or 430(a)(12).*

*"(2) REMOVAL IN EXCESS OF 180 DAYS.—No Federal payment may be made under this subpart with respect to amounts expended by any State as foster care maintenance payments, in the case of any child who was removed from such child's home pursuant to a voluntary placement agreement as described in subsection (a) and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) to the effect that such placement is in the best interests of the child.*

*"(3) DEEMED REVOCATION OF AGREEMENTS.—In any case where—*

*"(A) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or*

*guardians of such child as provided in subsection (a); and*

*"(B) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative,*

*the voluntary placement agreement shall be deemed to be revoked unless the State opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return of the child to such home would be contrary to the child's best interests.*

***"SEC. 433. REQUIREMENTS FOR ADOPTION ASSISTANCE PAYMENTS.***

*"(a) IN GENERAL.—A State operating a program under this subpart shall enter into adoption assistance agreements with the adoptive parents of children with special needs.*

*"(b) PAYMENTS UNDER AGREEMENTS.—Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs who meets the requirements of subsection (c), the State may make adoption assistance payments to such parents or through another public or nonprofit private agency, in amounts determined under subsection (d).*

*"(c) CHILDREN WITH SPECIAL NEEDS.—For purposes of subsection (b), a child meets the requirements of this subsection if such child—*

*"(1)(A) at the time adoption proceedings were initiated, met the requirements of section 406(a) or section 407 (as in effect on the day before the date of the enactment of this subpart) or would have met such requirements except for such child's removal from the home of a relative (specified in section 406(a) (as so in effect)), either pursuant to a voluntary placement agreement with respect to which Federal payments are provided under section 431(b) (or 403 (as so in effect)) or as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child;*

*"(B) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits; or*

*"(C) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent;*

*"(2)(A) would have received aid under the eligibility standards under the State plan approved under section 402 (as in effect on the day before the date of*

*the enactment of this subpart, adjusted for inflation, in accordance with regulations issued by the Secretary) in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated;*

*"(B) would have received such aid in or for such month if application had been made therefore, or had been living with a relative specified in section 406(a) (as so in effect) within 6 months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month such child had been living with such a relative and application therefore had been made; or*

*"(C) is a child described in subparagraph (A) or (B); and*

*"(3) has been determined by the State, pursuant to subsection (g) of this section, to be a child with special needs.*

*"(d) DETERMINATION OF PAYMENTS.—The amount of the payments to be made in any case under subsection (b) shall be determined through agreement between the adoptive parents and the State or a public or nonprofit private agency administering the program under this subpart, which shall take into consideration the circumstances of the adopt-*

*ing parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.*

*"(e) PAYMENT EXCEPTION.—Notwithstanding subsection (d), no payment may be made to parents with respect to any child who has attained the age of 18 (or, where the State determines that the child has a mental or physical disability which warrants the continuation of assistance, the age of 21), and no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this subpart shall keep the State or public or nonprofit private agency administering the program under this subpart informed of circumstances which would, pursuant to this section, make them ineligible for such assistance pay-*

*ments, or eligible for assistance payments in a different amount.*

*"(f) PRE-ADOPTION PAYMENTS.—For purposes of this subpart, individuals with whom a child who has been determined by the State, pursuant to subsection (g), to be a child with special needs is placed for adoption in accordance with applicable State and local law shall be eligible for adoption assistance payments during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.*

*"(g) DETERMINATION OF CHILD WITH SPECIAL NEEDS.—For purposes of this section, a child shall not be considered a child with special needs unless—*

*"(1) the State has determined that the child cannot or should not be returned to the home of the child's parents; and*

*"(2) the State had first determined—*

*"(A) that there exists with respect to the child a specific factor or condition such as the child's ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without pro-*

*viding adoption assistance under this subpart or medical assistance under title XIX or XXI; and*

*"(B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under title XIX or XXI.*

***"SEC. 434. CITIZEN REVIEW PANELS.***

*"(a) ESTABLISHMENT.—Each State to which a grant is made under section 431(a) shall establish at least 3 citizen review panels.*

*"(b) COMPOSITION.—Each panel established under subsection (a) shall be broadly representative of the community from which drawn.*

*"(c) FREQUENCY OF MEETINGS.—Each panel established under subsection (a) shall meet not less frequently than quarterly.*

*"(d) DUTIES.—*

*"(1) IN GENERAL.—Each panel established under subsection (a) shall, by examining specific cases, de-*

*termine the extent to which the State and local agencies responsible for carrying out activities under this subpart are doing so in accordance with the State plan, with the child protection standards set forth in section 430(a)(12) and 435, and with any other criteria that the panel considers important to ensure the protection of children.*

*"(2) CONFIDENTIALITY.—The members and staff of any panel established under subsection (a) shall not disclose to any person or government any information about any specific child protection case with respect to which the panel is provided information.*

*"(e) STATE ASSISTANCE.—Each State that establishes a panel under subsection (a) shall afford the panel access to any information on any case that the panel desires to review, and shall provide the panel with staff assistance in performing its duties.*

*"(f) REPORTS.—Each panel established under subsection (a) shall make a public report of its activities after each meeting.*

***"SEC. 435. FOSTER CARE PROTECTION REQUIRED FOR ADDITIONAL FEDERAL PAYMENTS.***

*"(a) REDUCTION OF GRANT.—A State shall not receive a grant under section 431(a) unless such State—*

*"(1) has conducted an inventory of all children who have been in foster care under the responsibility of the State for a period of 6 months preceding the inventory, and determined the appropriateness of, and necessity for, the current foster placement, whether the child can be or should be returned to his parents or should be freed for adoption, and the services necessary to facilitate either the return of the child or the placement of the child for adoption or legal guardianship; and*

*"(2) has implemented and is operating to the satisfaction of the Secretary—*

*"(A) a statewide information system from which the status, demographic characteristics, location, and goals for the placement of every child in foster care or who has been in such care within the preceding 12 months can readily be determined;*

*"(B) a case review system (as defined in section 437(4)) for each child receiving foster care under the supervision of the State; and*

*"(C) a service program designed to help children, where appropriate, return to families from which they have been removed or be placed for adoption or legal guardianship.*

*"(b) ADDITIONAL REQUIREMENTS.—A State shall not receive a grant under section 431(a) unless such State—*

*"(1) has completed an inventory of the type specified in subsection (a)(1);*

*"(2) has implemented and is operating the program and systems specified in subsection (a)(2); and*

*"(3) has implemented a preplacement preventive service program designed to help children remain with their families.*

*"(c) PRESUMPTION FOR EXPENDITURES.—Any amounts expended by a State for the purpose of complying with the requirements of subsection (a) or (b) shall be conclusively presumed to have been expended for child welfare services.*

***"SEC. 436. DATA COLLECTION AND REPORTING.***

*"(a) ANNUAL REPORTS ON STATE CHILD WELFARE GOALS.—On the date that is 3 years after the effective date of this subpart and annually thereafter, each State to which a grant is made under section 431(a) shall submit to the Secretary a report that contains quantitative information on the extent to which the State is making progress toward achieving the goals of the State child protection program.*

*"(b) STATE DATA REPORTS.—*

*"(1) BIANNUAL REPORTS.—Each State to which a grant is made under section 431(a) shall bian-*

*nually submit to the Secretary a report that includes the following information with respect to each child within the State receiving publicly-supported child welfare services under the State program funded under this subpart:*

*"(A) Whether the child received services under the program funded under this subpart.*

*"(B) The age, gender, and family income of the parents and child.*

*"(C) The county of residence of the child.*

*"(D) Whether the child was removed from the family.*

*"(E) Whether the child entered foster care under the responsibility of the State.*

*"(F) The type of out-of-home care in which the child was placed (including institutional care, group home care, family foster care, or relative placement).*

*"(G) The child's permanency planning goal, such as family reunification, kinship care, adoption, or independent living.*

*"(H) Whether the child was released for adoption.*

*"(I) Whether the child exited from foster care, and, if so, the reason for the exit, such as*

*return to family, placement with relatives, adoption, independent living, or death.*

*"(J) Other information as required by the Secretary and agreed to by a majority of the States, including information necessary to ensure a that there is a smooth transition of data from the Adoption and Foster Care Analysis and Reporting Systems and the National Center on Abuse and Neglect Data System to the data reporting system required under this section.*

*"(2) ANNUAL REPORTS.—Each State to which a grant is made under section 431(a) shall annually submit to the Secretary a report that includes the following information:*

*"(A) The number of children reported to the State during the year as alleged victims of abuse or neglect.*

*"(B) The number of children for whom an investigation of alleged maltreatment resulted in a determination of substantiated abuse or neglect, the number for whom a report of maltreatment was unsubstantiated, and the number for whom a report of maltreatment was determined to be false.*

*"(C) The number of families that received preventive services.*

*"(D) The number of infants abandoned during the year, the number of such infants who were adopted, and the length of time between abandonment and adoption.*

*"(E) The number of deaths of children resulting from child abuse or neglect.*

*"(F) The number of deaths occurring while children were in the custody of the State.*

*"(G) The number of children served by the State independent living program.*

*"(H) Quantitative measurements demonstrating whether the State is making progress toward the child protection goals identified by the State.*

*"(I) The types of maltreatment suffered by victims of child abuse and neglect.*

*"(J) The number of abused and neglected children receiving services.*

*"(K) The average length of stay of children in out-of-home care.*

*"(L) The response of the State to the findings and recommendations of the citizen review panels established under section 434.*

*"(M) Other information as required by the Secretary and agreed to by a majority of the States, including information necessary to ensure a that there is a smooth transition of data from the Adoption and Foster Care Analysis and Reporting Systems and the National Center on Abuse and Neglect Data System to the data reporting system required under this section.*

*"(c) AUTHORITY OF STATES TO USE ESTIMATES.—*

*"(1) IN GENERAL.—A State may comply with a requirement to provide precise numerical information described in subsection (b) by submitting an estimate which is obtained through the use of scientifically acceptable sampling methods.*

*"(2) SECRETARIAL REVIEW OF SAMPLING METHODS.—The Secretary shall periodically review the sampling methods used by a State to comply with a requirement to provide information described in subsection (b). The Secretary may require a State to revise the sampling methods so used if such methods do not meet scientific standards and shall impose the penalty described in section 431(f)(4) upon a State if a State has not complied with such requirements.*

*"(d) SCOPE OF STATE PROGRAM FUNDED UNDER THIS SUBPART.—As used in subsection (b), the term 'State*

*program funded under this subpart' includes any equivalent State program.*

***"SEC. 437. DEFINITIONS.***

*"For purposes of this subpart, the following definitions shall apply:*

*"(1) ADMINISTRATIVE REVIEW.—The term 'administrative review' means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.*

*"(2) ADOPTION ASSISTANCE AGREEMENT.—The term 'adoption assistance agreement' means a written agreement, binding on the parties to the agreement, between the State, other relevant agencies, and the prospective adoptive parents of a minor child which at a minimum—*

*"(A) specifies the nature and amount of any payments, services, and assistance to be provided under such agreement; and*

*"(B) stipulates that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time.*

*The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.*

*"(3) CASE PLAN.—The term 'case plan' means a written document which includes at least the following:*

*"(A) A description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the voluntary placement agreement entered into or judicial determination made with respect to the child in accordance with section 432(a)(1).*

*"(B) A plan for assuring that the child receives proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his or her own home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriate-*

*ness of the services that have been provided to the child under the plan.*

*"(C) To the extent available and accessible, the health and education records of the child, including—*

*"(i) the names and addresses of the child's health and educational providers;*

*"(ii) the child's grade level performance;*

*"(iii) the child's school record;*

*"(iv) assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement;*

*"(v) a record of the child's immunizations;*

*"(vi) the child's known medical problems;*

*"(vii) the child's medications; and*

*"(viii) any other relevant health and education information concerning the child determined to be appropriate by the State.*

*Where appropriate, for a child age 16 or over, the case plan must also include a written description of the programs and services which will*

*help such child prepare for the transition from foster care to independent living.*

*"(4) CASE REVIEW SYSTEM.—The term 'case review system' means a procedure for assuring that—*

*"(A) each child has a case plan designed to achieve placement in the least restrictive (most family like) and most appropriate setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child, which—*

*"(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child; and*

*"(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 12 months, a caseworker on the staff of the State in which the home of the parents of the child is located, or of*

*the State in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the State in which the home of the parents of the child is located;*

*"(B) the status of each child is reviewed periodically but no less frequently than once every 6 months by either a court or by administrative review (as defined in paragraph (1)) in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship;*

*"(C) with respect to each such child, procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a dispositional hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no*

*later than 18 months after the original placement (and not less frequently than every 12 months thereafter during the continuation of foster care), which hearing shall determine the future status of the child (including whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should (because of the child's special needs or circumstances) be continued in foster care on a permanent or long-term basis) and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be appropriate and in the best interests of the child, and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living; and procedural safeguards shall also be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents; and*

*"(D) a child's health and education record (as described in paragraph (3)(C)) is reviewed*

*and updated, and supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care.*

*"(5) CHILD-CARE INSTITUTION.—The term 'child-care institution' means a private child-care institution, or a public child-care institution which accommodates no more than 25 children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.*

*"(6) FOSTER CARE MAINTENANCE PAYMENTS.—*

*"(A) IN GENERAL.—The term 'foster care maintenance payments' means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include*

*the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.*

*"(B) SPECIAL RULE.—In cases where—*

*"(i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution; and*

*"(ii) payments described in subparagraph (A) are being made under this subpart with respect to such child,*

*the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter.*

*"(7) FOSTER FAMILY HOME.—The term 'foster family home' means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing.*

*"(8) STATE.—The term 'State' means the 50 States and the District of Columbia.*

*"(9) VOLUNTARY PLACEMENT.—The term 'voluntary placement' means an out-of-home placement of a minor, by or with participation of the State, after the parents or guardians of the minor have requested the assistance of the State and signed a voluntary placement agreement.*

*"(10) VOLUNTARY PLACEMENT AGREEMENT.—The term 'voluntary placement agreement' means a written agreement, binding on the parties to the agreement, between the State, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.".*

***SEC. 12702. CONFORMING AMENDMENTS.***

*(a) REPEAL OF PART E OF TITLE IV OF THE SOCIAL SECURITY ACT.—Part E of title IV of the Social Security Act (42 U.S.C. 671–679) is hereby repealed.*

*(b) REPEAL OF SECTION 13712 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1993.—Section 13712 of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 670 note) is hereby repealed.*

*(c) REPEAL OF SECTION 435.—Section 435 of the Social Security Act, as amended by section 12701, is repealed on April 1, 1996.*

***SEC. 12703. EFFECTIVE DATE; TRANSITION RULE.***

*(a) IN GENERAL.—Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall take effect as if enacted on October 1, 1995.*

*(b) TRANSITION RULE.—*

*(1) STATE OPTION TO CONTINUE PROGRAMS.—*

*(A) 9-MONTH EXTENSION.—A State may continue the State programs under subpart 2 of part B and part E of title IV of the Social Security Act, as in effect on September 30, 1995 (for purposes of this paragraph, the "State programs") until June 30, 1996.*

*(B) NO INDIVIDUAL OR FAMILY ENTITLEMENT UNDER CONTINUED STATE PROGRAMS.—Notwithstanding any other provision of law or any rule of law, no individual or family is entitled to aid under the State programs of any State on or after the date of the enactment of this Act.*

*(C) LIMITATIONS ON FEDERAL OBLIGATIONS.—If a State elects to continue the State programs pursuant to subparagraph (A), the*

*total obligations of the Federal Government to the State under subpart 2 of part B and part E of title IV of the Social Security Act (as such subpart and part are in effect on September 30, 1995) after the date of the enactment of this Act shall not exceed an amount equal to—*

*(I) the grant to the State under section 431(a) (as in effect pursuant to the amendment made by section 12701 of this Act)); minus*

*(II) any obligations of the Federal Government to the State under such subpart and part (as in effect on September 30, 1995) with respect to expenditures by the State during the period that begins on October 1, 1995, and ends on the day before the date of the enactment of this Act.*

*(D) SUBMISSION OF STATE PLAN FOR FISCAL YEAR 1996 DEEMED ACCEPTANCE OF GRANT LIMITATIONS AND FORMULA.—The submission of a plan by a State under section 430(a) of the Social Security Act (as in effect pursuant to the amendment made by section 12701 of this Act) for fiscal year 1996 is deemed to constitute the*

*State's acceptance of the grant reduction under subparagraph (C) of this paragraph (including the formula for computing the amount of the reduction).*

*(2) CLAIMS, ACTIONS, AND PROCEEDINGS.—The amendments made by this subtitle shall not apply with respect to—*

*(A) powers, duties, functions, rights, claims, penalties, or obligations applicable to aid, assistance, or services provided before the effective date of this subtitle under the provisions amended; and*

*(B) administrative actions and proceedings commenced before such date, or authorized before such date to be commenced, under such provisions.*

*(3) CLOSING OUT ACCOUNT FOR THOSE PROGRAMS TERMINATED OR SUBSTANTIALLY MODIFIED BY THIS SUBTITLE.—In closing out accounts, Federal and State officials may use scientifically acceptable statistical sampling techniques. Claims made under programs which are repealed or substantially amended in this subtitle and which involve State expenditures in cases where assistance or services were provided during a prior fiscal year, shall be treated as*

*expenditures during fiscal year 1995 for purposes of reimbursement even if payment was made by a State on or after October 1, 1995. States shall complete the filing of all claims no later than September 30, 1997. Federal department heads shall—*

*(A) use the single audit procedure to review and resolve any claims in connection with the close out of programs; and*

*(B) reimburse States for any payments made for assistance or services provided during a prior fiscal year from funds for fiscal year 1995, rather than the funds authorized by this subtitle.*

## *Subtitle H—Child Care*

***SEC. 12801. SHORT TITLE AND REFERENCES.***

*(a) SHORT TITLE.—This subtitle may be cited as the "Child Care and Development Block Grant Amendments of 1995".*

*(b) REFERENCES.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).*

***SEC. 12802. AUTHORIZATION OF APPROPRIATIONS AND ENTITLEMENT AUTHORITY.***

*(a) IN GENERAL.—Section 658B (42 U.S.C. 9858) is amended to read as follows:*

***"SEC. 658B. AUTHORIZATION OF APPROPRIATIONS.***

*"There is authorized to be appropriated to carry out this subchapter $1,000,000,000 for each of the fiscal years 1996 through 2002.".*

*(b) SOCIAL SECURITY ACT.—Part A of title IV of the Social Security Act (as amended by section 12101) is amended by adding at the end thereof the following new section:*

***"SEC. 418. FUNDING FOR CHILD CARE.***

*"(a) GENERAL CHILD CARE ENTITLEMENT.—*

*"(1) GENERAL ENTITLEMENT.—Subject to the amount appropriated under paragraph (3), each State shall, for the purpose of providing child care assistance, be entitled to payments under a grant under this subsection for a fiscal year in an amount equal to—*

*"(A) the sum of the total amounts of Federal payments for fiscal year 1994 to the State under section—*

*"(i) 402(g)(3)(A) of this Act (as such section was in effect before October 1, 1995)*

*for amounts expended for child care pursuant to paragraph (1) of such section;*

*"(ii) 403(l)(1)(A) of this Act (as so in effect) for amounts expended for child care pursuant to section 402(g)(1)(A) of this Act, in the case of a State with respect to which section 1108 of this Act applies; and*

*"(iii) 403(n) of this Act (as so in effect) for child care services pursuant to section 402(i) of this Act; or*

*"(B) the average of the sum of the total amount of Federal payments for each of the fiscal years 1992 through 1994 to the State under the sections referred to in subparagraph (A);*

*whichever is greater.*

*"(2) REMAINDER.—*

*"(A) GRANTS.—The Secretary shall use any amounts appropriated for a fiscal year under paragraph (3), and remaining after grants are awarded under paragraph (1), to make grants to States under this paragraph.*

*"(B) AMOUNT.—Subject to subparagraph (C), the amount of a grant awarded to a State for a fiscal year under this paragraph shall be based on the formula used for determining the*

*amount of Federal payments to the State for fiscal year 1994 under section 403(n) (as such section was in effect before October 1, 1995) for child care services pursuant to section 402(i) as such amount relates to the total amount of such Federal payments to all States for such fiscal year.*

*"(C) MATCHING REQUIREMENT.—The Secretary shall pay to each eligible State in a fiscal year an amount, under a grant under subparagraph (A), equal to the Federal medical assistance percentage for such State for fiscal year 1995 (as defined in section 1905(b)) of so much of the expenditures by the State for child care in such year as exceed the State set-aside for such State under subparagraph (A) for such year and the amount of State expenditures in fiscal year 1995 that equal the non-Federal share for the programs described in subparagraphs (A), (B) and (C) of paragraph (1).*

*"(3) APPROPRIATION.—There is authorized to be appropriated, and there is appropriated, to carry out this section—*

*"(A) $1,170,000,000 for fiscal year 1996;*

*"(B) $1,240,000,000 for fiscal year 1997;*

*"(C) $1,320,000,000 for fiscal year 1998;*

*"(D) $1,400,000,000 for fiscal year 1999;*

*"(E) $1,500,000,000 for fiscal year 2000;*

*"(F) $1,625,000,000 for fiscal year 2001; and*

*"(G) $1,745,000,000 for fiscal year 2002.*

*"(4) REDISTRIBUTION.—With respect to any fiscal year, if the Secretary determines that amounts under any grant awarded to a State under this subsection for such fiscal year will not be used by such State for carrying out the purpose for which the grant is made, the Secretary shall make such amounts available for carrying out such purpose to 1 or more other States which apply for such funds to the extent the Secretary determines that such other States will be able to use such additional amounts for carrying out such purpose. Such available amounts shall be redistributed to a State pursuant to section 402(i) (as such section was in effect before October 1, 1995) by substituting 'the number of children residing in all States applying for such funds' for 'the number of children residing in the United States in the second preceding fiscal year'. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for pur-*

*poses of this part, be regarded as part of such State's payment (as determined under this subsection) for such year.*

*"(b) USE OF FUNDS.—*

*"(1) IN GENERAL.—Amounts received by a State under this section shall only be used to provide child care assistance.*

*"(2) USE FOR CERTAIN POPULATIONS.—A State shall ensure that not less than 70 percent of the total amount of funds received by the State in a fiscal year under this section are used to provide child care assistance to families who are receiving assistance under a State program under this part, families who are attempting through work activities to transition off of such assistance program, and families who are at risk of becoming dependent on such assistance program.*

*"(c) APPLICATION OF CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT.—Notwithstanding any other provision of law, amounts provided to a State under this section shall be transferred to the lead agency under the Child Care and Development Block Grant Act, integrated by the State into the programs established by the State under such Act, and be subject to requirements and limitations of such Act.*

*"(d) TRANSITION RULE.—*

*"(1) IN GENERAL.—Amounts obligated to a State under this section for fiscal year 1996 shall not exceed—*

*"(A) the amount for which a State is eligible under this section for such fiscal year; less*

*"(B) the amounts obligated to the State for such fiscal year under the provisions of law referred to in subsection (a)(1)(A) (as such provisions were in effect on the day before the date of enactment of this section).*

*"(2) ACCEPTANCE OF LIMITATION.—The submission of a plan by a State under section 401(a) for fiscal year 1996 is deemed to constitute the State's acceptance of the grant reductions under paragraph (1). If amounts are provided to a State under this section prior to the submission of such a State plan, the acceptance of such amounts by the State shall constitute the State's acceptance of such reductions.".*

***SEC. 12803. LEAD AGENCY.***

*Section 658D(b) (42 U.S.C. 9858b(b)) is amended—*

*(1) in paragraph (1)—*

*(A) in subparagraph (A), by striking "State" the first place that such appears and inserting "governmental or nongovernmental"; and*

*(B) in subparagraph (C), by inserting "with sufficient time and Statewide distribution of the notice of such hearing," after "hearing in the State"; and*

*(2) in paragraph (2), by striking the second sentence.*

***SEC. 12804. APPLICATION AND PLAN.***

*Section 658E (42 U.S.C. 9858c) is amended—*

*(1) in subsection (b)—*

*(A) by striking "implemented—" and all that follows through "(2)" and inserting "implemented"; and*

*(B) by striking "for subsequent State plans";*

*(2) in subsection (c)—*

*(A) in paragraph (2)—*

*(i) in subparagraph (A)—*

*(I) in clause (i) by striking ", other than through assistance provided under paragraph (3)(C),"; and*

*(II) by striking "except" and all that follows through "1992", and inserting "and provide a detailed description of the procedures the State*

*will implement to carry out the requirements of this subparagraph";*

*(ii) in subparagraph (B)—*

*(I) by striking "Provide assurances" and inserting "Certify"; and*

*(II) by inserting before the period at the end "and provide a detailed description of such procedures";*

*(iii) in subparagraph (C)—*

*(I) by striking "Provide assurances" and inserting "Certify"; and*

*(II) by inserting before the period at the end "and provide a detailed description of how such record is maintained and is made available";*

*(iv) by amending subparagraph (D) to read as follows:*

*"(D) CONSUMER EDUCATION INFORMATION.—Certify that the State will collect and disseminate to parents of eligible children and the general public, consumer education information that will promote informed child care choices.";*

*(v) in subparagraph (E), to read as follows:*

*"(E) COMPLIANCE WITH STATE LICENSING REQUIREMENTS.—*

*"(i) IN GENERAL.—Certify that the State has in effect licensing requirements applicable to child care services provided within the State, and provide a detailed description of such requirements and of how such requirements are effectively enforced. Nothing in the preceding sentence shall be construed to require that licensing requirements be applied to specific types of providers of child care services.*

*"(ii) UNIFORM APPLICATION OF REQUIREMENTS.—A certification under clause (i) shall include an assurance by the State that the State shall apply all such licensing requirements in a uniform manner to child care providers of the same type regardless of whether a child care provider is receiving assistance under this subchapter. Nothing in this subchapter shall be construed to require that a State apply, or prohibit a State from applying, licensing requirements with respect to a particular type of child care.*

*"(iii) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—In lieu of any licensing and regulatory requirements applicable under State and local law, the Secretary, in consultation with Indian tribes and tribal organizations, shall develop minimum child care standards (that appropriately reflect tribal needs and available resources) that shall be applicable to Indian tribes and tribal organization receiving assistance under this subchapter."; and*

*(vi) by striking subparagraphs (F), (G), (H), (I), and (J) and inserting the following:*

*"(F) MEETING THE NEEDS OF CERTAIN POPULATIONS.—Demonstrate the manner in which the State will meet the specific child care needs of families who are receiving assistance under a State program under part A of title IV of the Social Security Act, families who are attempting through work activities to transition off of such assistance program, and families who are at risk of becoming dependent on such assistance program.";*

*(B) in paragraph (3)—*

*(i) in subparagraph (A), by striking "(B) and (C)" and inserting "(B) through (D)";*

*(ii) in subparagraph (B)—*

*(I) by striking ".—Subject to the reservation contained in subparagraph (C), the" and inserting "AND RELATED ACTIVITIES.—The";*

*(II) in clause (i) by striking "; and" at the end and inserting a period;*

*(III) by striking "for—" and all that follows through "section 658E(c)(2)(A)" and inserting "for child care services on sliding fee scale basis, activities that improve the quality or availability of such services, and any other activity that the State deems appropriate"; and*

*(IV) by striking clause (ii);*

*(iii) by amending subparagraph (C) to read as follows:*

*"(C) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 3 percent of the aggregate amount of funds available to the State to*

*carry out this subchapter by a State in each fiscal year may be expended for administrative costs incurred by such State to carry out all of its functions and duties under this subchapter. As used in the preceding sentence, the term 'administrative costs' shall not include the costs of providing direct services."; and*

*(iv) by adding at the end thereof the following:*

*"(D) ASSISTANCE FOR CERTAIN FAMILIES.—A State shall ensure that a substantial portion of the amounts available (after the State has complied with the requirement of section 419(b)(2) of the Social Security Act) to the State to carry out activities this subchapter in each fiscal year is used to provide assistance to low-income working families other than families described in paragraph (2)(F)."; and 419(b)(2)*

*(C) in paragraph (4)(A)—*

*(i) by striking "provide assurances" and inserting "certify";*

*(ii) in the first sentence by inserting "and shall provide a summary of the facts relied on by the State to determine that*

*such rates are sufficient to ensure such access" before the period; and*

*(iii) by striking the last sentence.*

***SEC. 12805. LIMITATION ON STATE ALLOTMENTS.***

*Section 658F(b) (42 U.S.C. 9858d(b)) is amended—*

*(1) in paragraph (1), by striking "No" and inserting "Except as provided for in section 658O(c)(6), no"; and*

*(2) in paragraph (2), by striking "referred to in section 658E(c)(2)(F)".*

***SEC. 12806. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.***

*Section 658G (42 U.S.C. 9858e) is amended to read as follows:*

***"SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.***

*"A State that receives financial assistance under this subchapter, shall use not less than 3 percent of the total amounts received in each fiscal year for activities that are designed to provide comprehensive consumer education to parents and the public, activities that increase parental choice, and activities designed to improve the quality and availability of child care (such as resource and referral services).".*

***SEC. 12807. ADMINISTRATION AND ENFORCEMENT.***

*Section 658I(b) (42 U.S.C. 9858g(b)) is amended—*

*(1) in paragraph (1), by striking ", and shall have" and all that follows through "(2)";*

*(2) by striking paragraph (2); and*

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

***SEC. 12808. PAYMENTS.***

*Section 658J(c) (42 U.S.C. 9858h(c)) is amended—*

*(1) by striking "expended" and inserting "obligated"; and*

*(2) by striking "3 fiscal years" and inserting "fiscal year".*

***SEC. 12809. ANNUAL REPORT AND AUDITS.***

*Section 658K (42 U.S.C. 9858i) is amended—*

*(1) in the section heading by striking "ANNUAL REPORT" and inserting "REPORTS";*

*(2) in subsection (a), to read as follows:*

*"(a) REPORTS.—*

*"(1) COLLECTION OF INFORMATION BY STATES.—*

*"(A) IN GENERAL.—A State that receives funds to carry out this subchapter shall collect the information described in subparagraph (B) on a monthly basis.*

*"(B) REQUIRED INFORMATION.—The information required under this subparagraph shall include, with respect to a family unit receiving assistance under this subchapter information concerning—*

*"(i) family income;*

*"(ii) county of residence;*

*"(iii) the gender and age of children receiving such assistance;*

*"(iv) whether the family includes only 1 parent;*

*"(v) the sources of family income, including the amount obtained from (and separately identified)—*

*"(I) employment, including self-employment;*

*"(II) cash or other assistance under part A of title IV of the Social Security Act;*

*"(III) housing assistance;*

*"(IV) assistance under the Food Stamp Act of 1977; and*

*"(V) other assistance programs;*

*"(vi) the number of months the family has received benefits;*

*"(vii) the type of child care in which the child was enrolled (such as family child care, home care, or center-based child care);*

*"(viii) whether the child care provider involved was a relative;*

*"(ix) the cost of child care for such families; and*

*"(x) the average hours per week of such care;*

*during the period for which such information is required to be submitted.*

*"(C) SUBMISSION TO SECRETARY.—A State described in subparagraph (A) shall, on a quarterly basis, submit the information required to be collected under subparagraph (B) to the Secretary.*

*"(D) SAMPLING.—The Secretary may disapprove the information collected by a State under this paragraph if the State uses sampling methods to collect such information.*

*"(2) BIANNUAL REPORTS.—Not later than December 31, following the end of the first fiscal year with respect to which the amendments made by the Child Care and Development Block Grants Amendments of 1995 apply, and every 6 months thereafter,*

*a State described in paragraph (1)(A) shall prepare and submit to the Secretary a report that includes aggregate data concerning—*

*"(A) the number of child care providers that received funding under this subchapter as separately identified based on the types of providers listed in section 658Q(5);*

*"(B) the monthly cost of child care services, and the portion of such cost that is paid for with assistance provided under this subchapter, listed by the type of child care services provided;*

*"(C) the number of payments made by the State through vouchers, contracts, cash, and disregards under public benefit programs, listed by the type of child care services provided;*

*"(D) the manner in which consumer education information was provided to parents and the number of parents to whom such information was provided; and*

*"(E) the total number (without duplication) of children and families served under this subchapter;*

*during the period for which such report is required to be submitted."; and*

*(2) in subsection (b)—*

*(A) in paragraph (1) by striking "a application" and inserting "an application";*

*(B) in paragraph (2) by striking "any agency administering activities that receive" and inserting "the State that receives"; and*

*(C) in paragraph (4) by striking "entitles" and inserting "entitled".*

***SEC. 12810. ALLOTMENTS.***

*Section 658O (42 U.S.C. 9858m) is amended—*

*(1) in subsection (a)—*

*(A) in paragraph (1)*

*(i) by striking "POSSESSIONS" and inserting "possessions";*

*(ii) by inserting "and" after "States,"; and*

*(iii) by striking ", and the Trust Territory of the Pacific Islands"; and*

*(B) in paragraph (2), by striking "3 percent of the amount appropriated under section 658B" and inserting "1 percent of the aggregate amount of funds available to the State to carry out this subchapter";*

*(2) in subsection (c)—*

*(A) in paragraph (5) by striking "our" and inserting "out"; and*

*(B) by adding at the end thereof the following new paragraph:*

*"(6) CONSTRUCTION OR RENOVATION OF FACILITIES.—*

*"(A) REQUEST FOR USE OF FUNDS.—An Indian tribe or tribal organization may submit to the Secretary a request to use amounts provided under this subsection for construction or renovation purposes.*

*"(B) DETERMINATION.—With respect to a request submitted under subparagraph (A), and except as provided in subparagraph (C), upon a determination by the Secretary that adequate facilities are not otherwise available to an Indian tribe or tribal organization to enable such tribe or organization to carry out child care programs in accordance with this subchapter, and that the lack of such facilities will inhibit the operation of such programs in the future, the Secretary may permit the tribe or organization to use assistance provided under this subsection to make payments for the construction or renovation of facilities that will be used to carry out such programs.*

*"(C) LIMITATION.—The Secretary may not permit an Indian tribe or tribal organization to use amounts provided under this subsection for construction or renovation if such use will result in a decrease in the level of child care services provided by the tribe or organization as compared to the level of such services provided by the tribe or organization in the fiscal year preceding the year for which the determination under subparagraph (A) is being made.*

*"(D) UNIFORM PROCEDURES.—The Secretary shall develop and implement uniform procedures for the solicitation and consideration of requests under this paragraph."; and*

*(3) in subsection (e), by adding at the end thereof the following new paragraph:*

*"(4) INDIAN TRIBES OR TRIBAL ORGANIZATIONS.—Any portion of a grant or contract made to an Indian tribe or tribal organization under subsection (c) that the Secretary determines is not being used in a manner consistent with the provision of this subchapter in the period for which the grant or contract is made available, shall be allotted by the Secretary to other tribes or organizations that have sub-*

*mitted applications under subsection (c) in accordance with their respective needs.".*

***SEC. 12811. DEFINITIONS.***

*Section 658P (42 U.S.C. 9858n) is amended—*

*(1) in paragraph (2), in the first sentence by inserting "or as a deposit for child care services if such a deposit is required of other children being cared for by the provider" after "child care services"; and*

*(2) by striking paragraph (3);*

*(3) in paragraph (4)(B), by striking "75 percent" and inserting "85 percent";*

*(4) in paragraph (5)(B)—*

*(A) by inserting "great grandchild, sibling (if such provider lives in a separate residence)," after "grandchild,";*

*(B) by striking "is registered and"; and*

*(C) by striking "State" and inserting "applicable".*

*(5) by striking paragraph (10);*

*(6) in paragraph (3)—*

*(A) by inserting "or" after "Samoa,"; and*

*(B) by striking ", and the Trust Territory of the Pacific Islands";*

*(7) in paragraph (14)—*

*(A) by striking "The term" and inserting the following:*

*"(A) IN GENERAL.—The term"; and*

*(B) by adding at the end thereof the following new subparagraph:*

*"(B) OTHER ORGANIZATIONS.—Such term includes a Native Hawaiian Organization, as defined in section 4009(4) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4909(4)) and a private non-profit organization established for the purpose of serving youth who are Indians or Native Hawaiians.".*

# Subtitle I—Child Nutrition Programs

## CHAPTER 1—NATIONAL SCHOOL LUNCH ACT

### SEC. 12901. TERMINATION OF ADDITIONAL PAYMENT FOR LUNCHES SERVED IN HIGH FREE AND REDUCED PRICE PARTICIPATION SCHOOLS.

*Section 4(b)(2) of the National School Lunch Act (42 U.S.C. 1753(b)(2)) is amended by inserting before the period at the end the following: "for the 1995 school year and 1 cent more for each of the 1996 and 1997 school years".*

***SEC. 12902. DIRECT FEDERAL EXPENDITURES.***

*(a) ADMINISTRATIVE EXPENSES.—Section 6(a) of the National School Lunch Act (42 U.S.C. 1755(a)) is amended by striking the second and fourth sentences.*

*(b) AMOUNT OF COMMODITY ASSISTANCE.—Section 6(e) of the Act is amended—*

*(1) in paragraph (1), by striking subparagraph (E); and*

*(2) in paragraph (2), by striking the second sentence and inserting the following: "Each State agency shall offer and equitably distribute commodities among schools participating in the school lunch program.".*

*(c) BREAKFAST COMMODITY ASSISTANCE.—Section 6 of the Act is amended—*

*(1) by striking subsection (f); and*

*(2) by redesignating subsection (g) as subsection (f).*

*(d) COMMODITY ASSISTANCE.—*

*(1) IN GENERAL.—Section 6(f) of the Act (as redesignated by subsection (c)) is amended by striking "12 percent" and inserting "8 percent".*

*(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall become effective on July 1, 1996.*

***SEC. 12903. VALUE OF FOOD ASSISTANCE.***

*(a) IN GENERAL.—Section 6(e)(1) of the National School Lunch Act (42 U.S.C. 1755(e)(1)) is amended—*

*(1) in subparagraph (A)—*

*(A) in the first sentence—*

*(i) by inserting "for free and reduced price meals" after "thereof,";*

*(ii) by striking "11 cents" and inserting "14.5 cents"; and*

*(iii) by striking "1982" and inserting "1998"; and*

*(B) by inserting after the first sentence the following: "The national average value of donated foods, or cash payments in lieu thereof, for paid meals, shall be 12 cents, adjusted on July 1, 2001, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions."; and*

*(2) by striking subparagraph (B) and inserting the following:*

*"(B) ADJUSTMENTS.—*

*"(i) IN GENERAL.—Except as provided in subparagraph (A), the value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a 3-month average value of the Price Index*

*for Foods Used in Schools and Institutions for March, April, and May each year.*

*"(ii) METHOD OF ADJUSTMENTS.—Except as otherwise provided in this subparagraph, in the case of each school year, the Secretary shall—*

*"(I) base the adjustment made under clause (i) on the amount of the unrounded adjustment for the preceding school year;*

*"(II) adjust the resulting amount in accordance with clause (i); and*

*"(III) round the result to the nearest lower cent increment.*

*"(iii) ADJUSTMENT ON JANUARY 1, 1996.—On January 1, 1996, the Secretary shall adjust the value of food assistance for all meals for the remainder of the school year by rounding the previously established value of food assistance to the nearest lower cent increment.".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall become effective on July 1, 1996.*

***SEC. 12904. REDUCED PRICE LUNCHES.***

*(a) MAXIMUM PRICE.—Section 9(b)(3) of the National School Lunch Act (42 U.S.C. 1758(b)(3)) is amended—*

*(1) in the last sentence, by striking "The" and inserting "Except as provided in the succeeding 2 sentences, the"; and*

*(2) by adding at the end the following: "In the case of the school year beginning July 1, 2000, the price charged for a reduced price lunch shall not exceed 45 cents. In the case of the school year beginning July 1, 2001, and each school year thereafter, the price charged for a reduced price lunch shall not exceed 50 cents.".*

*(b) REDUCED PRICE MEAL PAYMENT.—Section 11(a)(2) of the Act (42 U.S.C. 1759a(a)(2)) is amended—*

*(1) by striking "cents and the" and inserting "cents. Except as provided in the succeeding 2 sentences, the"; and*

*(2) by adding at the end the following: "In the case of the school year beginning July 1, 2000, the special assistance factor for reduced price lunches shall be 45 cents less than the special assistance factor for free lunches. In the case of the school year beginning July 1, 2001, and each school year thereafter, the special assistance factor for reduced price lunches*

*shall be 50 cents less than the special assistance factor for free lunches.".*

***SEC. 12905. LUNCHES, BREAKFASTS, AND SUPPLEMENTS.***

*(a) IN GENERAL.—Section 11(a)(3)(B) of the National School Lunch Act (42 U.S.C. 1759a(a)(3)(B)) is amended—*

*(1) by designating the second and third sentences as subparagraphs (C) and (D), respectively; and*

*(2) by striking subparagraph (D) (as so designated) and inserting the following:*

*"(D) ROUNDING.—Except as otherwise provided in this paragraph, in the case of each school year, the Secretary shall—*

*"(i) base the adjustment made under this paragraph on the amount of the unrounded adjustment for the preceding school year;*

*"(ii) adjust the resulting amount in accordance with subparagraphs (B) and (C); and*

*"(iii) round the result to the nearest lower cent increment.*

*"(E) ADJUSTMENT ON JANUARY 1 AND JULY 1, 1996.—The Secretary shall adjust the rates for breakfasts and supplements on January 1, 1996,*

*for the remainder of the school year, and shall adjust the rates for lunches on July 1, 1996, by rounding the previously established rates to the nearest lower cent increment.*

*"(F) ADJUSTMENT FOR 24-MONTH PERIOD BEGINNING JULY 1, 1996.—In the case of the 24-month period beginning July 1, 1996, the national average payment rates for paid lunches, paid breakfasts, and paid supplements shall be the same as the national average payment rate for paid lunches, paid breakfasts, and paid supplements, respectively, for the school year beginning July 1, 1995, rounded to the nearest lower cent increment.*

*"(G) ADJUSTMENT FOR SCHOOL YEAR BEGINNING JULY 1, 1998.—In the case of the school year beginning July 1, 1998, the Secretary shall—*

*"(i) base the adjustments made under this paragraph for—*

*"(I) paid lunches and paid breakfasts on the amount of the unrounded adjustment for paid lunches for the school year beginning July 1, 1995; and*

*"(II) paid supplements on the amount of the unrounded adjustment for paid supplements for the school year beginning July 1, 1995;*

*"(ii) adjust each resulting amount in accordance with subparagraph (C); and*

*"(iii) round each result to the nearest lower cent increment.".*

*(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1996.*

***SEC. 12906. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.***

*(a) ESTABLISHMENT OF PROGRAM.—Section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)) is amended—*

*(1) in paragraph (1)—*

*(A) in the first sentence, by striking "initiate, maintain, and expand" and insert "initiate and maintain"; and*

*(B) in subparagraph (E) of the second sentence, by striking "the Trust Territory of the Pacific Islands,"; and*

*(2) in paragraph (7)(A), by striking "Except as provided in subparagraph (C), private" and inserting "Private".*

*(b) SERVICE INSTITUTIONS.—Section 13(b) of the Act is amended by striking "(b)(1)" and all that follows through the end of paragraph (1) and inserting the following:*

*"(b) SERVICE INSTITUTIONS.—*

*"(1) PAYMENTS.—*

*"(A) IN GENERAL.—Except as otherwise provided in this paragraph, payments to service institutions shall equal the full cost of food service operations (which cost shall include the costs of obtaining, preparing, and serving food, but shall not include administrative costs).*

*"(B) MAXIMUM AMOUNTS.—Subject to subparagraph (C), payments to any institution under subparagraph (A) shall not exceed—*

*"(i) $1.82 for each lunch and supper served;*

*"(ii) $1.13 for each breakfast served; and*

*"(iii) 46 cents for each meal supplement served.*

*"(C) ADJUSTMENTS.—Amounts specified in subparagraph (B) shall be adjusted each January 1 to the nearest lower cent increment in accordance with the changes for the 12-month period ending the preceding November 30 in the se-*

*ries for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Each adjustment shall be based on the unrounded adjustment for the prior 12-month period.".*

*(c) ADMINISTRATION OF SERVICE INSTITUTIONS.—Section 13(b)(2) of the Act is amended—*

*(1) in the first sentence, by striking "four meals" and inserting "3 meals, or 2 meals and 1 supplement,"; and*

*(2) by striking the second sentence.*

*(d) REIMBURSEMENTS.—Section 13(c)(2) of the Act is amended—*

*(1) by striking subparagraph (A);*

*(2) in subparagraph (B)—*

*(A) in the first sentence—*

*(i) by striking ", and such higher education institutions,"; and*

*(ii) by striking "without application" and inserting "upon showing residence in areas in which poor economic conditions exist"; and*

*(B) by adding at the end the following: "The higher education institutions referred to in*

*the preceding sentence shall be eligible to participate in the program under this paragraph without application.";*

*(3) in subparagraph (C)(ii), by striking "severe need"; and*

*(4) by redesignating subparagraphs (B) through (E), as so amended, as subparagraphs (A) through (D), respectively.*

*(e) PERMITTING OFFER VERSUS SERVE.—Section 13(f) of the Act is amended—*

*(1) by redesignating the first through seventh sentences as paragraphs (1) through (7), respectively; and*

*(2) by adding at the end the following:*

*"(8) OFFER VERSUS SERVE.—A school food authority participating as a service institution may permit a child attending a site on school premises operated directly by the authority to refuse not more than 1 item of a meal that the child does not intend to consume. A refusal of an offered food item shall not affect the amount of payments made under this section to a school for the meal.".*

*(f) EFFECTIVE DATE.—The amendments made by subsection (b) shall become effective on January 1, 1996.*

***SEC. 12907. CHILD CARE FOOD PROGRAM.***

*(a) ESTABLISHMENT OF PROGRAM.—Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended—*

*(1) in the section heading, by striking "AND ADULT"; and*

*(2) in the first sentence of subsection (a), by striking "initiate, maintain, and expand" and inserting "initiate and maintain".*

*(b) PAYMENTS TO SPONSOR EMPLOYEES.—Paragraph (2) of the last sentence of section 17(a) of the Act (42 U.S.C. 1766(a)) is amended—*

*(1) by striking "and" at the end of subparagraph (B);*

*(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and*

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

*"(D) in the case of a family or group day care home sponsoring organization that employs more than 1 employee, the organization does not base payments to an employee of the organization on the number of family or group day care homes recruited, managed, or monitored.".*

*(c) TECHNICAL ASSISTANCE.—The last sentence of section 17(d)(1) of the Act is amended by striking ", and shall provide technical assistance" and all that follows through "its application".*

*(d) REIMBURSEMENT OF CHILD CARE INSTITUTIONS.—Section 17(f)(2)(B) of the Act (42 U.S.C. 1766(f)(2)(B)) is amended by striking "two meals and two supplements or three meals and one supplement" and inserting "two meals and one supplement".*

*(e) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—*

*(1) RESTRUCTURED DAY CARE HOME REIMBURSEMENTS.—Section 17(f)(3) of the Act is amended by striking "(3)(A) Institutions" and all that follows through the end of subparagraph (A) and inserting the following:*

*"(3) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—*

*"(A) REIMBURSEMENT FACTOR.—*

*"(i) IN GENERAL.—An institution that participates in the program under this section as a family or group day care home sponsoring organization shall be provided, for payment to a home sponsored by the organization, reimbursement factors in accordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.*

*"(ii) TIER I FAMILY OR GROUP DAY CARE HOMES.—*

*"(I) DEFINITION.—In this paragraph, the term 'tier I family or group day care home' means—*

*"(aa) a family or group day care home that is located in a geographic area, as defined by the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9;*

*"(bb) a family or group day care home that is located in an area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under this Act or the Child Nutrition*

*Act of 1966 (42 U.S.C. 1771 et seq.); or*

*"(cc) a family or group day care home that is operated by a provider whose household meets the income eligibility guidelines for free or reduced price meals under section 9 and whose income is verified by the sponsoring organization of the home under regulations established by the Secretary.*

*"(II) REIMBURSEMENT.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for*

*free or reduced price meals under section 9.*

*"(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on the date of enactment of this subclause.*

*"(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on August 1, 1996, July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment in effect on June 30 of the preceding school year.*

*"(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—*

*"(I) IN GENERAL.—*

*"(aa) FACTORS.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be 90 cents for lunches and suppers, 25 cents for breakfasts, and 10 cents for supplements.*

*"(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.*

*"(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.*

*"(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:*

*"(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or*

*supplements served under this subsection to children who are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).*

*"(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the income eligibility guidelines, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).*

*"(III) INFORMATION AND DETERMINATIONS.—*

*"(aa) IN GENERAL.—If a family or group day care home elects to claim the factors de-*

*scribed in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.*

*"(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or*

*reduced price meals under section 9 to be a child who is a member of a household whose income meets the income eligibility guidelines under section 9.*

*"(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.*

*"(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that sponsors the home. The procedures the*

*Secretary prescribes may include 1 or more of the following:*

*"(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.*

*"(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the income eligibility guidelines under section 9, with each such reimbursement category carrying a set of reimbursement*

*factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).*

*"(cc) Such other simplified procedures as the Secretary may prescribe.*

*"(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any necessary minimum verification requirements.".*

*(2) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—Section 17(f)(3) of the Act is amended by adding at the end the following:*

*"(D) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—*

*"(i) IN GENERAL.—*

*"(I) RESERVATION.—From amounts made available to carry out this section, the Secretary shall reserve*

*$5,000,000 of the amount made available for fiscal year 1996.*

*"(II) PURPOSE.—The Secretary shall use the funds made available under subclause (I) to provide grants to States for the purpose of providing—*

*"(aa) assistance, including grants, to family and day care home sponsoring organizations and other appropriate organizations, in securing and providing training, materials, automated data processing assistance, and other assistance for the staff of the sponsoring organizations; and*

*"(bb) training and other assistance to family and group day care homes in the implementation of the amendment to subparagraph (A) made by section 12907(e)(1) of the Balanced Budget Act of 1995.*

*"(ii) ALLOCATION.—The Secretary shall allocate from the funds reserved under clause (i)(I)—*

*"(I) $30,000 in base funding to each State; and*

*"(II) any remaining amount among the States, based on the number of family day care homes participating in the program in a State during fiscal year 1994 as a percentage of the number of all family day care homes participating in the program during fiscal year 1994.*

*"(iii) RETENTION OF FUNDS.—Of the amount of funds made available to a State for fiscal year 1996 under clause (i), the State may retain not to exceed 30 percent of the amount to carry out this subparagraph.*

*"(iv) ADDITIONAL PAYMENTS.—Any payments received under this subparagraph shall be in addition to payments that a State receives under subparagraph (A).".*

*(3) PROVISION OF DATA.—Section 17(f)(3) of the Act (as amended by paragraph (2)) is further amended by adding at the end the following:*

*"(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—*

*"(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.*

*"(ii) SCHOOL DATA.—*

*"(I) IN GENERAL.—A State agency administering the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall provide to approved family*

*or group day care home sponsoring organizations a list of schools serving elementary school children in the State in which not less than ½ of the children enrolled are certified to receive free or reduced price meals. The State agency shall collect the data necessary to create the list annually and provide the list on a timely basis to any approved family or group day care home sponsoring organization that requests the list.*

*"(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.*

*"(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 3 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.".*

*(4) CONFORMING AMENDMENTS.—Section 17(c) of the Act is amended by inserting "except as provided in subsection (f)(3)," after "For purposes of this section," each place it appears in paragraphs (1), (2), and (3).*

*(f) REIMBURSEMENT.—Section 17(f) of the Act is amended—*

*(1) in paragraph (3)—*

*(A) in subparagraph (B), by striking the third and fourth sentences; and*

*(B) in subparagraph (C)—*

*(i) in clause (i)—*

*(I) by striking "(i)";*

*(II) in the first sentence, by striking "and expansion funds" and all that follows through "rural areas";*

*(III) by striking the second sentence; and*

*(IV) by striking "and expansion funds" each place it appears; and*

*(ii) by striking clause (ii); and*

*(2) by striking paragraph (4).*

*(g) ELIMINATION OF STATE PAPERWORK AND OUTREACH BURDEN.—Section 17 of the Act is amended by striking subsection (k) and inserting the following:*

*"(k) TRAINING AND TECHNICAL ASSISTANCE.—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.".*

*(h) MODIFICATION OF ADULT CARE FOOD PROGRAM.—Section 17(o) of the Act is amended—*

*(1) in the first sentence of paragraph (1)—*

*(A) by striking "adult day care centers" and inserting "day care centers for chronically impaired disabled persons" ; and*

*(B) by striking "to persons 60 years of age or older or"; and*

*(2) in paragraph (2)—*

*(A) in subparagraph (A)—*

*(i) by striking "adult day care center" and inserting "day care center for chronically impaired disabled persons"; and*

*(ii) in clause (i)—*

*(I) by striking "adult";*

*(II) by striking "adults" and inserting "persons"; and*

*(III) by striking "or persons 60 years of age or older"; and*

*(B) in subparagraph (B), by striking "adult day care services" and inserting "day care services for chronically impaired disabled persons".*

*(i) UNNEEDED PROVISIONS.—Section 17 of the Act is amended—*

*(1) by striking subsections (b) and (q);*

*(2) by redesignating subsections (c) through (p), as so amended, as subsections (b) through (o), respectively; and*

*(3) in subsection (e), as redesignated by paragraph (2)—*

*(A) in paragraph (2)(A), by striking "subsection (c)" and inserting "subsection (b)"; and*

*(B) in paragraph (3)(C), by striking "subsection (d)" and inserting "subsection (c)".*

*(j) CONFORMING AMENDMENTS.—*

*(1) Section 11(a)(3)(A)(iv) of the Act (42 U.S.C. 1759a(a)(3)(A)(iv)) is amended by striking "17(c)" and inserting "17(b)".*

*(2) Section 17A(c) of the Act (42 U.S.C. 1766a(c)) is amended by striking "17(c)(3)" and inserting "17(b)(3)".*

*(3) Section 17B(f) of the Act (42 U.S.C. 1766b(f)) is amended—*

*(A) in the subsection heading, by striking "AND ADULT"; and*

*(B) in paragraph (1), by striking "and adult".*

*(4) Section 18(e)(3)(B) of the Act (42 U.S.C. 1769(e)(3)(B)) is amended by striking "and adult".*

*(5) Section 25(b)(1)(C) of the Act (42 U.S.C. 1769f(b)(1)(C)) is amended by striking "and adult".*

*(6) Section 3(1) of the Healthy Meals for Healthy Americans Act of 1994 (Public Law 103–448) is amended by striking "and adult".*

*(k) EFFECTIVE DATE.—*

*(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of enactment of this Act.*

*(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1), (3), and (4) of subsection (e) shall become effective on August 1, 1996.*

*(3) REGULATIONS.—*

*(A) INTERIM REGULATIONS.—Not later than February 1, 1996, the Secretary shall issue interim regulations to implement—*

*(i) the amendments made by paragraphs (1), (3), and (4) of subsection (e); and*

*(ii) section 17(f)(3)(C) of the National School Lunch Act (42 U.S.C. 1766(f)(3)(C)).*

*(B) FINAL REGULATIONS.—Not later than August 1, 1996, the Secretary shall issue final*

*regulations to implement the provisions of law referred to in subparagraph (A).*

*(l) STUDY OF IMPACT OF AMENDMENTS ON PROGRAM PARTICIPATION AND FAMILY DAY CARE LICENSING.—*

*(1) IN GENERAL.—The Secretary of Agriculture, in conjunction with the Secretary of Health and Human Services, shall study the impact of the amendments made by this section on—*

*(A) the number of family day care homes participating in the child care food program established under section 17 of the National School Lunch Act (42 U.S.C. 1766);*

*(B) the number of day care home sponsoring organizations participating in the program;*

*(C) the number of day care homes that are licensed, certified, registered, or approved by each State in accordance with regulations issued by the Secretary;*

*(D) the rate of growth of the numbers referred to in subparagraphs (A) through (C);*

*(E) the nutritional adequacy and quality of meals served in family day care homes that—*

*(i) received reimbursement under the program prior to the amendments made by this section but do not receive reimburse-*

*ment after the amendments made by this section; or*

*(ii) received full reimbursement under the program prior to the amendments made by this section but do not receive full reimbursement after the amendments made by this section; and*

*(F) the proportion of low-income children participating in the program prior to the amendments made by this section and the proportion of low-income children participating in the program after the amendments made by this section.*

*(2) REQUIRED DATA.—Each State agency participating in the child care food program under section 17 of the National School Lunch Act (42 U.S.C. 1766) shall submit to the Secretary data on—*

*(A) the number of family day care homes participating in the program on July 31, 1996, and July 31, 1997;*

*(B) the number of family day care homes licensed, certified, registered, or approved for service on July 31, 1996, and July 31, 1997; and*

*(C) such other data as the Secretary may require to carry out this subsection.*

***SEC. 12908. PILOT PROJECTS.***

*(a) UNIVERSAL FREE PILOT.—Section 18(d) of the National School Lunch Act (42 U.S.C. 1769(d)) is amended—*

*(1) by striking paragraph (3); and*

*(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.*

*(b) DEMO PROJECT OUTSIDE SCHOOL HOURS.—Section 18(e) of the Act is amended—*

*(1) in paragraph (1)—*

*(A) in subparagraph (A)—*

*(i) by striking "(A)"; and*

*(ii) by striking "shall" and inserting "may"; and*

*(B) by striking subparagraph (B); and*

*(2) by striking paragraph (5) and inserting the following:*

*"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1997 and 1998.".*

***SEC. 12909. INFORMATION CLEARINGHOUSE.***

*Section 26 of the National School Lunch Act (42 U.S.C. 1769g) is repealed.*

## *CHAPTER 2—CHILD NUTRITION ACT*

***SEC. 12921. SPECIAL MILK PROGRAM.***

*(a) IN GENERAL.—Section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)) is amended—*

*(1) in paragraph (3), by striking "the Trust Territory of the Pacific Islands" and inserting "the Commonwealth of the Northern Mariana Islands"; and*

*(2) by striking paragraph (8) and inserting the following:*

*"(8) ADJUSTMENTS.—*

*"(A) IN GENERAL.—Except as otherwise provided in this paragraph, in the case of each school year, the Secretary shall—*

*"(i) base the adjustment made under paragraph (7) on the amount of the unrounded adjustment for the preceding school year;*

*"(ii) adjust the resulting amount in accordance with paragraph (7); and*

*"(iii) round the result to the nearest lower cent increment.*

*"(B) ADJUSTMENT ON JANUARY 1, 1996.—On January 1, 1996, the Secretary shall adjust the minimum rate for the remainder of the school year by rounding the previously estab-*

*lished minimum rate to the nearest lower cent increment.*

*"(C) ADJUSTMENT FOR 24-MONTH PERIOD BEGINNING JULY 1, 1996.—In the case of the 24-month period beginning July 1, 1996, the minimum rate shall be the same as the minimum rate in effect on June 30, 1996.*

*"(D) ADJUSTMENT FOR SCHOOL YEAR BEGINNING JULY 1, 1998.—In the case of the school year beginning July 1, 1998, the Secretary shall—*

*"(i) base the adjustment made under paragraph (7) on the amount of the unrounded adjustment for the minimum rate for the school year beginning July 1, 1995;*

*"(ii) adjust the resulting amount to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period for which the data are available; and*

*"(iii) round the result to the nearest lower cent increment.".*

*(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1996.*

***SEC. 12922. FREE AND REDUCED PRICE BREAKFASTS.***

*(a) IN GENERAL.—Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended—*

*(1) in the second sentence of paragraph (1)(B), by striking ", adjusted to the nearest one-fourth cent" and inserting "(as adjusted pursuant to section 11(a) of the National School Lunch Act (42 U.S.C. 1759a(a))"; and*

*(2) in paragraph (2)(B)(ii)—*

*(A) by striking "nearest one-fourth cent" and inserting "nearest lower cent increment for the applicable school year"; and*

*(B) by inserting before the period at the end the following: ", and the adjustment required by this clause shall be based on the unrounded adjustment for the preceding school year".*

*(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on July 1, 1996.*

***SEC. 12923. CONFORMING REIMBURSEMENT FOR PAID BREAKFASTS AND LUNCHES.***

*(a) IN GENERAL.—The last sentence of section 4(b)(1)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(1)(B)) is amended by striking "8.25 cents" and all*

*that follows through "Act)" and inserting "the same as the national average lunch payment for paid meals established under section 4(b) of the National School Lunch Act (42 U.S.C. 1753(b))".*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1996.*

**SEC. 12924. SCHOOL BREAKFAST PROGRAM AUTHORIZATION.**

*Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended by striking subsections (f) and (g).*

**SEC. 12925. MISCELLANEOUS PROVISIONS AND DEFINITIONS.**

*Section 15 of the Child Nutrition Act of 1966 (42 U.S.C. 1784) is amended—*

*(1) in paragraph (1), by striking "the Trust Territory of the Pacific Islands" and inserting "the Commonwealth of the Northern Mariana Islands"; and*

*(2) in the first sentence of paragraph (3)—*

*(A) in subparagraph (A), by inserting "and" at the end; and*

*(B) by striking ", and (C)" and all that follows through "Governor of Puerto Rico".*

**SEC. 12926. NUTRITION EDUCATION AND TRAINING.**

*(a) USE OF FUNDS.—Section 19(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(f)) is amended—*

*(1) in paragraph (1)—*

*(A) by striking subparagraph (B); and*

*(B) in subparagraph (A)—*

*(i) by striking "(A)";*

*(ii) by striking clauses (ix) through (xix);*

*(iii) by redesignating clauses (i) through (viii) and (xx) as subparagraphs (A) through (H) and (I), respectively; and*

*(iv) in subparagraph (H), as so redesignated, by inserting "and" at the end;*

*(2) by striking paragraphs (2) and (4); and*

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

*(b) AUTHORIZATION OF APPROPRIATIONS.—Section 19(i) of the Act is amended—*

*(1) in the first sentence of paragraph (2)(A), by striking "and each succeeding fiscal year";*

*(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and*

*(3) by inserting after paragraph (2) the following:*

*"(2) FISCAL YEARS 1997 THROUGH 2002.—*

*"(A) IN GENERAL.—There are authorized to be appropriated to carry out this section*

*$10,000,000 for each of fiscal years 1997 through 2002.*

*"(B) GRANTS.—*

*"(i) IN GENERAL.—Grants to each State from the amounts made available under subparagraph (A) shall be based on a rate of 50 cents for each child enrolled in schools or institutions within the State, except that no State shall receive an amount less than $75,000 per fiscal year.*

*"(ii) INSUFFICIENT FUNDS.—If the amount made available for any fiscal year is insufficient to pay the amount to which each State is entitled under clause (i), the amount of each grant shall be ratably reduced.".*

## Subtitle J—Food Stamps and Commodity Distribution

### SEC. 13001. SHORT TITLE.

*This subtitle may be cited as the "Food Stamp Reform and Commodity Distribution Act of 1995".*

## CHAPTER 1—FOOD STAMP PROGRAM

### SEC. 13011. DEFINITION OF CERTIFICATION PERIOD.

*Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended by striking "Except as provided" and*

*all that follows and inserting the following: "The certification period shall not exceed 12 months, except that the certification period may be up to 24 months if all adult household members are elderly or disabled. A State agency shall have at least 1 contact with each certified household every 12 months.".*

***SEC. 13012. DEFINITION OF COUPON.***

*Section 3(d) of the Food Stamp Act of 1977 (7 U.S.C. 2012(d)) is amended by striking "or type of certificate" and inserting "type of certificate, authorization card, cash or check issued in lieu of a coupon, or an access device, including an electronic benefit transfer card or personal identification number,".*

***SEC. 13013. TREATMENT OF CHILDREN LIVING AT HOME.***

*The second sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking "(who are not themselves parents living with their children or married and living with their spouses)".*

***SEC. 13014. OPTIONAL ADDITIONAL CRITERIA FOR SEPARATE HOUSEHOLD DETERMINATIONS.***

*Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by inserting after the third sentence the following: "Notwithstanding the preceding sentences, a State may establish criteria that prescribe when individuals who live together, and who would be allowed to participate*

*as separate households under the preceding sentences, shall be considered a single household, without regard to the common purchase of food and preparation of meals.''.*

***SEC. 13015. ADJUSTMENT OF THRIFTY FOOD PLAN.***

*The second sentence of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended—*

*(1) by striking ''shall (1) make'' and inserting the following: ''shall—*

*''(1) make'';*

*(2) by striking ''scale, (2) make'' and inserting ''scale;*

*''(2) make'';*

*(3) by striking ''Alaska, (3) make'' and inserting the following: ''Alaska;*

*''(3) make''; and*

*(4) by striking ''Columbia, (4) through'' and all that follows through the end of the subsection and inserting the following: ''Columbia; and*

*''(4) on October 1, 1996, and each October 1 thereafter, adjust the cost of the diet to reflect the cost of the diet, in the preceding June, and round the result to the nearest lower dollar increment for each household size, except that on October 1, 1996, the Secretary may not reduce the cost of the diet in effect on September 30, 1996.''.*

***SEC. 13016. DEFINITION OF HOMELESS INDIVIDUAL.***

*Section 3(s)(2)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2012(s)(2)(C)) is amended by inserting "for not more than 90 days" after "temporary accommodation".*

***SEC. 13017. STATE OPTION FOR ELIGIBILITY STANDARDS.***

*Section 5(b) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by striking "(b) The Secretary" and inserting the following:*

*"(b) ELIGIBILITY STANDARDS.—Except as otherwise provided in this Act, the Secretary".*

***SEC. 13018. EARNINGS OF STUDENTS.***

*Section 5(d)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(7)) is amended by striking "21" and inserting "19".*

***SEC. 13019. ENERGY ASSISTANCE.***

*(a) IN GENERAL.—Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by striking paragraph (11) and inserting the following: "(11) a 1-time payment or allowance made under a Federal or State law for the costs of weatherization or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device,".*

*(b) CONFORMING AMENDMENTS.—*

*(1) Section 5(k) of the Act (7 U.S.C. 2014(k)) is amended—*

*(A) in paragraph (1)—*

*(i) in subparagraph (A), by striking "plan for aid to families with dependent children approved" and inserting "program funded"; and*

*(ii) in subparagraph (B), by striking ", not including energy or utility-cost assistance,";*

*(B) in paragraph (2), by striking subparagraph (C) and inserting the following:*

*"(C) a payment or allowance described in subsection (d)(11);"; and*

*(C) by adding at the end the following:*

*"(4) THIRD PARTY ENERGY ASSISTANCE PAYMENTS.—*

*"(A) ENERGY ASSISTANCE PAYMENTS.—For purposes of subsection (d)(1), a payment made under a Federal or State law to provide energy assistance to a household shall be considered money payable directly to the household.*

*"(B) ENERGY ASSISTANCE EXPENSES.—For purposes of subsection (e)(7), an expense paid on behalf of a household under a Federal or State law to provide energy assistance shall be considered an out-of-pocket expense incurred and paid by the household.".*

*(2) Section 2605(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(f)) is amended—*

*(A) by striking "(f)(1) Notwithstanding" and inserting "(f) Notwithstanding";*

*(B) in paragraph (1), by striking "food stamps,"; and*

*(C) by striking paragraph (2).*

***SEC. 13020. DEDUCTIONS FROM INCOME.***

*(a) IN GENERAL.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by striking subsection (e) and inserting the following:*

*"(e) DEDUCTIONS FROM INCOME.—*

*"(1) STANDARD DEDUCTION.—The Secretary shall allow a standard deduction for each household in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States of $134, $229, $189, $269, and $118, respectively.*

*"(2) EARNED INCOME DEDUCTION.—*

*"(A) DEFINITION OF EARNED INCOME.—In this paragraph, the term 'earned income' does not include income excluded by subsection (d) or any portion of income earned under a work supplementation or support program, as defined*

*under section 16(b), that is attributable to public assistance.*

*"(B) DEDUCTION.—Except as provided in subparagraph (C), a household with earned income shall be allowed a deduction of 20 percent of all earned income (other than income excluded by subsection (d)) to compensate for taxes, other mandatory deductions from salary, and work expenses.*

*"(C) EXCEPTION.—The deduction described in subparagraph (B) shall not be allowed with respect to determining an overissuance due to the failure of a household to report earned income in a timely manner.*

*"(3) DEPENDENT CARE DEDUCTION.—*

*"(A) IN GENERAL.—A household shall be entitled, with respect to expenses (other than excluded expenses described in subparagraph (B)) for dependent care, to a dependent care deduction, the maximum allowable level of which shall be $200 per month for each dependent child under 2 years of age and $175 per month for each other dependent, for the actual cost of payments necessary for the care of a dependent if the care enables a household member to accept or*

*continue employment, or training or education that is preparatory for employment.*

*"(B) EXCLUDED EXPENSES.—The excluded expenses referred to in subparagraph (A) are—*

*"(i) expenses paid on behalf of the household by a third party;*

*"(ii) amounts made available and excluded for the expenses referred to in subparagraph (A) under subsection (d)(3); and*

*"(iii) expenses that are paid under section 6(d)(4).*

*"(4) DEDUCTION FOR CHILD SUPPORT PAYMENTS.—*

*"(A) IN GENERAL.—A household shall be entitled to a deduction for child support payments made by a household member to or for an individual who is not a member of the household if the household member is legally obligated to make the payments.*

*"(B) METHODS FOR DETERMINING AMOUNT.—The Secretary may prescribe by regulation the methods, including calculation on a retrospective basis, that a State agency shall use to determine the amount of the deduction for child support payments.*

*"(5) HOMELESS SHELTER ALLOWANCE.—A State agency may develop a standard homeless shelter allowance, which shall not exceed $139 per month, for such expenses as may reasonably be expected to be incurred by households in which all members are homeless individuals but are not receiving free shelter throughout the month. A State agency that develops the allowance may use the allowance in determining eligibility and allotments for the households, except that the State agency may prohibit the use of the allowance for households with extremely low shelter costs.*

*"(6) EXCESS MEDICAL EXPENSE DEDUCTION.—*

*"(A) IN GENERAL.—A household containing an elderly or disabled member shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess medical expense deduction for the portion of the actual costs of allowable medical expenses, incurred by the elderly or disabled member, exclusive of special diets, that exceeds $35 per month.*

*"(B) METHOD OF CLAIMING DEDUCTION.—*

*"(i) IN GENERAL.—A State agency shall offer an eligible household under sub-*

*paragraph (A) a method of claiming a deduction for recurring medical expenses that are initially verified under the excess medical expense deduction in lieu of submitting information or verification on actual expenses on a monthly basis.*

*"(ii) METHOD.—The method described in clause (i) shall—*

*"(I) be designed to minimize the burden for the eligible elderly or disabled household member choosing to deduct the recurrent medical expenses of the member pursuant to the method;*

*"(II) rely on reasonable estimates of the expected medical expenses of the member for the certification period (including changes that can be reasonably anticipated based on available information about the medical condition of the member, public or private medical insurance coverage, and the current verified medical expenses incurred by the member); and*

*"(III) not require further reporting or verification of a change in med-*

*ical expenses if such a change has been anticipated for the certification period.*

*"(7) EXCESS SHELTER EXPENSE DEDUCTION.—*

*"(A) IN GENERAL.—A household shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 percent of monthly household income after all other applicable deductions have been allowed.*

*"(B) MAXIMUM AMOUNT OF DEDUCTION.—In the case of a household that does not contain an elderly or disabled individual, the excess shelter expense deduction shall not exceed—*

*"(i) in the 48 contiguous States and the District of Columbia, $247 per month; and*

*"(ii) in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $429, $353, $300, and $182 per month, respectively.*

*"(C) STANDARD UTILITY ALLOWANCE.—*

*"(i) IN GENERAL.—In computing the excess shelter expense deduction, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance that does not fluctuate within a year to reflect seasonal variations.*

*"(ii) RESTRICTIONS ON HEATING AND COOLING EXPENSES.—An allowance for a heating or cooling expense may not be used in the case of a household that—*

*"(I) does not incur a heating or cooling expense, as the case may be;*

*"(II) does incur a heating or cooling expense but is located in a public housing unit that has central utility meters and charges households, with regard to the expense, only for excess utility costs; or*

*"(III) shares the expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both,*

*unless the allowance is prorated between the household and the other individual, household, or both.*

*"(iii) MANDATORY ALLOWANCE.—*

*"(I) IN GENERAL.—A State agency may make the use of a standard utility allowance mandatory for all households with qualifying utility costs if—*

*"(aa) the State agency has developed 1 or more standards that include the cost of heating and cooling and 1 or more standards that do not include the cost of heating and cooling; and*

*"(bb) the Secretary finds that the standards will not result in an increased cost to the Secretary.*

*"(II) HOUSEHOLD ELECTION.—A State agency that has not made the use of a standard utility allowance mandatory under subclause (I) shall allow a household to switch, at the end of a certification period, between the standard utility allowance and a deduction*

*based on the actual utility costs of the household.*

*"(iv) AVAILABILITY OF ALLOWANCE TO RECIPIENTS OF ENERGY ASSISTANCE.—*

*"(I) IN GENERAL.—Subject to subclause (II), if a State agency elects to use a standard utility allowance that reflects heating or cooling costs, the standard utility allowance shall be made available to households receiving a payment, or on behalf of which a payment is made, under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) or other similar energy assistance program, if the household still incurs out-of-pocket heating or cooling expenses in excess of any assistance paid on behalf of the household to an energy provider.*

*"(II) SEPARATE ALLOWANCE.—A State agency may use a separate standard utility allowance for households on behalf of which a payment described in subclause (I) is made, but may not be required to do so.*

*"(III) STATES NOT ELECTING TO USE SEPARATE ALLOWANCE.—A State agency that does not elect to use a separate allowance but makes a single standard utility allowance available to households incurring heating or cooling expenses (other than a household described in subclause (I) or (II) of subparagraph (C)(ii)) may not be required to reduce the allowance due to the provision (directly or indirectly) of assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).*

*"(IV) PRORATION OF ASSISTANCE.—For the purpose of the food stamp program, assistance provided under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) shall be considered to be prorated over the entire heating or cooling season for which the assistance was provided.".*

*(b) CONFORMING AMENDMENT.—Section 11(e)(3) of the Act (7 U.S.C. 2020(e)(3)) is amended by striking ".*

*Under rules prescribed" and all that follows through "verifies higher expenses".*

***SEC. 13021. VEHICLE ALLOWANCE.***

*Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by striking paragraph (2) and inserting the following:*

*"(2) INCLUDED ASSETS.—*

*"(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Secretary shall, in prescribing inclusions in, and exclusions from, financial resources, follow the regulations in force as of June 1, 1982 (other than those relating to licensed vehicles and inaccessible resources).*

*"(B) ADDITIONAL INCLUDED ASSETS.—The Secretary shall include in financial resources—*

*"(i) any boat, snowmobile, or airplane used for recreational purposes;*

*"(ii) any vacation home;*

*"(iii) any mobile home used primarily for vacation purposes;*

*"(iv) subject to subparagraph (C), any licensed vehicle that is used for household transportation or to obtain or continue em-*

*ployment to the extent that the fair market value of the vehicle exceeds $4,600; and*

*"(v) any savings or retirement account (including an individual account), regardless of whether there is a penalty for early withdrawal.*

*"(C) EXCLUDED VEHICLES.—A vehicle (and any other property, real or personal, to the extent the property is directly related to the maintenance or use of the vehicle) shall not be included in financial resources under this paragraph if the vehicle is—*

*"(i) used to produce earned income;*

*"(ii) is necessary for the transportation of a physically disabled household member; or*

*"(iii) is depended on by a household to carry fuel for heating or water for home use and provides the primary source of fuel or water, respectively, for the household.".*

***SEC. 13022. VENDOR PAYMENTS FOR TRANSITIONAL HOUSING COUNTED AS INCOME.***

*Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) is amended—*

*(1) by striking subparagraph (F); and*

*(2) by redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.*

***SEC. 13023. DOUBLED PENALTIES FOR VIOLATING FOOD STAMP PROGRAM REQUIREMENTS.***

*Section 6(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)) is amended—*

*(1) in clause (i), by striking "six months" and inserting "1 year"; and*

*(2) in clause (ii), by striking "1 year" and inserting "2 years".*

***SEC. 13024. DISQUALIFICATION OF CONVICTED INDIVIDUALS.***

*Section 6(b)(1)(iii) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)(iii)) is amended—*

*(1) in subclause (II), by striking "or" at the end;*

*(2) in subclause (III), by striking the period at the end and inserting "; or"; and*

*(3) by inserting after subclause (III) the following:*

*"(IV) a conviction of an offense under subsection (b) or (c) of section 15 involving an item covered by subsection (b) or (c) of section 15 having a value of $500 or more.".*

***SEC. 13025. DISQUALIFICATION.***

*(a) IN GENERAL.—Section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)) is amended by striking "(d)(1) Unless otherwise exempted by the provisions" and all that follows through the end of paragraph (1) and inserting the following:*

*"(d) CONDITIONS OF PARTICIPATION.—*

*"(1) WORK REQUIREMENTS.—*

*"(A) IN GENERAL.—No physically and mentally fit individual over the age of 15 and under the age of 60 shall be eligible to participate in the food stamp program if the individual—*

*"(i) refuses, at the time of application and every 12 months thereafter, to register for employment in a manner prescribed by the Secretary;*

*"(ii) refuses without good cause to participate in an employment and training program under paragraph (4), to the extent required by the State agency;*

*"(iii) refuses without good cause to accept an offer of employment, at a site or plant not subject to a strike or lockout at the time of the refusal, at a wage not less than the higher of—*

*"(I) the applicable Federal or State minimum wage; or*

*"(II) 80 percent of the wage that would have governed had the minimum hourly rate under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) been applicable to the offer of employment;*

*"(iv) refuses without good cause to provide a State agency with sufficient information to allow the State agency to determine the employment status or the job availability of the individual;*

*"(v) voluntarily and without good cause—*

*"(I) quits a job; or*

*"(II) reduces work effort and, after the reduction, the individual is working less than 30 hours per week; or*

*"(vi) fails to comply with section 20.*

*"(B) HOUSEHOLD INELIGIBILITY.—If an individual who is the head of a household becomes ineligible to participate in the food stamp program under subparagraph (A), the household*

*shall, at the option of the State agency, become ineligible to participate in the food stamp program for a period, determined by the State agency, that does not exceed the lesser of—*

*"(i) the duration of the ineligibility of the individual determined under subparagraph (C); or*

*"(ii) 180 days.*

*"(C) DURATION OF INELIGIBILITY.—*

*"(i) FIRST VIOLATION.—The first time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—*

*"(I) the date the individual becomes eligible under subparagraph (A);*

*"(II) the date that is 1 month after the date the individual became ineligible; or*

*"(III) a date determined by the State agency that is not later than 3 months after the date the individual became ineligible.*

*"(ii) SECOND VIOLATION.—The second time that an individual becomes ineligible*

*to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—*

*"(I) the date the individual becomes eligible under subparagraph (A);*

*"(II) the date that is 3 months after the date the individual became ineligible; or*

*"(III) a date determined by the State agency that is not later than 6 months after the date the individual became ineligible.*

*"(iii) THIRD OR SUBSEQUENT VIOLATION.—The third or subsequent time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—*

*"(I) the date the individual becomes eligible under subparagraph (A);*

*"(II) the date that is 6 months after the date the individual became ineligible;*

*"(III) a date determined by the State agency; or*

*"(IV) at the option of the State agency, permanently.*

*"(D) ADMINISTRATION.—*

*"(i) GOOD CAUSE.—The Secretary shall determine the meaning of good cause for the purpose of this paragraph.*

*"(ii) VOLUNTARY QUIT.—The Secretary shall determine the meaning of voluntarily quitting and reducing work effort for the purpose of this paragraph.*

*"(iii) DETERMINATION BY STATE AGENCY.—*

*"(I) IN GENERAL.—Subject to subclause (II) and clauses (i) and (ii), a State agency shall determine—*

*"(aa) the meaning of any term in subparagraph (A);*

*"(bb) the procedures for determining whether an individual is in compliance with a requirement under subparagraph (A); and*

*"(cc) whether an individual is in compliance with a requirement under subparagraph (A).*

*"(II) NOT LESS RESTRICTIVE.—A State agency may not determine a meaning, procedure, or determination under subclause (I) to be less restrictive than a comparable meaning, procedure, or determination under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).*

*"(iv) STRIKE AGAINST THE GOVERNMENT.—For the purpose of subparagraph (A)(v), an employee of the Federal Government, a State, or a political subdivision of a State, who is dismissed for participating in a strike against the Federal Government, the State, or the political subdivision of the State shall be considered to have voluntarily quit without good cause.*

*"(v) SELECTING A HEAD OF HOUSEHOLD.—*

*"(I) IN GENERAL.—For the purpose of this paragraph, the State agency shall allow the household to select any adult parent of a child in the household as the head of the household*

*if all adult household members making application under the food stamp program agree to the selection.*

*"(II) TIME FOR MAKING DESIGNATION.—A household may designate the head of the household under subclause (I) each time the household is certified for participation in the food stamp program, but may not change the designation during a certification period unless there is a change in the composition of the household.*

*"(vi) CHANGE IN HEAD OF HOUSEHOLD.—If the head of a household leaves the household during a period in which the household is ineligible to participate in the food stamp program under subparagraph (B)—*

*"(I) the household shall, if otherwise eligible, become eligible to participate in the food stamp program; and*

*"(II) if the head of the household becomes the head of another household, the household that becomes headed by the individual shall become ineligible*

*to participate in the food stamp program for the remaining period of ineligibility.".*

*(b) CONFORMING AMENDMENT.—*

*(1) The second sentence of section 17(b)(2) of the Act (7 U.S.C. 2026(b)(2)) is amended by striking "6(d)(1)(i)" and inserting "6(d)(1)(A)(i)".*

*(2) Section 20 of the Act (7 U.S.C. 2029) is amended by striking subsection (f) and inserting the following:*

*"(f) DISQUALIFICATION.—An individual or a household may become ineligible under section 6(d)(1) to participate in the food stamp program for failing to comply with this section.".*

***SEC. 13026. CARETAKER EXEMPTION.***

*Section 6(d)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(2)) is amended by striking subparagraph (B) and inserting the following: "(B) a parent or other member of a household with responsibility for the care of (i) a dependent child under the age of 6 or any lower age designated by the State agency that is not under the age of 1, or (ii) an incapacitated person;".*

***SEC. 13027. EMPLOYMENT AND TRAINING.***

*(a) IN GENERAL.—Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)) is amended—*

*(1) in subparagraph (A)—*

*(A) by striking "Not later than April 1, 1987, each" and inserting "Each";*

*(B) by inserting "work," after "skills, training,"; and*

*(C) by adding at the end the following: "Each component of an employment and training program carried out under this paragraph shall be delivered through a statewide workforce development system, unless the component is not available locally through the statewide workforce development system.";*

*(2) in subparagraph (B)—*

*(A) in the matter preceding clause (i), by striking the colon at the end and inserting the following: ", except that the State agency shall retain the option to apply employment requirements prescribed under this subparagraph to a program applicant at the time of application:";*

*(B) in clause (i), by striking "with terms and conditions" and all that follows through "time of application"; and*

*(C) in clause (iv)—*

*(i) by striking subclauses (I) and (II); and*

*(ii) by redesignating subclauses (III) and (IV) as subclauses (I) and (II), respectively;*

*(3) in subparagraph (D)—*

*(A) in clause (i), by striking "to which the application" and all that follows through "30 days or less";*

*(B) in clause (ii), by striking "but with respect" and all that follows through "child care"; and*

*(C) in clause (iii), by striking ", on the basis of" and all that follows through "clause (ii)" and inserting "the exemption continues to be valid";*

*(4) in subparagraph (E), by striking the third sentence;*

*(5) in subparagraph (G)—*

*(A) by striking "(G)(i) The State" and inserting "(G) The State"; and*

*(B) by striking clause (ii);*

*(6) in subparagraph (H), by striking "(H)(i) The Secretary" and all that follows through "(ii) Federal funds" and inserting "(H) Federal funds";*

*(7) in subparagraph (I)(i)(II), by striking ", or was in operation," and all that follows through "So-*

*cial Security Act" and inserting the following: "), except that no such payment or reimbursement shall exceed the applicable local market rate";*

*(8)(A) by striking subparagraphs (K) and (L) and inserting the following:*

*"(K) LIMITATION ON FUNDING.—Notwithstanding any other provision of this paragraph, the amount of funds a State agency uses to carry out this paragraph (including under subparagraph (I)) for participants who are receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall not exceed the amount of funds the State agency used in fiscal year 1995 to carry out this paragraph for participants who were receiving benefits in fiscal year 1995 under a State program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.).";*

*and*

*(B) by redesignating subparagraphs (M) and (N) as subparagraphs (L) and (M), respectively; and*

*(9) in subparagraph (L), as redesignated by paragraph (8)(B)—*

*(A) by striking "(L)(i) The Secretary" and inserting "(L) The Secretary"; and*

*(B) by striking clause (ii).*

*(b) FUNDING.—Section 16(h) of the Act (7 U.S.C. 2025(h)) is amended by striking "(h)(1)(A) The Secretary" and all that follows through the end of paragraph (1) and inserting the following:*

*"(h) FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.—*

*"(1) IN GENERAL.—*

*"(A) AMOUNTS.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies from funds made available for each fiscal year under section 18(a)(1) the amount of—*

*"(i) for fiscal year 1996, $77,000,000;*

*"(ii) for fiscal year 1997, $80,000,000;*

*"(iii) for fiscal year 1998, $83,000,000;*

*"(iv) for fiscal year 1999, $86,000,000;*

*"(v) for fiscal year 2000, $89,000,000;*

*"(vi) for fiscal year 2001, $92,000,000; and*

*"(vii) for fiscal year 2002, $95,000,000.*

*"(B) ALLOCATION.—The Secretary shall allocate the amounts reserved under subparagraph (A) among the State agencies using a reasonable formula (as determined by the Secretary) that gives consideration to the population in each State affected by section 6(o).*

*"(C) REALLOCATION.—*

*"(i) NOTIFICATION.—A State agency shall promptly notify the Secretary if the State agency determines that the State agency will not expend all of the funds allocated to the State agency under subparagraph (B).*

*"(ii) REALLOCATION.—On notification under clause (i), the Secretary shall reallocate the funds that the State agency will not expend as the Secretary considers appropriate and equitable.*

*"(D) MINIMUM ALLOCATION.—Notwithstanding subparagraphs (A) through (C), the Secretary shall ensure that each State agency operating an employment and training program shall receive not less than $50,000 in each fiscal year.".*

*(c) ADDITIONAL MATCHING FUNDS.—Section 16(h)(2) of the Act (7 U.S.C. 2025(h)(2)) is amended by inserting before the period at the end the following: ", including the costs for case management and casework to facilitate the transition from economic dependency to self-sufficiency through work".*

*(d) REPORTS.—Section 16(h) of the Act (7 U.S.C. 2025(h)) is amended—*

*(1) in paragraph (5)—*

*(A) by striking "(5)(A) The Secretary" and inserting "(5) The Secretary"; and*

*(B) by striking subparagraph (B); and*

*(2) by striking paragraph (6).*

***SEC. 13028. COMPARABLE TREATMENT FOR DISQUALIFICATION.***

*(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended—*

*(1) by redesignating subsection (i), as added by section 12104, as subsection (p); and*

*(2) by inserting after subsection (h) the following:*

*"(i) COMPARABLE TREATMENT FOR DISQUALIFICATION.—*

*"(1) IN GENERAL.—If a disqualification is imposed on a member of a household for a failure of the*

*member to perform an action required under a Federal, State, or local law relating to a means-tested public assistance program, the State agency may impose the same disqualification on the member of the household under the food stamp program.*

*"(2) RULES AND PROCEDURES.—If a disqualification is imposed under paragraph (1) for a failure of an individual to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to impose the same disqualification under the food stamp program.*

*"(3) APPLICATION AFTER DISQUALIFICATION PERIOD.—A member of a household disqualified under paragraph (1) may, after the disqualification period has expired, apply for benefits under this Act and shall be treated as a new applicant, except that a prior disqualification under subsection (d) shall be considered in determining eligibility.".*

*(b) STATE PLAN PROVISIONS.—Section 11(e) of the Act (7 U.S.C. 2020(e)) is amended—*

*(1) in paragraph (24), by striking "and" at the end;*

*(2) in paragraph (25), by striking the period at the end and inserting a semicolon; and*

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

*"(26) the guidelines the State agency uses in carrying out section 6(i); and".*

*(c) CONFORMING AMENDMENT.—Section 6(d)(2)(A) of the Act (7 U.S.C. 2015(d)(2)(A)) is amended by striking "that is comparable to a requirement of paragraph (1)".*

***SEC. 13029. DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.***

*Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 13028, is further amended by inserting after subsection (i) the following:*

*"(j) DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.—An individual shall be ineligible to participate in the food stamp program as a member of any household for a 10-year period if the individual is found by a State agency to have made, or is convicted in a Federal or State court of having made, a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple benefits simultaneously under the food stamp program.".*

***SEC. 13030. DISQUALIFICATION OF FLEEING FELONS.***

*Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 13029, is further amended by inserting after subsection (j) the following:*

*"(k) DISQUALIFICATION OF FLEEING FELONS.—No member of a household who is otherwise eligible to participate in the food stamp program shall be eligible to participate in the program as a member of that or any other household during any period during which the individual is—*

*"(1) fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the individual is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the individual is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or*

*"(2) violating a condition of probation or parole imposed under a Federal or State law.".*

***SEC. 13031. COOPERATION WITH CHILD SUPPORT AGENCIES.***

*Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 13030, is further amended by inserting after subsection (k) the following:*

*"(l) CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—*

*"(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as 'the individual') who is living with and exercising parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in the food stamp program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—*

*"(A) in establishing the paternity of the child (if the child is born out of wedlock); and*

*"(B) in obtaining support for—*

*"(i) the child; or*

*"(ii) the individual and the child.*

*"(2) GOOD CAUSE FOR NONCOOPERATION.—Paragraph (1) shall not apply to the individual if good cause is found for refusing to cooperate, as determined by the State agency in accordance with standards prescribed by the Secretary in consultation with the Secretary of Health and Human Services. The standards shall take into consideration circumstances under which cooperation may be against the best interests of the child.*

*"(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).*

*"(m) NON-CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—*

*"(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), a putative or identified non-custodial parent of a child under the age of 18 (referred to in this subsection as 'the individual') shall not be eligible to participate in the food stamp program if the individual refuses to cooperate with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—*

*"(A) in establishing the paternity of the child (if the child is born out of wedlock); and*

*"(B) in providing support for the child.*

*"(2) REFUSAL TO COOPERATE.—*

*"(A) GUIDELINES.—The Secretary, in consultation with the Secretary of Health and Human Services, shall develop guidelines on what constitutes a refusal to cooperate under paragraph (1).*

*"(B) PROCEDURES.—The State agency shall develop procedures, using guidelines developed under subparagraph (A), for determining whether an individual is refusing to cooperate under paragraph (1).*

*"(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).*

*"(4) PRIVACY.—The State agency shall provide safeguards to restrict the use of information collected by a State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to purposes for which the information is collected.".*

***SEC. 13032. DISQUALIFICATION RELATING TO CHILD SUPPORT ARREARS.***

*Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 13031, is further amended by inserting after subsection (m) the following:*

*"(n) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—*

*"(1) IN GENERAL.—No individual shall be eligible to participate in the food stamp program as a member of any household during any month that the*

*individual is delinquent in any payment due under a court order for the support of a child of the individual.*

*"(2) EXCEPTIONS.—Paragraph (1) shall not apply if—*

*"(A) a court is allowing the individual to delay payment; or*

*"(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.".*

***SEC. 13033. WORK REQUIREMENT.***

*(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 13032, is further amended by inserting after subsection (n) the following:*

*"(o) WORK REQUIREMENT.—*

*"(1) DEFINITION OF WORK PROGRAM.—In this subsection, the term 'work program' means—*

*"(A) a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);*

*"(B) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or*

*"(C) a program of employment or training operated or supervised by a State or political subdivision of a State that meets standards approved by the Governor of the State, including a program under section 6(d)(4), other than a job search program or a job search training program.*

*"(2) WORK REQUIREMENT.—Subject to the other provisions of this subsection, no individual shall be eligible to participate in the food stamp program as a member of any household if, during the preceding 12-month period, the individual received food stamp benefits for not less than 4 months during which the individual did not—*

*"(A) work 20 hours or more per week, averaged monthly; or*

*"(B) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency; or*

*"(C) participate in a program under section 20 or a comparable program established by a State or political subdivision of a State.*

*"(3) EXCEPTION.—Paragraph (2) shall not apply to an individual if the individual is—*

*"(A) under 18 or over 50 years of age;*

*"(B) medically certified as physically or mentally unfit for employment;*

*"(C) a parent or other member of a household with responsibility for a dependent child;*

*"(D) otherwise exempt under section 6(d)(2); or*

*"(E) a pregnant woman.*

*"(4) WAIVER.—*

*"(A) IN GENERAL.—On the request of a State agency, the Secretary may waive the applicability of paragraph (2) to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—*

*"(i) has an unemployment rate of over 10 percent; or*

*"(ii) does not have a sufficient number of jobs to provide employment for the individuals.*

*"(B) REPORT.—The Secretary shall report the basis for a waiver under subparagraph (A) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.*

*"(5) SUBSEQUENT ELIGIBILITY.—*

*"(A) IN GENERAL.—Paragraph (2) shall cease to apply to an individual if, during a 30-day period, the individual—*

*"(i) works 80 or more hours;*

*"(ii) participates in and complies with the requirements of a work program for 80 or more hours, as determined by a State agency; or*

*"(iii) participates in a program under section 20 or a comparable program established by a State or political subdivision of a State.*

*"(B) LIMITATION.—During the subsequent 12-month period, the individual shall be eligible to participate in the food stamp program for not more than 4 months during which the individual does not—*

*"(i) work 20 hours or more per week, averaged monthly;*

*"(ii) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency; or*

*"(iii) participate in a program under section 20 or a comparable program established by a State or political subdivision of a State.".*

*(b) TRANSITION PROVISION.—Prior to 1 year after the date of enactment of this Act, the term "preceding 12-month period" in section 6(o) of the Food Stamp Act of 1977, as amended by subsection (a), means the preceding period that begins on the date of enactment of this Act.*

***SEC. 13034. ENCOURAGE ELECTRONIC BENEFIT TRANSFER SYSTEMS.***

*Section 7(i) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)) is amended—*

*(1) by striking paragraph (1) and inserting the following:*

*"(1) ELECTRONIC BENEFIT TRANSFERS.—*

*"(A) IMPLEMENTATION.—Each State agency shall implement an electronic benefit transfer system in which household benefits determined under section 8(a) or 24 are issued from and stored in a central databank before October 1, 2002, unless the Secretary provides a waiver for a State agency that faces unusual barriers to implementing an electronic benefit transfer system.*

*"(B) TIMELY IMPLEMENTATION.—State agencies are encouraged to implement an electronic benefit transfer system under subparagraph (A) as soon as practicable.*

*"(C) STATE FLEXIBILITY.—Subject to paragraph (2), a State agency may procure and implement an electronic benefit transfer system under the terms, conditions, and design that the State agency considers appropriate.*

*"(D) OPERATION.—An electronic benefit transfer system should take into account generally accepted standard operating rules based on—*

*"(i) commercial electronic funds transfer technology;*

*"(ii) the need to permit interstate operation and law enforcement monitoring; and*

*"(iii) the need to permit monitoring and investigations by authorized law enforcement agencies.";*

*(2) in paragraph (2)—*

*(A) by striking "effective no later than April 1, 1992,";*

*(B) in subparagraph (A)—*

*(i) by striking ", in any 1 year,"; and*

*(ii) by striking "on-line";*

*(C) by striking subparagraph (D) and inserting the following:*

*"(D)(i) measures to maximize the security of a system using the most recent technology available that the State agency considers appropriate and cost effective and which may include personal identification numbers, photographic identification on electronic benefit transfer cards, and other measures to protect against fraud and abuse; and*

*"(ii) effective not later than 2 years after the effective date of this clause, to the extent practicable, measures that permit a system to differentiate items of food that may be acquired with an allotment from items of food that may not be acquired with an allotment.";*

*(D) in subparagraph (G), by striking "and" at the end;*

*(E) in subparagraph (H), by striking the period at the end and inserting "; and"; and*

*(F) by adding at the end the following:*

*"(I) procurement standards."; and*

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

*"(7) REPLACEMENT OF BENEFITS.—Regulations issued by the Secretary regarding the replacement of benefits and liability for replacement of benefits under an electronic benefit transfer system shall be similar to the regulations in effect for a paper food stamp issuance system.*

*"(8) REPLACEMENT CARD FEE.—A State agency may collect a charge for replacement of an electronic benefit transfer card by reducing the monthly allotment of the household receiving the replacement card.*

*"(9) OPTIONAL PHOTOGRAPHIC IDENTIFICATION.—*

*"(A) IN GENERAL.—A State agency may require that an electronic benefit card contain a photograph of 1 or more members of a household.*

*"(B) OTHER AUTHORIZED USERS.—If a State agency requires a photograph on an electronic benefit card under subparagraph (A), the State agency shall establish procedures to ensure that any other appropriate member of the household or any authorized representative of the household may utilize the card.".*

***SEC. 13035. VALUE OF MINIMUM ALLOTMENT.***

*The proviso in section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by striking ", and shall be adjusted" and all that follows through "$5".*

***SEC. 13036. BENEFITS ON RECERTIFICATION.***

*Section 8(c)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)(2)(B)) is amended by striking "of more than one month".*

***SEC. 13037. OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.***

*Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by striking paragraph (3) and inserting the following:*

*"(3) OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.—A State agency may provide to an eligible household applying after the 15th day of a month, in lieu of the initial allotment of the household and the regular allotment of the household for the following month, an allotment that is equal to the total amount of the initial allotment and the first regular allotment. The allotment shall be provided in accordance with section 11(e)(3) in the case of a household that is not entitled to expedited service and in accordance with paragraphs (3) and (9) of section 11(e) in the case of a household that is entitled to expedited service.".*

***SEC. 13038. FAILURE TO COMPLY WITH OTHER MEANS-TESTED PUBLIC ASSISTANCE PROGRAMS.***

*Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by striking subsection (d) and inserting the following:*

*"(d) REDUCTION OF PUBLIC ASSISTANCE BENEFITS.—*

*"(1) IN GENERAL.—If the benefits of a household are reduced under a Federal, State, or local law relating to a means-tested public assistance program for the failure of a member of the household to perform an action required under the law or program, for the duration of the reduction—*

*"(A) the household may not receive an increased allotment as the result of a decrease in the income of the household to the extent that the decrease is the result of the reduction; and*

*"(B) the State agency may reduce the allotment of the household by not more than 25 percent.*

*"(2) RULES AND PROCEDURES.—If the allotment of a household is reduced under this subsection for a failure to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act*

*to reduce the allotment under the food stamp program.".*

***SEC. 13039. ALLOTMENTS FOR HOUSEHOLDS RESIDING IN CENTERS.***

*Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by adding at the end the following:*

*"(f) ALLOTMENTS FOR HOUSEHOLDS RESIDING IN CENTERS.—*

*"(1) IN GENERAL.—In the case of an individual who resides in a center for the purpose of a drug or alcoholic treatment program described in the last sentence of section 3(i), a State agency may provide an allotment for the individual to—*

*"(A) the center as an authorized representative of the individual for a period that is less than 1 month; and*

*"(B) the individual, if the individual leaves the center.*

*"(2) DIRECT PAYMENT.—A State agency may require an individual referred to in paragraph (1) to designate the center in which the individual resides as the authorized representative of the individual for the purpose of receiving an allotment.".*

***SEC. 13040. CONDITION PRECEDENT FOR APPROVAL OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.***

*Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)(1)) is amended by adding at the end the following: "No retail food store or wholesale food concern of a type determined by the Secretary, based on factors that include size, location, and type of items sold, shall be approved to be authorized or reauthorized for participation in the food stamp program unless an authorized employee of the Department of Agriculture, a designee of the Secretary, or, if practicable, an official of the State or local government designated by the Secretary has visited the store or concern for the purpose of determining whether the store or concern should be approved or reauthorized, as appropriate.".*

***SEC. 13041. AUTHORITY TO ESTABLISH AUTHORIZATION PERIODS.***

*Section 9(a) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)) is amended by adding at the end the following:*

*"(3) AUTHORIZATION PERIODS.—The Secretary shall establish specific time periods during which authorization to accept and redeem coupons, or to redeem benefits through an electronic benefit transfer system, shall be valid under the food stamp program.".*

***SEC. 13042. INFORMATION FOR VERIFYING ELIGIBILITY FOR AUTHORIZATION.***

*Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended—*

*(1) in the first sentence, by inserting ", which may include relevant income and sales tax filing documents," after "submit information"; and*

*(2) by inserting after the first sentence the following: "The regulations may require retail food stores and wholesale food concerns to provide written authorization for the Secretary to verify all relevant tax filings with appropriate agencies and to obtain corroborating documentation from other sources so that the accuracy of information provided by the stores and concerns may be verified.".*

***SEC. 13043. WAITING PERIOD FOR STORES THAT FAIL TO MEET AUTHORIZATION CRITERIA.***

*Section 9(d) of the Food Stamp Act of 1977 (7 U.S.C. 2018(d)) is amended by adding at the end the following: "A retail food store or wholesale food concern that is denied approval to accept and redeem coupons because the store or concern does not meet criteria for approval established by the Secretary may not, for at least 6 months, submit a new application to participate in the program. The Secretary may establish a longer time period under the preced-*

*ing sentence, including permanent disqualification, that reflects the severity of the basis of the denial.".*

***SEC. 13044. EXPEDITED COUPON SERVICE.***

*Section 11(e)(9) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(9)) is amended—*

*(1) in subparagraph (A)—*

*(A) by striking "five days" and inserting "7 days"; and*

*(B) by inserting "and" at the end;*

*(2) by striking subparagraphs (B) and (C);*

*(3) by redesignating subparagraph (D) as subparagraph (B); and*

*(4) in subparagraph (B), as redesignated by paragraph (3), by striking ", (B), or (C)".*

***SEC. 13045. WITHDRAWING FAIR HEARING REQUESTS.***

*Section 11(e)(10) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(10)) is amended by inserting before the semicolon at the end a period and the following: "At the option of a State, at any time prior to a fair hearing determination under this paragraph, a household may withdraw, orally or in writing, a request by the household for the fair hearing. If the withdrawal request is an oral request, the State agency shall provide a written notice to the household confirming the withdrawal request and pro-*

*viding the household with an opportunity to request a hearing".*

***SEC. 13046. DISQUALIFICATION OF RETAILERS WHO INTENTIONALLY SUBMIT FALSIFIED APPLICATIONS.***

*Section 12(b) of the Food Stamp Act of 1977 (7 U.S.C. 2021(b)) is amended—*

*(1) in paragraph (2), by striking "and" at the end;*

*(2) in paragraph (3), by striking the period at the end and inserting "; and"; and*

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

*"(4) for a reasonable period of time to be determined by the Secretary, including permanent disqualification, on the knowing submission of an application for the approval or reauthorization to accept and redeem coupons that contains false information about a substantive matter that was a part of the application.".*

***SEC. 13047. DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.***

*Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021) is amended by adding at the end the following:*

*"(g) DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.—*

*"(1) IN GENERAL.—The Secretary shall issue regulations providing criteria for the disqualification under this Act of an approved retail food store and a wholesale food concern that is disqualified from accepting benefits under the special supplemental nutrition program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966 (7 U.S.C. 1786).*

*"(2) TERMS.—A disqualification under paragraph (1)—*

*"(A) shall be for the same length of time as the disqualification from the program referred to in paragraph (1);*

*"(B) may begin at a later date than the disqualification from the program referred to in paragraph (1); and*

*"(C) notwithstanding section 14, shall not be subject to judicial or administrative review.".*

***SEC. 13048. COLLECTION OF OVERISSUANCES.***

*(a) COLLECTION OF OVERISSUANCES.—Section 13 of the Food Stamp Act of 1977 (7 U.S.C. 2022) is amended—*

*(1) by striking subsection (b) and inserting the following:*

*"(b) COLLECTION OF OVERISSUANCES.—*

*"(1) IN GENERAL.—Except as otherwise provided in this subsection, a State agency shall collect any overissuance of coupons issued to a household by—*

*"(A) reducing the allotment of the household;*

*"(B) withholding amounts from unemployment compensation from a member of the household under subsection (c);*

*"(C) recovering from Federal pay or a Federal income tax refund under subsection (d); or*

*"(D) any other means.*

*"(2) COST EFFECTIVENESS.—Paragraph (1) shall not apply if the State agency demonstrates to the satisfaction of the Secretary that all of the means referred to in paragraph (1) are not cost effective.*

*"(3) MAXIMUM REDUCTION ABSENT FRAUD.—If a household received an overissuance of coupons without any member of the household being found eligible to participate in the program under section 6(b)(1) and a State agency elects to reduce the allotment of the household under paragraph (1)(A), the State agency shall not reduce the monthly allotment of the household under paragraph (1)(A) by an amount in excess of the greater of—*

*"(A) 10 percent of the monthly allotment of the household; or*

*"(B) $10.*

*"(4) PROCEDURES.—A State agency shall collect an overissuance of coupons issued to a household under paragraph (1) in accordance with the requirements established by the State agency for providing notice, electing a means of payment, and establishing a time schedule for payment."; and*

*(2) in subsection (d)—*

*(A) by striking "as determined under subsection (b) and except for claims arising from an error of the State agency," and inserting ", as determined under subsection (b)(1),"; and*

*(B) by inserting before the period at the end the following: "or a Federal income tax refund as authorized by section 3720A of title 31, United States Code".*

*(b) CONFORMING AMENDMENTS.—Section 11(e)(8) of the Act (7 U.S.C. 2020(e)(8)) is amended—*

*(1) by striking "and excluding claims" and all that follows through "such section"; and*

*(2) by inserting before the semicolon at the end the following: "or a Federal income tax refund as au-*

*thorized by section 3720A of title 31, United States Code".*

*(c) RETENTION RATE.—Section 16(a) of the Act (7 U.S.C. 2025(a)) is amended by striking "25 percent during the period beginning October 1, 1990" and all that follows through "error of a State agency" and inserting the following: "25 percent of the overissuances collected by the State agency under section 13, except those overissuances arising from an error of the State agency".*

***SEC. 13049. AUTHORITY TO SUSPEND STORES VIOLATING PROGRAM REQUIREMENTS PENDING ADMINISTRATIVE AND JUDICIAL REVIEW.***

*Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended—*

*(1) by redesignating the first through seventeenth sentences as paragraphs (1) through (17), respectively; and*

*(2) by adding at the end the following:*

*"(18) SUSPENSION OF STORES PENDING REVIEW.—Notwithstanding any other provision of this subsection, any permanent disqualification of a retail food store or wholesale food concern under paragraph (3) or (4) of section 12(b) shall be effective from the date of receipt of the notice of disqualification. If the disqualification is reversed through administrative or*

*judicial review, the Secretary shall not be liable for the value of any sales lost during the disqualification period.".*

***SEC. 13050. LIMITATION OF FEDERAL MATCH.***

*Section 16(a)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)(4)) is amended by inserting after the comma at the end the following: "but not including recruitment activities,".*

***SEC. 13051. WORK SUPPLEMENTATION OR SUPPORT PROGRAM.***

*Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by adding at the end the following:*

*"(c) WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—*

*"(1) DEFINITION OF WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—In this subsection, the term 'work supplementation or support program' means a program under which, as determined by the Secretary, public assistance (including any benefits provided under a program established by the State and the food stamp program) is provided to an employer to be used for hiring and employing a public assistance recipient who was not employed by the employer at the time the public assistance recipient entered the program.*

*"(2) PROGRAM.—A State agency may elect to use an amount equal to the allotment that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, for the purpose of subsidizing or supporting a job under a work supplementation or support program established by the State.*

*"(3) PROCEDURE.—If a State agency makes an election under paragraph (2) and identifies each household that participates in the food stamp program that contains an individual who is participating in the work supplementation or support program—*

*"(A) the Secretary shall pay to the State agency an amount equal to the value of the allotment that the household would be eligible to receive but for the operation of this subsection;*

*"(B) the State agency shall expend the amount received under subparagraph (A) in accordance with the work supplementation or support program in lieu of providing the allotment that the household would receive but for the operation of this subsection;*

*"(C) for purposes of—*

*"(i) sections 5 and 8(a), the amount received under this subsection shall be excluded from household income and resources; and*

*"(ii) section 8(b), the amount received under this subsection shall be considered to be the value of an allotment provided to the household; and*

*"(D) the household shall not receive an allotment from the State agency for the period during which the member continues to participate in the work supplementation or support program.*

*"(4) OTHER WORK REQUIREMENTS.—No individual shall be excused, by reason of the fact that a State has a work supplementation or support program, from any work requirement under section 6(d), except during the periods in which the individual is employed under the work supplementation or support program.*

*"(5) LENGTH OF PARTICIPATION.—A State agency shall provide a description of how the public assistance recipients in the program shall, within a specific period of time, be moved from supplemented or*

*supported employment to employment that is not supplemented or supported.*

*"(6) DISPLACEMENT.—A work supplementation or support program shall not displace the employment of individuals who are not supplemented or supported.".*

***SEC. 13052. 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".*

***SEC. 13053. EMPLOYMENT INITIATIVES PROGRAM.***

*Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking subsection (d) and inserting the following:*

*"(d) EMPLOYMENT INITIATIVES PROGRAM.—*

*"(1) ELECTION TO PARTICIPATE.—*

*"(A) IN GENERAL.—Subject to the other provisions of this subsection, a State may elect to carry out an employment initiatives program under this subsection.*

*"(B) REQUIREMENT.—A State shall be eligible to carry out an employment initiatives program under this subsection only if not less than 50 percent of the households that received food stamp benefits during the summer of 1993 also*

*received benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) during the summer of 1993.*

*"(2) PROCEDURE.—*

*"(A) IN GENERAL.—A State that has elected to carry out an employment initiatives program under paragraph (1) may use amounts equal to the food stamp allotments that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, to provide cash benefits in lieu of the food stamp allotments to the household if the household is eligible under paragraph (3).*

*"(B) PAYMENT.—The Secretary shall pay to each State that has elected to carry out an employment initiatives program under paragraph (1) an amount equal to the value of the allotment that each household would be eligible to receive under this Act but for the operation of this subsection.*

*"(C) OTHER PROVISIONS.—For purposes of the food stamp program (other than this subsection)—*

*"(i) cash assistance under this subsection shall be considered to be an allotment; and*

*"(ii) each household receiving cash benefits under this subsection shall not receive any other food stamp benefit for the period for which the cash assistance is provided.*

*"(D) ADDITIONAL PAYMENTS.—Each State that has elected to carry out an employment initiatives program under paragraph (1) shall—*

*"(i) increase the cash benefits provided to each household under this subsection to compensate for any State or local sales tax that may be collected on purchases of food by any household receiving cash benefits under this subsection, unless the Secretary determines on the basis of information provided by the State that the increase is unnecessary on the basis of the limited nature of the items subject to the State or local sales tax; and*

*"(ii) pay the cost of any increase in cash benefits required by clause (i).*

*"(3) ELIGIBILITY.—A household shall be eligible to receive cash benefits under paragraph (2) if an adult member of the household—*

*"(A) has worked in unsubsidized employment for not less than the preceding 90 days;*

*"(B) has earned not less than $350 per month from the employment referred to in subparagraph (A) for not less than the preceding 90 days;*

*"(C)(i) is receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or*

*"(ii) was receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at the time the member first received cash benefits under this subsection and is no longer eligible for the State program because of earned income;*

*"(D) is continuing to earn not less than $350 per month from the employment referred to in subparagraph (A); and*

*"(E) elects to receive cash benefits in lieu of food stamp benefits under this subsection.*

*"(4) EVALUATION.—A State that operates a program under this subsection for 2 years shall provide*

*to the Secretary a written evaluation of the impact of cash assistance under this subsection. The State agency, with the concurrence of the Secretary, shall determine the content of the evaluation.".*

***SEC. 13054. 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 each of fiscal years 1995 and 1996, $1,182,000,000 for fiscal year 1997, $1,223,000,000 for fiscal year 1998, $1,266,000,000 for fiscal year 1999, $1,310,000,000 for fiscal year 2000, $1,357,000,000 for fiscal year 2001, and $1,404,000,000 for fiscal year 2002".*

***SEC. 13055. SIMPLIFIED FOOD STAMP PROGRAM.***

*(a) IN GENERAL.—The Act (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:*

***"SEC. 24. SIMPLIFIED FOOD STAMP PROGRAM.***

*"(a) DEFINITION OF FEDERAL COSTS.—In this section, the term 'Federal costs' does not include any Federal costs incurred under section 17.*

*"(b) ELECTION.—Subject to subsection (d), a State agency may elect to carry out a Simplified Food Stamp*

*Program (referred to in this section as a 'Program') in accordance with this section.*

*"(c) OPERATION OF PROGRAM.—If a State agency elects to carry out a Program, within the State or a political subdivision of the State—*

*"(1) a household in which all members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall automatically be eligible to participate in the Program; and*

*"(2) subject to subsection (f), benefits under the Program shall be determined under rules and procedures established by the State under—*

*"(A) a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);*

*"(B) the food stamp program (other than section 25); or*

*"(C) a combination of a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and the food stamp program (other than section 25).*

*"(d) APPROVAL OF PROGRAM.—*

*"(1) STATE PLAN.—A State agency may not operate a Program unless the Secretary approves a*

*State plan for the operation of the Program under paragraph (2).*

*"(2) APPROVAL OF PLAN.—The Secretary shall approve any State plan to carry out a Program if the Secretary determines that the plan—*

*"(A) complies with this section; and*

*"(B) contains sufficient documentation that the plan will not increase Federal costs for any fiscal year.*

*"(e) INCREASED FEDERAL COSTS.—*

*"(1) DETERMINATION.—During each fiscal year and not later than 90 days after the end of each fiscal year, the Secretary shall determine whether a Program being carried out by a State agency is increasing Federal costs under this Act above the Federal costs incurred under the food stamp program in operation in the State or political subdivision of the State for the fiscal year prior to the implementation of the Program, adjusted for any changes in—*

*"(A) participation;*

*"(B) the income of participants in the food stamp program that is not attributable to public assistance; and*

*"(C) the thrifty food plan under section 3(o).*

*"(2) NOTIFICATION.—If the Secretary determines that the Program has increased Federal costs under this Act for any fiscal year or any portion of any fiscal year, the Secretary shall notify the State agency not later than 30 days after the Secretary makes the determination under paragraph (1).*

*"(3) ENFORCEMENT.—*

*"(A) CORRECTIVE ACTION.—Not later than 90 days after the date of a notification under paragraph (2), the State agency shall submit a plan for approval by the Secretary for prompt corrective action that is designed to prevent the Program from increasing Federal costs under this Act.*

*"(B) TERMINATION.—If the State agency does not submit a plan under subparagraph (A) or carry out a plan approved by the Secretary, the Secretary shall terminate the approval of the State agency to operate a Program and the State agency shall be ineligible to operate a future Program.*

*"(f) RULES AND PROCEDURES.—*

*"(1) IN GENERAL.—In operating a Program, a State or political subdivision of a State may follow the rules and procedures established by the State or*

*political subdivision under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under the food stamp program.*

*"(2) STANDARDIZED DEDUCTIONS.—In operating a Program, a State may standardize the deductions provided under section 5(e). In developing the standardized deduction, the State shall consider the work expenses, dependent care costs, and shelter costs of participating households.*

*"(3) REQUIREMENTS.—In operating a Program, a State or political subdivision shall comply with the requirements of—*

*"(A) subsections (a) through (g) of section 7;*

*"(B) section 8(a) (except that the income of a household may be determined under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.));*

*"(C) subsection (b) and (d) of section 8;*

*"(D) subsections (a), (c), (d), and (n) of section 11;*

*"(E) paragraphs (8), (12), (17), (19), (21), (26), and (27) of section 11(e);*

*"(F) section 11(e)(10) (or a comparable requirement established by the State under a State*

*program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)); and*

*"(G) section 16.*

*"(4) LIMITATION ON ELIGIBILITY.—Notwithstanding any other provision of this section, a household may not receive benefits under this section as a result of the eligibility of the household under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above 130 percent of the poverty guidelines is not eligible for the program.".*

*(b) STATE PLAN PROVISIONS.—Section 11(e) of the Act (7 U.S.C. 2020(e)), as amended by sections 13028(b), is further amended by adding at the end the following:*

*"(27) if a State agency elects to carry out a Simplified Food Stamp Program under section 24, the plans of the State agency for operating the program, including—*

*"(A) the rules and procedures to be followed by the State to determine food stamp benefits;*

*"(B) how the State will address the needs of households that experience high shelter costs in relation to the incomes of the households; and*

*"(C) a description of the method by which the State will carry out a quality control system under section 16(c).".*

*(c) CONFORMING AMENDMENTS.—*

*(1) Section 8 of the Act (7 U.S.C. 2017), as amended by section 13039, is further amended—*

*(A) by striking subsection (e); and*

*(B) by redesignating subsection (f) as subsection (e).*

*(2) Section 17 of the Act (7 U.S.C. 2026) is amended—*

*(A) by striking subsection (i); and*

*(B) by redesignating subsections (j) through (l) as subsections (i) through (k), respectively.*

***SEC. 13056. STATE FOOD ASSISTANCE BLOCK GRANT.***

*(a) IN GENERAL.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 13055, is further amended by adding at the end the following:*

***"SEC. 25. STATE FOOD ASSISTANCE BLOCK GRANT.***

*"(a) DEFINITIONS.—In this section:*

*"(1) FOOD ASSISTANCE.—The term 'food assistance' means assistance that may be used only to obtain food, as defined in section 3(g).*

*"(2) STATE.—The term 'State' means each of the 50 States, the District of Columbia, Guam, and the Virgin Islands of the United States.*

*"(b) ESTABLISHMENT.—The Secretary shall establish a program to make grants to States in accordance with this section to provide—*

*"(1) food assistance to needy individuals and families residing in the State; and*

*"(2) funds for administrative costs incurred in providing the assistance.*

*"(c) ELECTION.—*

*"(1) IN GENERAL.—A State may annually elect to participate in the program established under subsection (b) if the State—*

*"(A) has fully implemented an electronic benefit transfer system that operates in the entire State;*

*"(B) has a payment error rate under section 16(c) that is not more than 6 percent as announced most recently by the Secretary; or*

*"(C) has a payment error rate in excess of 6 percent and agrees to contribute non-Federal funds for the fiscal year of the grant, for benefits and administration of the State's food assistance*

*program, the amount determined under paragraph (2).*

*"(2) STATE MANDATORY CONTRIBUTIONS.—*

*"(A) IN GENERAL.—In the case of a State that elects to participate in the program under paragraph (1)(C), the State shall agree to contribute, for a fiscal year, an amount equal to—*

*"(A)(i) the benefits issued in the State; multiplied by*

*"(ii) the payment error rate of the State; minus*

*"(B)(i) the benefits issued in the State; multiplied by*

*"(ii) 6 percent.*

*"(B) DETERMINATION.—Notwithstanding sections 13 and 14, the calculation of the contribution shall be based solely on the determination of the Secretary of the payment error rate.*

*"(C) DATA.—For purposes of implementing subparagraph (A) for a fiscal year, the Secretary shall use the data for the most recent fiscal year available.*

*"(3) ELECTION LIMITATION.—*

*"(A) RE-ENTERING FOOD STAMP PROGRAM.—A State that elects to participate in the*

*program under paragraph (1) may in a subsequent year decline to elect to participate in the program and instead participate in the food stamp program in accordance with the other sections of this Act.*

*"(B) LIMITATION.—Subsequent to re-entering the food stamp program under subparagraph (A), the State shall only be eligible to participate in the food stamp program in accordance with the other sections of this Act and shall not be eligible to elect to participate in the program established under subsection (b).*

*"(4) PROGRAM EXCLUSIVE.—*

*"(A) IN GENERAL.—A State that is participating in the program established under subsection (b) shall not be subject to, or receive any benefit under, this Act except as provided in this section.*

*"(B) CONTRACT WITH FEDERAL GOVERNMENT.—Nothing in this section shall prohibit a State from contracting with the Federal Government for the provision of services or materials necessary to carry out a program under this section.*

*"(d) LEAD AGENCY.—A State desiring to receive a grant under this section shall designate, in an application submitted to the Secretary under subsection (e)(1), an appropriate State agency responsible for the administration of the program under this section as the lead agency.*

*"(e) APPLICATION AND PLAN.—*

*"(1) APPLICATION.—To be eligible to receive assistance under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall by regulation require, including—*

*"(A) an assurance that the State will comply with the requirements of this section;*

*"(B) a State plan that meets the requirements of paragraph (3); and*

*"(C) an assurance that the State will comply with the requirements of the State plan under paragraph (3).*

*"(2) ANNUAL PLAN.—The State plan contained in the application under paragraph (1) shall be submitted for approval annually.*

*"(3) REQUIREMENTS OF PLAN.—*

*"(A) LEAD AGENCY.—The State plan shall identify the lead agency.*

*"(B) USE OF BLOCK GRANT FUNDS.—The State plan shall provide that the State shall use the amounts provided to the State for each fiscal year under this section—*

*"(i) to provide food assistance to needy individuals and families residing in the State, other than residents of institutions who are ineligible for food stamps under section 3(i); and*

*"(ii) to pay administrative costs incurred in providing the assistance.*

*"(C) GROUPS SERVED.—The State plan shall describe how and to what extent the program will serve specific groups of individuals and families and how the treatment will differ from treatment under the food stamp program under the other sections of this Act of the individuals and families, including—*

*"(i) elderly individuals and families;*

*"(ii) migrants or seasonal farmworkers;*

*"(iii) homeless individuals and families;*

*"(iv) individuals and families who live in institutions eligible under section 3(i);*

*"(v) individuals and families with earnings; and*

*"(vi) members of Indian tribes or tribal organizations.*

*"(D) ASSISTANCE FOR ENTIRE STATE.—The State plan shall provide that benefits under this section shall be available throughout the entire State.*

*"(E) NOTICE AND HEARINGS.—The State plan shall provide that an individual or family who applies for, or receives, assistance under this section shall be provided with notice of, and an opportunity for a hearing on, any action under this section that adversely affects the individual or family.*

*"(F) ASSESSMENT OF NEEDS.—The State plan shall assess the food and nutrition needs of needy persons residing in the State.*

*"(G) ELIGIBILITY STANDARDS.—The State plan shall describe the income, resource, and other eligibility standards that are established for the receipt of assistance under this section.*

*"(H) RECEIVING BENEFITS IN MORE THAN 1 JURISDICTION.—The State plan shall establish a system for the exchange of information with*

*other States to verify the identity and receipt of benefits by recipients.*

*"(I) PRIVACY.—The State plan shall provide for safeguarding and restricting the use and disclosure of information about any individual or family receiving assistance under this section.*

*"(J) OTHER INFORMATION.—The State plan shall contain such other information as may be required by the Secretary.*

*"(4) APPROVAL OF APPLICATION AND PLAN.—The Secretary shall approve an application and State plan that satisfies the requirements of this section.*

*"(f) NO INDIVIDUAL OR FAMILY ENTITLEMENT TO ASSISTANCE.—Nothing in this section—*

*"(1) entitles any individual or family to assistance under this section; or*

*"(2) limits the right of a State to impose additional limitations or conditions on assistance under this section.*

*"(g) BENEFITS FOR ALIENS.—*

*"(1) ELIGIBILITY.—No individual who is an alien shall be eligible to receive benefits under a State plan approved under subsection (e)(4) if the individual is not eligible to participate in the food stamp program due to the alien status of the individual.*

*"(2) INCOME.—The State plan shall provide that the income of an alien shall be determined in accordance with section 5(i).*

*"(h) EMPLOYMENT AND TRAINING.—*

*"(1) WORK REQUIREMENTS.—No individual or household shall be eligible to receive benefits under a State plan funded under this section if the individual or household is not eligible to participate in the food stamp program under subsection (d) or (o) of section 6.*

*"(2) WORK PROGRAMS.—Each State shall implement an employment and training program in accordance with the terms and conditions of section 6(d)(4) for individuals under the program and shall be eligible to receive funding under section 16(h).*

*"(i) ENFORCEMENT.—*

*"(1) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this section and the State plan approved under subsection (e)(4).*

*"(2) NONCOMPLIANCE.—*

*"(A) IN GENERAL.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that—*

*"(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the State plan approved under subsection (e)(4); or*

*"(ii) in the operation of any program or activity for which assistance is provided under this section, there is a failure by the State to comply substantially with any provision of this section;*

*the Secretary shall notify the State of the finding and that no further grants will be made to the State under this section (or, in the case of noncompliance in the operation of a program or activity, that no further grants to the State will be made with respect to the program or activity) until the Secretary is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected.*

*"(B) OTHER PENALTIES.—In the case of a finding of noncompliance made pursuant to subparagraph (A), the Secretary may, in addition to, or in lieu of, imposing the penalties described in subparagraph (A), impose other appropriate penalties, 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.*

*"(C) NOTICE.—The notice required under subparagraph (A) shall include a specific identification of any additional penalty being imposed under subparagraph (B).*

*"(3) ISSUANCE OF REGULATIONS.—The Secretary shall establish by regulation procedures for—*

*"(A) receiving, processing, and determining the validity of complaints made to the Secretary concerning any failure of a State to comply with the State plan or any requirement of this section; and*

*"(B) imposing penalties under this section.*

*"(j) GRANT.—*

*"(1) IN GENERAL.—For each fiscal year, the Secretary shall pay to a State that has an application approved by the Secretary under subsection (e)(4) an amount that is equal to the grant of the State under subsection (m) for the fiscal year, adjusted for any reduction required under subsection (m)(2).*

*"(2) METHOD OF GRANT.—The Secretary shall make a grant to a State for a fiscal year under this section by issuing 1 or more letters of credit for the*

*fiscal year, with necessary adjustments on account of overpayments or underpayments, as determined by the Secretary.*

*"(3) SPENDING OF GRANTS BY STATE.—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), a grant to a State determined under subsection (m)(1) for a fiscal year may be expended by the State only in the fiscal year.*

*"(B) CARRYOVER.—The State may reserve up to 10 percent of a grant determined under subsection (m)(1) for a fiscal year to provide assistance under this section in subsequent fiscal years, except that the reserved funds may not exceed 30 percent of the total grant received under this section for a fiscal year.*

*"(4) FOOD ASSISTANCE AND ADMINISTRATIVE EXPENDITURES.—In each fiscal year, not more than 6 percent of the Federal and State funds required to be expended by a State under this section shall be used for administrative expenses.*

*"(5) PROVISION OF FOOD ASSISTANCE.—A State may provide food assistance under this section in any manner determined appropriate by the State, such as electronic benefit transfer limited to food purchases,*

*coupons limited to food purchases, or direct provision of commodities.*

*"(k) QUALITY CONTROL.—Each State participating in the program established under this section shall maintain a system in accordance with, and shall be subject to section 16(c), including sanctions and eligibility for incentive payment under section 16(c).*

*"(l) NONDISCRIMINATION.—*

*"(1) IN GENERAL.—The Secretary shall not provide financial assistance for any program, project, or activity under this section if any person with responsibilities for the operation of the program, project, or activity discriminates with respect to the program, project, or activity because of race, religion, color, national origin, sex, or disability.*

*"(2) ENFORCEMENT.—The powers, remedies, and procedures set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) may be used by the Secretary to enforce paragraph (1).*

*"(m) GRANT CALCULATION.—*

*"(1) STATE GRANT.—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), from the amounts made available under section 18 for each fiscal year, the Secretary shall provide a grant to each State*

*participating in the program established under this section an amount that is equal to the sum of—*

*"(i) the greater of, as determined by the Secretary—*

*"(I) the total dollar value of all benefits issued under the food stamp program established under this Act by the State during fiscal year 1994; or*

*"(II) the average per fiscal year of the total dollar value of all benefits issued under the food stamp program by the State during each of fiscal years 1992 through 1994; and*

*"(ii) the greater of, as determined by the Secretary—*

*"(I) the total amount received by the State for administrative costs under section 16 for fiscal year 1994; or*

*"(II) the average per fiscal year of the total amount received by the State for administrative costs under section 16 for each of fiscal years 1992 through 1994.*

*"(B) INSUFFICIENT FUNDS.—If the Secretary finds that the total amount of grants to which States would otherwise be entitled for a fiscal year under subparagraph (A) will exceed the amount of funds that will be made available to provide the grants for the fiscal year, the Secretary shall reduce the grants made to States under this subsection, on a pro rata basis, to the extent necessary.*

*"(2) REDUCTION.—The Secretary shall reduce the grant of a State by the amount a State has agreed to contribute under subsection (c)(1)(C)."*.

*(b) EMPLOYMENT AND TRAINING FUNDING.—Section 16(h) of the Act (7 U.S.C. 2025(a)), as amended by section 13027(d)(2), is further amended by adding at the end the following:*

*"(6) BLOCK GRANT STATES.—Each State electing to operate a program under section 25 shall—*

*"(A) receive the greater of—*

*"(i) the total dollar value of the funds received under paragraph (1) by the State during fiscal year 1994; or*

*"(ii) the average per fiscal year of the total dollar value of all funds received under*

*paragraph (1) by the State during each of fiscal years 1992 through 1994; and*

*"(B) be eligible to receive funds under paragraph (2), within the limitations in section 6(d)(4)(K).".*

*(c) RESEARCH ON OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.—Section 17 of the Act (7 U.S.C. 2026), as amended by section 13055(c)(2), is further amended by adding at the end the following:*

*"(l) RESEARCH ON OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.—The Secretary may conduct research on the effects and costs of a State program carried out under section 25.".*

***SEC. 13057. AMERICAN SAMOA.***

*The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 13056, is further amended by adding at the end the following:*

***"SEC. 26. TERRITORY OF AMERICAN SAMOA.***

*From amounts made available to carry out this Act, the Secretary may 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)).".*

***SEC. 13058. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.***

*The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 13057, is further amended by adding at the end the following:*

***"SEC. 27. 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 for any fiscal year may not exceed $2,500,000.*

*"(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.".*

## *CHAPTER 2—COMMODITY DISTRIBUTION PROGRAMS*

***SEC. 13071. EMERGENCY FOOD ASSISTANCE PROGRAM.***

*(a) DEFINITIONS.—Section 201A of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended to read as follows:*

***"SEC. 201A. DEFINITIONS.***

*"In this Act:*

*"(1) ADDITIONAL COMMODITIES.—The term 'additional commodities' means commodities made available under section 214 in addition to the commodities made available under sections 202 and 203D.*

*"(2) AVERAGE MONTHLY NUMBER OF UNEMPLOYED PERSONS.—The term 'average monthly number of unemployed persons' means the average monthly number of unemployed persons in each State in the most recent fiscal year for which information concerning the number of unemployed persons is available, as determined by the Bureau of Labor Statistics of the Department of Labor.*

*"(3) ELIGIBLE RECIPIENT AGENCY.—The term 'eligible recipient agency' means a public or nonprofit organization—*

*"(A) that administers—*

*"(i) an emergency feeding organization;*

*"(ii) a charitable institution (including a hospital and a retirement home, but excluding a penal institution) to the extent that the institution serves needy persons;*

*"(iii) a summer camp for children, or a child nutrition program providing food service;*

*"(iv) a nutrition project operating under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), including a project that operates a congregate nutrition site and a project that provides home-delivered meals; or*

*"(v) a disaster relief program;*

*"(B) that has been designated by the appropriate State agency, or by the Secretary; and*

*"(C) that has been approved by the Secretary for participation in the program established under this Act.*

*"(4) EMERGENCY FEEDING ORGANIZATION.—The term 'emergency feeding organization' means a public or nonprofit organization that administers activities and projects (including the activities and projects of*

*a charitable institution, a food bank, a food pantry, a hunger relief center, a soup kitchen, or a similar public or private nonprofit eligible recipient agency) providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons.*

*"(5) FOOD BANK.—The term 'food bank' means a public or charitable institution that maintains an established operation involving the provision of food or edible commodities, or the products of food or edible commodities, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to feed needy persons on a regular basis.*

*"(6) FOOD PANTRY.—The term 'food pantry' means a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.*

*"(7) POVERTY LINE.—The term 'poverty line' has the same meaning given the term in section*

*673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).*

*"(8) SOUP KITCHEN.—The term 'soup kitchen' means a public or charitable institution that, as integral part of the normal activities of the institution, maintains an established feeding operation to provide food to needy homeless persons on a regular basis.*

*"(9) TOTAL VALUE OF ADDITIONAL COMMODITIES.—The term 'total value of additional commodities' means the actual cost of all additional commodities made available under section 214 that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).*

*"(10) VALUE OF ADDITIONAL COMMODITIES ALLOCATED TO EACH STATE.—The term 'value of additional commodities allocated to each State' means the actual cost of additional commodities made available under section 214 and allocated to each State that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary)."*.

*(b) STATE PLAN.—Section 202A of the Act (7 U.S.C. 612c note) is amended to read as follows:*

***"SEC. 202A. STATE PLAN.***

*"(a) IN GENERAL.—To receive commodities under this Act, a State shall submit a plan of operation and adminis-*

*tration every 4 years to the Secretary for approval. The plan may be amended at any time, with the approval of the Secretary.*

*"(b) REQUIREMENTS.—Each plan shall—*

*"(1) designate the State agency responsible for distributing the commodities received under this Act;*

*"(2) set forth a plan of operation and administration to expeditiously distribute commodities under this Act;*

*"(3) set forth the standards of eligibility for recipient agencies; and*

*"(4) set forth the standards of eligibility for individual or household recipients of commodities, which shall require—*

*"(A) individuals or households to be comprised of needy persons; and*

*"(B) individual or household members to be residing in the geographic location served by the distributing agency at the time of applying for assistance.*

*"(c) STATE ADVISORY BOARD.—The Secretary shall encourage each State receiving commodities under this Act to establish a State advisory board consisting of representatives of all interested entities, both public and private, in*

*the distribution of commodities received under this Act in the State.".*

*(c) AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE FUNDS.—Section 204(a)(1) of the Act (7 U.S.C. 612c note) is amended—*

*(1) in the first sentence—*

*(A) by striking "1991 through 1995' and inserting "1996 through 2002"; and*

*(B) by striking "for State and local" and all that follows through "under this title" and inserting "to pay for the direct and indirect administrative costs of the State related to the processing, transporting, and distributing to eligible recipient agencies of commodities provided by the Secretary under this Act and commodities secured from other sources"; and*

*(2) by striking the fourth sentence.*

*(d) DELIVERY OF COMMODITIES.—Section 214 of the Act (7 U.S.C. 612c note) is amended—*

*(1) by striking subsections (a) through (e) and (j);*

*(2) by redesignating subsections (f) through (i) as subsections (a) through (d), respectively;*

*(3) in subsection (b), as redesignated by paragraph (2)—*

*(A) in the first sentence, by striking "subsection (f) or subsection (j) if applicable," and inserting "subsection (a)"; and*

*(B) in the second sentence, by striking "subsection (f)" and inserting "subsection (a)";*

*(4) by striking subsection (c), as redesignated by paragraph (2), and inserting the following:*

*"(c) ADMINISTRATION.—*

*"(1) IN GENERAL.—Commodities made available for each fiscal year under this section shall be delivered at reasonable intervals to States based on the grants calculated under subsection (a), or reallocated under subsection (b), before December 31 of the following fiscal year.*

*"(2) ENTITLEMENT.—Each State shall be entitled to receive the value of additional commodities determined under subsection (a)."; and*

*(5) in subsection (d), as redesignated by paragraph (2), by striking "or reduce" and all that follows through "each fiscal year".*

*(e) TECHNICAL AMENDMENTS.—The Act (7 U.S.C. 612c note) is amended—*

*(1) in the first sentence of section 203B(a), by striking "203 and 203A of this Act" and inserting "203A";*

*(2) in section 204(a), by striking "title" each place it appears and inserting "Act";*

*(3) in the first sentence of section 210(e), by striking "(except as otherwise provided for in section 214(j))"; and*

*(4) by striking section 212.*

*(f) REPORT ON EFAP.—Section 1571 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 612c note) is repealed.*

*(g) AVAILABILITY OF COMMODITIES UNDER THE FOOD STAMP PROGRAM.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 13058, is further amended by adding at the end the following:*

***"SEC. 28. AVAILABILITY OF COMMODITIES FOR THE EMERGENCY FOOD ASSISTANCE PROGRAM.***

*"(a) PURCHASE OF COMMODITIES.—From amounts appropriated under this Act, for each of fiscal years 1997 through 2002, the Secretary shall purchase $300,000,000 of a variety of nutritious and useful commodities of the types that the Secretary has the authority to acquire through the Commodity Credit Corporation or under section 32 of the Act entitled 'An Act to amend the Agricultural Adjustment Act, and for other purposes', approved August 24, 1935 (7 U.S.C. 612c), and distribute the commodities to States for distribution in accordance with section 214 of the Emer-*

*gency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note).*

*"(b) BASIS FOR COMMODITY PURCHASES.—In purchasing commodities under subsection (a), the Secretary shall, to the extent practicable and appropriate, make purchases based on—*

*"(1) agricultural market conditions;*

*"(2) preferences and needs of States and distributing agencies; and*

*"(3) preferences of recipients.".*

*(h) EFFECTIVE DATE.—The amendments made by subsection (d) shall become effective on October 1, 1996.*

## *Subtitle K—Miscellaneous*

### *SEC. 13101. FOOD STAMP ELIGIBILITY*

*Section 6(f) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f)) is amended by striking the third sentence and inserting the following: The State agency shall, at its option, consider either all income and financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection, or such income, less a pro rata share, and the financial resources of the ineligible individual, to determine the eligibility and the value of the allotment of the household of which such individual is a member.'*

***SEC. 13102. REDUCTION IN BLOCK GRANTS FOR SOCIAL SERVICES.***

*Section 2003(c) of the Social Security Act (42 U.S.C. 1397b) is amended—*

*(1) by striking 'and' at the end of paragraph (4); and*

*(2) by striking paragraph (5) and inserting the following:*

*'(5) $2,800,000,000 for each of the fiscal years 1990 through 1996; and*

*'(6) $2,240,000,000 for each fiscal year after fiscal year 1996.'.*

## ***Subtitle L—Reform of the Earned Income Credit***

***SEC. 13200. AMENDMENT OF 1986 CODE.***

*Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.*

***SEC. 13201. 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.*

***SEC. 13202. REPEAL OF EARNED INCOME CREDIT FOR INDIVIDUALS WITHOUT CHILDREN.***

*(a) IN GENERAL.—Subparagraph (A) of section 32(c)(1) (defining eligible individual) is amended to read as follows:*

*"(A) IN GENERAL.—The term 'eligible individual' means any individual who has a qualifying child for the taxable year.".*

*(b) CONFORMING AMENDMENTS.—Each of the tables contained in paragraphs (1) and (2) of section 32(b) are amended by striking the items relating to no qualifying children.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

***SEC. 13203. MODIFICATION OF EARNED INCOME CREDIT AMOUNT AND PHASEOUT.***

*(a) MODIFICATION OF PHASEOUT.—Subparagraph (B) of section 32(a)(2) is amended to read as follows:*

*"(B) the sum of—*

*"(i) the initial phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the initial phaseout amount but does not exceed the final phaseout amount, plus*

*"(ii) the final phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer*

*for the taxable year as exceeds the final phaseout amount.''*

*(b) PERCENTAGES AND AMOUNTS.—*

*(1) IN GENERAL.—Subsection (b) of section 32, as amended by section 13202(b), is amended to read as follows:*

*''(b) PERCENTAGES AND AMOUNTS.—*

*''(1) PERCENTAGES.—The credit percentage, the initial phaseout percentage, and the final phaseout percentage shall be determined as follows:*

| *''In the case of an eligible individual with:* | *The credit percentage is:* | *The initial phaseout percentage is:* | *The final phaseout percentage is:* |
|---|---|---|---|
| *1 qualifying child* | *34* | *15.98* | *20* |
| *2 or more qualifying children* | *36* | *21.06* | *25* |

*''(2) AMOUNTS.—The earned income amount, the initial phaseout amount, and the final phaseout amount shall be determined as follows:*

| *''In the case of an eligible individual with:* | *The earned income amount is:* | *The initial phaseout amount is:* | *The final phaseout amount is:* |
|---|---|---|---|
| *1 qualifying child* | *$6,340* | *$11,630* | *$14,850* |
| *2 or more qualifying children* | *$8,910* | *$11,630* | *$17,750''.* |

*(2) INCREASE IN CREDIT FOR LOWER-INCOME FAMILIES HAVING 2 MORE QUALIFYING CHILDREN.—Subsection (d) of section 32 is amended to read as follows:*

*''(d) INCREASE IN CREDIT FOR LOWER-INCOME FAMILIES HAVING 2 OR MORE QUALIFYING CHILDREN.—*

*"(1) IN GENERAL.—If an eligible individual has 2 or more qualifying children, for purposes of applying paragraphs (1) and (2)(A) of subsection (a)—*

*"(A) the amount of the taxpayer's earned income shall be treated as being equal to 10/9 of such income (determined without regard to this paragraph), and*

*"(B) the earned income amount shall be treated as being equal to 10/9 of such amount (determined without regard to this paragraph).*

*"(2) PHASEOUT OF BENEFIT.—If the applicable income of the taxpayer for the taxable year exceeds $14,000 ($17,000 in the case of a joint return), the amount of each increase under paragraph (1) shall be reduced (but not below zero) by an amount which bears the same ratio to such increase (determined without regard to this subparagraph) as such excess bears to $4,000.*

*"(3) APPLICABLE INCOME.—For purposes of this subsection, the term 'applicable income' means adjusted gross income or, if greater, earned income."*

*(3) CONFORMING AMENDMENTS.—*

*(A) Subsection (j) of section 32 is amended—*

*(i) by striking "subsection (b)(2)(A)" and inserting "subsection (b)(2) or (d)",*

*(ii) by striking "1994" and inserting "1996", and*

*(iii) by striking "1993" and inserting "1995".*

*(B) Subsection (e) of section 32 is amended to read as follows:*

*"(e) OTHER SPECIAL RULES—*

*"(1) MARRIED INDIVIDUALS.—In the case of an individual who is married (within the meaning of section 7703), this section shall apply only if a joint return is filed for the taxable year.*

*"(2) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of an individual, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months."*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

***SEC. 13204. RULES RELATING TO DENIAL OF EARNED INCOME CREDIT ON BASIS OF DISQUALIFIED INCOME.***

*(a) DEFINITION OF DISQUALIFIED INCOME.—Paragraph (2) of section 32(i) (defining disqualified income) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:*

*"(D) the excess (if any) of—*

*"(i) the aggregate income from all passive activities for the taxable year (determined without regard to any amount described in a preceding subparagraph), over*

*"(ii) the aggregate losses from all passive activities for the taxable year (as so determined).*

*For purposes of subparagraph (D), the term 'passive activity' has the meaning given such term by section 469.".*

*(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

***SEC. 13205. MODIFICATION OF ADJUSTED GROSS INCOME DEFINITION FOR EARNED INCOME CREDIT.***

*(a) IN GENERAL.—Subsections (a)(2), (c)(1)(C), (d), and (f)(2)(B) of section 32, as amended by the preceding sections of this subtitle, are each amended by striking "adjusted gross income" each place it appears and inserting "modified adjusted gross income".*

*(b) MODIFIED ADJUSTED GROSS INCOME DEFINED.—Section 32(c) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:*

*"(5) MODIFIED ADJUSTED GROSS INCOME.—*

*"(A) IN GENERAL.—The term 'modified adjusted gross income' means adjusted gross income—*

*"(i) increased by the sum of the amounts described in subparagraph (B), and*

*"(ii) determined without regard to—*

*"(I) the amounts described in subparagraph (C), or*

*"(II) the deduction allowed under section 172.*

*"(B) NONTAXABLE INCOME TAKEN INTO ACCOUNT.—Amounts described in this subparagraph are—*

*"(i) social security benefits (as defined in section 86(d)) received by the taxpayer during the taxable year to the extent not included in gross income,*

*"(ii) amounts which—*

*"(I) are received during the taxable year by (or on behalf of) a spouse pursuant to a divorce or separation instrument (as defined in section 71(b)(2)), and*

*"(II) under the terms of the instrument are fixed as payable for the support of the children of the payor spouse (as determined under section 71(c)),*

*but only to the extent such amounts exceed $6,000,*

*"(iii) interest received or accrued during the taxable year which is exempt from tax imposed by this chapter, and*

*"(iv) amounts received as a pension or annuity, and any distributions or payments received from an individual retirement plan, by the taxpayer during the taxable*

*year to the extent not included in gross income.*

*Clause (iv) shall not include any amount which is not includible in gross income by reason of section 402(c), 403(a)(4), 403(b)(8), 408(d) (3), (4), or (5), or 457(e)(10).*

*"(C) CERTAIN AMOUNTS DISREGARDED.—an amount is described in this subparagraph if it is—*

*"(i) the amount of losses form sales or exchanges of capital assets in excess of gains from such sales or exchanges to the extent such amount does not exceed the amount under section 1211(b)(1),*

*"(ii) the net loss from the carrying on of trades or businesses, computed separately with respect to—*

*"(I) trades or businesses (other than farming) conducted as sole proprietorships,*

*"(II) trades or businesses of farming conducted as sole proprietorships, and*

*"(III) other trades or business,*

*"(iii) the net loss from estates and trusts, and*

*"(iv) the excess (if any) of amounts described in subsection (i)(2)(C)(ii) over the amounts described in subsection (i)(2)(C)(i) (relating to nonbusiness rents and royalties).*

*For purposes of clause (ii), there shall not be taken into account items which are attributable to a trade or business which consists of the performance of services by the taxpayer as an employee.".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.*

***SEC. 13206. PROVISIONS TO IMPROVE TAX COMPLIANCE.***

*(a) INCREASE IN PENALTIES FOR RETURN PREPARERS.—*

*(1) UNDERSTATEMENT PENALTY.—Section 6694 (relating to understatement of income tax liability by income tax return preparer) is amended—*

*(A) by striking "$250" in subsection (a) and inserting "$500", and*

*(B) by striking "$1,000" in subsection (b) and inserting "$2,000".*

*(2) OTHER ASSESSABLE PENALTIES.—Section 6695 (relating to other assessable penalties) is amended—*

*(A) by striking "$50" and "$25,000" in subsections (a), (b), (c), (d), and (e) and inserting "$100" and "$50,000", respectively, and*

*(B) by striking "$500" in subsection (f) and inserting "$1,000".*

*(b) AIDING AND ABETTING PENALTY.—Section 6701(b) (relating to amount of penalty) is amended—*

*(1) by striking "$1,000" in paragraph (1) and inserting "$2,000", and*

*(2) by striking "10,000" in paragraph (2) and inserting "20,000".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties with respect to taxable years beginning after December 31, 1995.*

Attest:

*Secretary.*

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1st Session

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## AMENDMENT

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