

104TH CONGRESS
2D SESSION

S. 1533

To provide an opportunity for community renewal and economic growth in empowerment zones and enterprise communities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 26, 1996

Mr. McCAIN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide an opportunity for community renewal and economic growth in empowerment zones and enterprise communities, and for other purposes.

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

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

4 **EFFECT.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Community Renewal and Economic Opportunity Act”.

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

Sec. 1. Short title; table of contents; budget effect.

TITLE I—ECONOMIC OPPORTUNITY

Subtitle A—Tax Incentives

- Sec. 101. General tax credit for businesses in empowerment zones and enterprise communities.
- Sec. 102. Election of flat tax option for zone and community businesses.
- Sec. 103. Exclusion for capital gains on certain investments within zones and communities.
- Sec. 104. Increase in expensing under section 179 for businesses in zones and communities.
- Sec. 105. Tax-free dividends received from enterprise zone businesses.
- Sec. 106. Work opportunity tax credit.

Subtitle B—Contracting Set-Aside Reform

- Sec. 111. Amendments to the Small Business Act.
- Sec. 112. Technical and conforming amendments in other law.
- Sec. 113. Savings provision.
- Sec. 114. Additional technical and conforming amendments.

Subtitle C—Small Business Mentor Program

- Sec. 121. Establishment of mentor program.

TITLE II—COMMUNITY INFRASTRUCTURE

- Sec. 201. Limitation on the application of the Davis-Bacon requirements to empowerment zones, enterprise communities, and enterprise zones.
- Sec. 202. Reform of community development block grant program.

TITLE III—SAFE STREETS

Subtitle A—Mandatory Restitution

- Sec. 301. Order of restitution.
- Sec. 302. Conditions of probation.
- Sec. 303. Mandatory restitution.
- Sec. 304. Order of restitution to victims of other crimes.
- Sec. 305. Procedure for issuance and enforcement of restitution order.
- Sec. 306. Procedure.
- Sec. 307. Instruction to Sentencing Commission.
- Sec. 308. Justice Department regulations.
- Sec. 309. Special assessments on convicted persons.
- Sec. 310. Crime victims fund.
- Sec. 311. Victims of terrorism act.
- Sec. 312. Severability.
- Sec. 313. Study and report.
- Sec. 314. Effective date.

Subtitle B—Asset Forfeiture Assistance

- Sec. 321. Forfeitures under the Controlled Substances Act.

TITLE IV—EDUCATIONAL OPPORTUNITY

- Sec. 401. Purpose.
- Sec. 402. Definitions.
- Sec. 403. Funding.

- Sec. 404. Program authorized.
- Sec. 405. Authorized projects.
- Sec. 406. Applications.
- Sec. 407. Education certificates.
- Sec. 408. Effect on other programs; use of school lunch data.
- Sec. 409. Parental notification.
- Sec. 410. Evaluation and report.

TITLE V—FAMILY OPPORTUNITY

- Sec. 501. Findings and purpose.
- Sec. 502. Removal of barriers to interracial and interethnic adoptions.
- Sec. 503. Repeal.
- Sec. 504. Effective date.

TITLE VI—VOLUNTEER PROTECTION

- Sec. 601. Findings and purpose.
- Sec. 602. Definitions.
- Sec. 603. No preemption of State tort law.
- Sec. 604. Limitation on liability for volunteers.
- Sec. 605. Certification requirement and adjustment of social services block grant allotments.

TITLE VII—SPECTRUM AUCTION

- Sec. 701. Auction of electromagnetic spectrum.

1 (c) SENSE OF THE SENATE REGARDING BUDGET
 2 NEUTRALITY.—It is the sense of the Senate that appro-
 3 priate reductions in Federal budget spending levels should
 4 be made in order to enact in a budget neutral manner
 5 the provisions of, and amendments made by, this Act.

6 **TITLE I—ECONOMIC**

7 **OPPORTUNITY**

8 **Subtitle A—Tax Incentives**

9 **SEC. 101. GENERAL TAX CREDIT FOR BUSINESSES IN**
 10 **EMPOWERMENT ZONES AND ENTERPRISE**
 11 **COMMUNITIES.**

12 (a) IN GENERAL.—Part II of subchapter U of chap-
 13 ter 1 of the Internal Revenue Code of 1986 (relating to

1 designation and treatment of empowerment zones, enter-
 2 prise communities, and rural development investment
 3 areas) is amended by adding at the end the following new
 4 section:

5 **“SEC. 1395. GENERAL TAX CREDIT.**

6 “(a) IN GENERAL.—In the case of an enterprise zone
 7 business, there shall be allowed as a credit against the tax
 8 imposed by this chapter for the taxable year an amount
 9 equal to 10 percent of such tax (determined without re-
 10 gard to this section).

11 “(b) ENTERPRISE ZONE BUSINESS.—For purposes
 12 of this section, the term ‘enterprise zone business’ has the
 13 meaning given to such term by section 1394(b)(3), except
 14 that in the case of empowerment zones, subsections (b)(6)
 15 and (c)(5) of section 1397B shall be applied by substitut-
 16 ing ‘50 percent’ for ‘35 percent’.

17 “(c) DESIGNATION OF ADDITIONAL ENTERPRISE
 18 COMMUNITIES FOR TAX CREDIT AND FLAT TAX OP-
 19 TION.—For purposes of the credit allowed under this sec-
 20 tion and the flat tax option under section 1395A only, and
 21 notwithstanding subsections (b)(1) and (c) of section
 22 1391(b)(1), the Secretary of Housing and Urban Develop-
 23 ment may designate 90 additional enterprise communities
 24 in urban areas under section 1391.”.

25 (b) CONFORMING AMENDMENTS.—

1 “(b) FLAT TAX OPTION.—For purposes of this sec-
 2 tion, the term ‘flat tax option’ means, with respect to any
 3 taxable year—

4 “(1) no credit otherwise allowable to the tax-
 5 payer under this subchapter or part IV of sub-
 6 chapter A shall be allowed,

7 “(2) part VI of subchapter A (relating to the
 8 alternative minimum tax) shall not apply to the tax-
 9 payer, and

10 “(3) section 11 shall apply to the taxpayer as
 11 if amended to read as follows:

12 **“SEC. 11. TAX IMPOSED ON BUSINESS ACTIVITIES.**

13 “(a) TAX IMPOSED.—There is hereby imposed on
 14 every person engaged in a business activity a tax equal
 15 to 10 percent of the business taxable income of such per-
 16 son.

17 “(b) LIABILITY FOR TAX.—The tax imposed by this
 18 section shall be paid by the person engaged in the business
 19 activity, whether such person is an individual, partnership,
 20 corporation, or otherwise.

21 “(c) BUSINESS TAXABLE INCOME.—For purposes of
 22 this section—

23 “(1) IN GENERAL.—The term “business tax-
 24 able income” means gross active income reduced by
 25 the deductions specified in subsection (d).

1 “(2) GROSS ACTIVE INCOME.—

2 “(A) IN GENERAL.—For purposes of
3 paragraph (1), the term “gross active income”
4 means gross receipts from—

5 “(i) the sale or exchange of property
6 or services in the United States by any
7 person in connection with a business activ-
8 ity, and

9 “(ii) the export of property or serv-
10 ices from the United States in connection
11 with a business activity.

12 “(B) EXCHANGES.—For purposes of this
13 section, the amount treated as gross receipts
14 from the exchange of property or services is the
15 fair market value of the property or services re-
16 ceived, plus any money received.

17 “(C) COORDINATION WITH SPECIAL
18 RULES FOR FINANCIAL SERVICES, ETC.—Except
19 as provided in subsection (e)—

20 “(i) the term “property” does not in-
21 clude money or any financial instrument,
22 and

23 “(ii) the term “services” does not in-
24 clude financial services.

1 “(3) EXEMPTION FROM TAX FOR ACTIVITIES
2 OF GOVERNMENTAL ENTITIES AND TAX-EXEMPT OR-
3 GANIZATIONS.—For purposes of this section, the
4 term “business activity” does not include any activ-
5 ity of a governmental entity or of any other organi-
6 zation which is exempt from tax under this chapter.

7 “(d) DEDUCTIONS.—

8 “(1) IN GENERAL.—The deductions specified
9 in this subsection are—

10 “(A) the cost of business inputs for the
11 business activity,

12 “(B) wages (as defined in section 3121(a)
13 without regard to paragraph (1) thereof) which
14 are paid in cash for services performed in the
15 United States as an employee, and

16 “(C) retirement contributions to or under
17 any plan or arrangement which makes retire-
18 ment distributions (as defined in section 63(e))
19 for the benefit of such employees to the extent
20 such contributions are allowed as a deduction
21 under section 404.

22 “(2) BUSINESS INPUTS.—

23 “(A) IN GENERAL.—For purposes of
24 paragraph (1), the term “cost of business in-
25 puts” means—

1 “(i) the amount paid for property
2 sold or used in connection with a business
3 activity,

4 “(ii) the amount paid for services
5 (other than for the services of employees,
6 including fringe benefits paid by reason of
7 such services) in connection with a busi-
8 ness activity, and

9 “(iii) any excise tax, sales tax, cus-
10 toms duty, or other separately stated levy
11 imposed by a Federal, State, or local gov-
12 ernment on the purchase of property or
13 services which are for use in connection
14 with a business activity.

15 Such term shall not include any tax imposed by
16 chapter 2 or 21.

17 “(B) EXCEPTIONS.—Such term shall not
18 include—

19 “(i) items described in subpara-
20 graphs (B) and (C) of paragraph (1), and

21 “(ii) items for personal use not in
22 connection with any business activity.

23 “(C) EXCHANGES.—For purposes of this
24 section, the amount treated as paid in connec-
25 tion with the exchange of property or services

1 is the fair market value of the property or serv-
 2 ices exchanged, plus any money paid.

3 ““(e) SPECIAL RULES FOR FINANCIAL
 4 INTERMEDIATION SERVICE ACTIVITIES.—In the case of
 5 the business activity of providing financial intermediation
 6 services, the taxable income from such activity shall be
 7 equal to the value of the intermediation services provided
 8 in such activity.

9 ““(f) EXCEPTION FOR SERVICES PERFORMED AS
 10 EMPLOYEE.—For purposes of this section, the term “busi-
 11 ness activity” does not include the performance of services
 12 by an employee for the employee’s employer.

13 ““(g) CARRYOVER OF EXCESS DEDUCTIONS.—

14 ““(1) IN GENERAL.—If the aggregate deduc-
 15 tions for any taxable year exceed the gross active in-
 16 come for such taxable year, the amount of the de-
 17 ductions specified in subsection (d) for the succeed-
 18 ing taxable year (determined without regard to this
 19 subsection) shall be increased by the sum of—

20 ““(A) such excess, plus

21 ““(B) the product of such excess and the
 22 3-month Treasury rate for the last month of
 23 such taxable year.

24 ““(2) 3-MONTH TREASURY RATE.—For pur-
 25 poses of paragraph (1), the 3-month Treasury rate

1 is the rate determined by the Secretary based on the
 2 average market yield (during any 1-month period se-
 3 lected by the Secretary and ending in the calendar
 4 month in which the determination is made) on out-
 5 standing marketable obligations of the United States
 6 with remaining periods to maturity of 3 months or
 7 less.’

8 “(c) ENTERPRISE ZONE BUSINESS.—For purposes of
 9 this section, the term ‘enterprise zone business’ has the
 10 meaning given to such term by section 1394(b)(3), except
 11 that subsections (b)(6) and (c)(5) of section 1397B shall
 12 be applied by substituting ‘50 percent’ for ‘35 percent’.”.

13 (b) CONFORMING AMENDMENT.—The table of sec-
 14 tions of part II of subchapter U of chapter 1 of such Code,
 15 as amended by section 101, is amended by adding at the
 16 end the following new item:

“Sec. 1395A. Flat tax option.”.

17 (c) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to taxable years beginning after
 19 December 31, 1996.

20 **SEC. 103. EXCLUSION FOR CAPITAL GAINS ON CERTAIN IN-**
 21 **VESTMENTS WITHIN ZONES AND COMMU-**
 22 **NITIES.**

23 (a) IN GENERAL.—Part II of subchapter U of chap-
 24 ter 1 of the Internal Revenue Code of 1986, as amended

1 by sections 101 and 102, is amended by adding at the
2 end the following new section:

3 **“SEC. 1395B. EXCLUSION FOR GAIN FROM ZONE OR COM-**
4 **MUNITY INVESTMENTS.**

5 “(a) GENERAL RULE.—In the case of an individual,
6 gross income shall not include any qualified capital gain
7 recognized on the sale or exchange of a qualified zone
8 asset held for more than 5 years.

9 “(b) QUALIFIED ZONE ASSET.—For purposes of this
10 section—

11 “(1) IN GENERAL.—The term ‘qualified zone
12 asset’ means—

13 “(A) any qualified zone stock,

14 “(B) any qualified zone property, and

15 “(C) any qualified zone partnership inter-
16 est.

17 “(2) QUALIFIED ZONE STOCK.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (B), the term ‘qualified zone
20 stock’ means any stock in a domestic corpora-
21 tion if—

22 “(i) such stock is acquired by the tax-
23 payer on original issue from the corpora-
24 tion solely in exchange for cash,

1 “(ii) as of the time such stock was is-
2 sued, such corporation was an enterprise
3 zone business (or, in the case of a new cor-
4 poration, such corporation was being orga-
5 nized for purposes of being an enterprise
6 zone business), and

7 “(iii) during substantially all of the
8 taxpayer’s holding period for such stock,
9 such corporation qualified as an enterprise
10 zone business.

11 “(B) REDEMPTIONS.—The term ‘qualified
12 zone stock’ shall not include any stock acquired
13 from a corporation which made a substantial
14 stock redemption or distribution (without a
15 bona fide business purpose therefor) in an at-
16 tempt to avoid the purposes of this section.

17 “(3) QUALIFIED ZONE PROPERTY.—

18 “(A) IN GENERAL.—The term ‘qualified
19 zone property’ has the meaning given to such
20 term by section 1397C, except that references
21 to empowerment zones shall be treated as in-
22 cluding references to enterprise communities.

23 “(4) QUALIFIED ZONE PARTNERSHIP INTER-
24 EST.—The term ‘qualified zone partnership interest’
25 means any interest in a partnership if—

1 “(A) such interest is acquired by the tax-
2 payer from the partnership solely in exchange
3 for cash,

4 “(B) as of the time such interest was ac-
5 quired, such partnership was an enterprise zone
6 business (or, in the case of a new partnership,
7 such partnership was being organized for pur-
8 poses of being an enterprise zone business), and

9 “(C) during substantially all of the tax-
10 payer’s holding period for such interest, such
11 partnership qualified as an enterprise zone
12 business.

13 A rule similar to the rule of paragraph (2)(B) shall
14 apply for purposes of this paragraph.

15 “(5) TREATMENT OF SUBSEQUENT PUR-
16 CHASERS.—The term ‘qualified zone asset’ includes
17 any property which would be a qualified zone asset
18 but for paragraph (2)(A)(i), section 1397(a)(1)(B),
19 or paragraph (4)(A) in the hands of the taxpayer if
20 such property was a qualified zone asset in the
21 hands of any prior holder.

22 “(6) 10-YEAR SAFE HARBOR.—If any property
23 ceases to be a qualified zone asset by reason of para-
24 graph (2)(A)(iii), section 1397(a)(1)(C), or para-
25 graph (4)(C) after the 10-year period beginning on

1 the date the taxpayer acquired such property, such
2 property shall continue to be treated as meeting the
3 requirements of such paragraph; except that the
4 amount of gain to which subsection (a) applies on
5 any sale or exchange of such property shall not ex-
6 ceed the amount which would be qualified capital
7 gain had such property been sold on the date of such
8 cessation.

9 “(7) TREATMENT OF ZONE OR COMMUNITY
10 TERMINATIONS.—The termination of any designa-
11 tion of an area as an empowerment zone or enter-
12 prise community shall be disregarded for purposes of
13 determining whether any property is a qualified zone
14 asset.

15 “(c) OTHER DEFINITIONS AND SPECIAL RULES.—
16 For purposes of this section—

17 “(1) ENTERPRISE ZONE BUSINESS.—For pur-
18 poses of this section, the term ‘enterprise zone busi-
19 ness’ has the meaning given to such term by section
20 1394(b)(3).”.

21 “(2) QUALIFIED CAPITAL GAIN.—Except as
22 otherwise provided in this subsection, the term
23 ‘qualified capital gain’ means any long-term capital
24 gain.

1 “(3) CERTAIN GAIN ON REAL PROPERTY NOT
2 QUALIFIED.—The term ‘qualified capital gain’ shall
3 not include any gain which would be treated as ordi-
4 nary income under section 1250 if section 1250 ap-
5 plied to all depreciation rather than the additional
6 depreciation.

7 “(4) GAIN ATTRIBUTABLE TO PERIODS AFTER
8 TERMINATION OF ZONE OR COMMUNITY DESIGNA-
9 TION NOT QUALIFIED.—The term ‘qualified capital
10 gain’ shall not include any gain attributable to peri-
11 ods after the termination of any designation of an
12 area as an empowerment zone or enterprise commu-
13 nity.

14 “(d) TREATMENT OF PASS-THRU ENTITIES.—

15 “(1) SALES AND EXCHANGES.—Gain on the
16 sale or exchange of an interest in a pass-thru entity
17 held by the taxpayer (other than an interest in an
18 entity which was an enterprise zone business during
19 substantially all of the period the taxpayer held such
20 interest) for more than 5 years shall be treated as
21 gain described in subsection (a) to the extent such
22 gain is attributable to amounts which would be
23 qualified capital gain on qualified zone assets (deter-
24 mined as if such assets had been sold on the date
25 of the sale or exchange) held by such entity for more

1 than 5 years and throughout the period the taxpayer
2 held such interest. A rule similar to the rule of para-
3 graph (2)(B) shall apply for purposes of the preced-
4 ing sentence.

5 “(2) DISTRIBUTIONS.—

6 “(A) IN GENERAL.—Any amount included
7 in income by reason of holding an interest in a
8 pass-thru entity (other than an entity which
9 was an enterprise zone business during substan-
10 tially all of the period the taxpayer held the in-
11 terest to which such inclusion relates) shall be
12 treated as gain described in subsection (a) if
13 such amount meets the requirements of sub-
14 paragraph (B).

15 “(B) REQUIREMENTS.—An amount meets
16 the requirements of this subparagraph if—

17 “(i) such amount is attributable to
18 gain on the sale or exchange by the pass-
19 thru entity of property which is a qualified
20 zone asset in the hands of such entity and
21 which was held by such entity for the pe-
22 riod required under subsection (a), and

23 “(ii) such amount is includible in the
24 gross income of the taxpayer by reason of
25 the holding of an interest in such entity

1 which was held by the taxpayer on the date
2 on which such pass-thru entity acquired
3 such asset and at all times thereafter be-
4 fore the disposition of such asset by such
5 pass-thru entity.

6 “(C) LIMITATION BASED ON INTEREST
7 ORIGINALLY HELD BY TAXPAYER.—Subpara-
8 graph (A) shall not apply to any amount to the
9 extent such amount exceeds the amount to
10 which subparagraph (A) would have applied if
11 such amount were determined by reference to
12 the interest the taxpayer held in the pass-thru
13 entity on the date the qualified zone asset was
14 acquired.

15 “(3) PASS-THRU ENTITY.—For purposes of this
16 subsection, the term ‘pass-thru entity’ means—

17 “(A) any partnership,

18 “(B) any S corporation,

19 “(C) any regulated investment company,

20 and

21 “(D) any common trust fund.

22 “(e) SALES AND EXCHANGES OF INTERESTS IN
23 PARTNERSHIPS AND S CORPORATIONS WHICH ARE
24 QUALIFIED ZONE BUSINESSES.—In the case of the sale
25 or exchange of an interest in a partnership, or of stock

1 in an S Corporation, which was an enterprise zone busi-
 2 ness during substantially all of the period the taxpayer
 3 held such interest or stock) is an enterprise zone business,
 4 the amount of qualified capital gain shall be determined
 5 without regard to—

6 “(1) any intangible, and any land, which is not
 7 an integral part of any qualified business (as defined
 8 in section 1397B(d)), and

9 “(2) gain attributable to periods before the des-
 10 ignation of an area as an empowerment zone or en-
 11 terprise community.

12 “(f) CERTAIN TAX-FREE AND OTHER TRANSFERS.—
 13 For purposes of this section—

14 “(1) IN GENERAL.—In the case of a transfer of
 15 a qualified zone asset to which this subsection ap-
 16 plies, the transferee shall be treated as—

17 “(A) having acquired such asset in the
 18 same manner as the transferor, and

19 “(B) having held such asset during any
 20 continuous period immediately preceding the
 21 transfer during which it was held (or treated as
 22 held under this subsection) by the transferor.

23 “(2) TRANSFERS TO WHICH SUBSECTION AP-
 24 PLIES.—This subsection shall apply to any trans-
 25 fer—

1 “(A) by gift,
2 “(B) at death, or
3 “(C) from a partnership to a partner
4 thereof of a qualified zone asset with respect to
5 which the requirements of subsection (d)(2) are
6 met at the time of the transfer (without regard
7 to the 5-year holding requirement).

8 “(3) CERTAIN RULES MADE APPLICABLE.—
9 Rules similar to the rules of section 1244(d)(2) shall
10 apply for purposes of this section.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) Section 172(d)(2)(B) of the Internal Reve-
13 nue Code of 1986 (relating to modifications with re-
14 spect to net operating loss deduction) is amended by
15 striking “section 1202” and inserting “sections
16 1202 and 1395B”.

17 (2) Paragraph (4) of section 642(c) of such
18 Code (relating to adjustments) is amended by insert-
19 ing “or 1395B(a)” after “section 1202(a)” and by
20 inserting “or 1395B” after “section 1202”.

21 (3) Paragraph (3) of section 643(a) of such
22 Code (defining distributable net income) is amended
23 by striking “section 1202” and inserting “sections
24 1202 and 1395B”.

1 (4) Paragraph (4) of section 691(c) of such
 2 Code (relating to coordination with capital gain pro-
 3 visions) is amended by striking “1202, and 1211”
 4 and inserting “1202, 1395B, and 1211”.

5 (5) The second sentence of paragraph (2) of
 6 section 871(a) of such Code (relating to capital
 7 gains of aliens present in the United States 183
 8 days or more) is amended by inserting “or 1395B”
 9 after “section 1202”.

10 (6) The table of sections of part II of sub-
 11 chapter U of chapter 1 of such Code, as amended
 12 by sections 101 and 102, is amended by adding at
 13 the end the following new item:

“Sec. 1395B. Exclusion for gain from zone or community invest-
 ments.”.

14 (c) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to taxable years beginning after
 16 December 31, 1996.

17 **SEC. 104. INCREASE IN EXPENSING UNDER SECTION 179**
 18 **FOR BUSINESSES IN ZONES AND COMMU-**
 19 **NITIES.**

20 (a) IN GENERAL.—Part II of subchapter U of chap-
 21 ter 1 of the Internal Revenue Code of 1986, as amended
 22 by sections 101, 102, and 103, is amended by adding at
 23 the end the following new section:

1 **“SEC. 1395C. INCREASE IN EXPENSING UNDER SECTION 179.**

2 “(a) GENERAL RULE.—In the case of an enterprise
3 zone business, for purposes of section 179—

4 “(1) the limitation under section 179(b)(1)
5 shall be increased by the lesser of—

6 “(A) \$35,000, or

7 “(B) the cost of section 179 property
8 which is qualified zone property placed in serv-
9 ice during the taxable year, and

10 “(2) the amount taken into account under sec-
11 tion 179(b)(2) with respect to any section 179 prop-
12 erty which is qualified zone property shall be 50 per-
13 cent of the cost thereof.

14 “(b) RECAPTURE.—Rules similar to the rules under
15 section 179(d)(10) shall apply with respect to any quali-
16 fied zone property which ceases to be used in an
17 empowerment zone or enterprise community by an enter-
18 prise zone business.

19 “(c) ENTERPRISE ZONE BUSINESS.—For purposes of
20 this section, the term ‘enterprise zone business’ has the
21 meaning given to such term by section 1394(b)(3).”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) The table of sections of part II of sub-
24 chapter U of chapter 1 of the Internal Revenue Code
25 of 1986, as amended by sections 101, 102, and 103,

1 is amended by adding at the end the following new
2 item:

“Sec. 1395C. Increase in expensing under section 179.”.

3 (2) Part III of subchapter U of chapter 1 of
4 such Code is amended by striking subpart B and by
5 redesignating subpart C as subpart B.

6 (3) The table of subparts of part III of such
7 subchapter is amended by striking the item relating
8 to subpart B and by redesignating the item relating
9 to subpart C as subpart B.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 1996.

13 **SEC. 105. TAX-FREE DIVIDENDS RECEIVED FROM ENTER-**
14 **PRISE ZONE BUSINESSES.**

15 (a) CORPORATIONS.—Section 243(a) of the Internal
16 Revenue Code of 1986 (relating to dividends received by
17 corporations) is amended—

18 (1) by striking “and” at the end of paragraph

19 (2),

20 (2) by striking the period at the end of para-
21 graph (3) and inserting “; and”, and

22 (3) by adding at the end the following new
23 paragraph:

24 “(4) 100 percent in the case of dividends re-
25 ceived from an enterprise zone business.”.

1 (b) TAXPAYERS OTHER THAN CORPORATIONS.—

2 (1) IN GENERAL.—Part III of subchapter B of
3 chapter 1 of the Internal Revenue Code of 1986 (re-
4 lating to items specifically excluded for gross in-
5 come) is amended by redesignating section 137 as
6 section 138 and by inserting after section 136 the
7 following new section:

8 **“SEC. 137. EXCLUSION OF CERTAIN DIVIDENDS RECEIVED**
9 **BY INDIVIDUALS.**

10 “(a) EXCLUSION FROM GROSS INCOME.—Gross in-
11 come does not include amounts received by an individual
12 as dividends from enterprise zone businesses.

13 “(b) CERTAIN DIVIDENDS EXCLUDED.—Subsection
14 (a) shall not apply to any dividend from—

15 “(1) a corporation which, for the taxable year
16 of the corporation in which the distribution is made,
17 or for the next preceding taxable year of the cor-
18 poration, is a corporation exempt from tax under
19 section 501 (relating to certain charitable, etc., orga-
20 nizations) or section 521 (relating to farmers’ coop-
21 erative associations); or

22 “(2) a real estate investment trust which, for
23 the taxable year of the trust in which the dividend
24 is paid, qualifies under part II of subchapter M (sec.
25 856 and following).

1 “(c) SPECIAL RULES FOR CERTAIN DISTRIBUTIONS.—For purposes of subsection (a)—

3 “(1) Any amount allowed as a deduction under
4 section 591 (relating to deduction for dividends paid
5 by mutual savings banks, etc.) shall not be treated
6 as a dividend.

7 “(2) A dividend received from a regulated in-
8 vestment company shall be subject to the limitations
9 prescribed in section 854.

10 “(3) The amount of dividends properly allocable
11 to a beneficiary under section 652 or 662 shall be
12 deemed to have been received by the beneficiary rat-
13 ably on the same date that the dividends were re-
14 ceived by the estate or trust.”.

15 (2) CONFORMING AMENDMENT.—The table of
16 sections for such part III is amended by striking the
17 item relating to section 137 and inserting the follow-
18 ing new items:

 “Sec. 137. Exclusion of certain dividends received by individuals.
 “Sec. 138. Cross reference to other Acts.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 1996.

22 **SEC. 106. WORK OPPORTUNITY TAX CREDIT.**

23 (a) AMOUNT OF CREDIT.—Subsection (a) of section
24 51 of the Internal Revenue Code of 1986 (relating to

1 amount of credit) is amended by striking “40 percent”
2 and inserting “35 percent”.

3 (b) QUALIFIED WAGES.—Paragraph (3) of section
4 51(b) of the Internal Revenue Code of 1986 (defining
5 qualified wages) is amended by striking “\$6,000” both
6 places it appears and inserting “\$12,000”.

7 (c) MEMBERS OF TARGETED GROUPS.—Subsection
8 (d) of section 51 of the Internal Revenue Code of 1986
9 is amended to read as follows:

10 “(d) MEMBERS OF TARGETED GROUPS.—For pur-
11 poses of this subpart—

12 “(1) IN GENERAL.—An individual is a member
13 of a targeted group if such individual is—

14 “(A) a qualified IV–A recipient,

15 “(B) a qualified veteran,

16 “(C) a high-risk youth,

17 “(D) a vocational rehabilitation referral, or

18 “(E) a qualified summer youth employee.

19 “(2) QUALIFIED IV–A RECIPIENT.—

20 “(A) IN GENERAL.—The term ‘qualified
21 IV–A recipient’ means any individual who is
22 certified by the designated local agency as being
23 a member of a family receiving assistance under
24 a IV–A program for at least a 9-month period

1 ending during the 9-month period ending on the
2 hiring date.

3 “(B) IV–A PROGRAM.—For purposes of
4 this paragraph, the term ‘IV–A program’ means
5 any program providing assistance under a State
6 plan approved under part A of title IV of the
7 Social Security Act (relating to assistance for
8 needy families with minor children) and any
9 successor of such program.

10 “(3) QUALIFIED VETERAN.—

11 “(A) IN GENERAL.—The term ‘qualified
12 veteran’ means any veteran who is certified by
13 the designated local agency as being—

14 “(i) a member of a family receiving
15 assistance under a IV–A program (as de-
16 fined in paragraph (2)(B)) for at least a 9-
17 month period ending during the 12-month
18 period ending on the hiring date, or

19 “(ii) a member of a family receiving
20 assistance under a food stamp program
21 under the Food Stamp Act of 1977 for at
22 least a 3-month period ending during the
23 12-month period ending on the hiring date.

24 “(B) VETERAN.—For purposes of subpara-
25 graph (A), the term ‘veteran’ means any indi-

1 vidual who is certified by the designated local
2 agency as—

3 “(i)(I) having served on active duty
4 (other than active duty for training) in the
5 Armed Forces of the United States for a
6 period of more than 180 days, or

7 “(II) having been discharged or re-
8 leased from active duty in the Armed
9 Forces of the United States for a service-
10 connected disability, and

11 “(ii) not having any day during the
12 60-day period ending on the hiring date
13 which was a day of extended active duty in
14 the Armed Forces of the United States.

15 For purposes of clause (ii), the term ‘extended
16 active duty’ means a period of more than 90
17 days during which the individual was on active
18 duty (other than active duty for training).

19 “(4) HIGH-RISK YOUTH.—

20 “(A) IN GENERAL.—The term ‘high-risk
21 youth’ means any individual who is certified by
22 the designated local agency—

23 “(i) as having attained age 18 but not
24 age 25 on the hiring date, and

1 “(ii) as having his principal place of
2 abode within an empowerment zone or en-
3 terprise community.

4 “(B) YOUTH MUST CONTINUE TO RESIDE
5 IN ZONE.—In the case of a high-risk youth, the
6 term ‘qualified wages’ shall not include wages
7 paid or incurred for services performed while
8 such youth’s principal place of abode is outside
9 an empowerment zone or enterprise community.

10 “(5) VOCATIONAL REHABILITATION REFER-
11 RAL.—The term ‘vocational rehabilitation referral’
12 means any individual who is certified by the des-
13 ignated local agency as—

14 “(A) having a physical or mental disability
15 which, for such individual, constitutes or results
16 in a substantial handicap to employment, and

17 “(B) having been referred to the employer
18 upon completion of (or while receiving) rehabili-
19 tative services pursuant to—

20 “(i) an individualized written rehabili-
21 tation plan under a State plan for voca-
22 tional rehabilitation services approved
23 under the Rehabilitation Act of 1973, or

1 “(ii) a program of vocational rehabili-
2 tation carried out under chapter 31 of title
3 38, United States Code.

4 “(6) QUALIFIED SUMMER YOUTH EMPLOYEE.—

5 “(A) IN GENERAL.—The term ‘qualified
6 summer youth employee’ means any individ-
7 ual—

8 “(i) who performs services for the em-
9 ployer between May 1 and September 15,

10 “(ii) who is certified by the designated
11 local agency as having attained age 16 but
12 not 18 on the hiring date (or if later, on
13 May 1 of the calendar year involved),

14 “(iii) who has not been an employee
15 of the employer during any period prior to
16 the 90-day period described in subpara-
17 graph (B)(i), and

18 “(iv) who is certified by the des-
19 ignated local agency as having his principal
20 place of abode within an empowerment
21 zone or enterprise community.

22 “(B) SPECIAL RULES FOR DETERMINING
23 AMOUNT OF CREDIT.—For purposes of applying
24 this subpart to wages paid or incurred to any
25 qualified summer youth employee—

1 “(i) subsection (b)(2) shall be applied
2 by substituting ‘any 90-day period between
3 May 1 and September 15’ for ‘the 1-year
4 period beginning with the day the individ-
5 ual begins work for the employer’, and

6 “(ii) subsection (b)(3) shall be applied
7 by substituting ‘\$3,000’ for ‘\$6,000’.

8 The preceding sentence shall not apply to an in-
9 dividual who, with respect to the same em-
10 ployer, is certified as a member of another tar-
11 geted group after such individual has been a
12 qualified summer youth employee.

13 “(C) YOUTH MUST CONTINUE TO RESIDE
14 IN ZONE.—Paragraph (4)(B) shall apply for
15 purposes of this paragraph.

16 “(7) HIRING DATE.—The term ‘hiring date’
17 means the day the individual is hired by the em-
18 ployer.

19 “(8) DESIGNATED LOCAL AGENCY.—The term
20 ‘designated local agency’ means a State employment
21 security agency established in accordance with the
22 Act of June 6, 1933, as amended (29 U.S.C. 49–
23 49n).

24 “(9) SPECIAL RULES FOR CERTIFICATIONS.—

1 “(A) IN GENERAL.—An individual shall
2 not be treated as a member of a targeted group
3 unless—

4 “(i) on or before the day on which
5 such individual begins work for the em-
6 ployer, the employer has received a certifi-
7 cation from a designated local agency that
8 such individual is a member of a targeted
9 group, or

10 “(ii)(I) on or before the day the indi-
11 vidual is offered employment with the em-
12 ployer, a pre-screening notice is completed
13 by the employer with respect to such indi-
14 vidual, and

15 “(II) not later than the 14th day after
16 the individual begins work for the em-
17 ployer, the employer submits such notice,
18 signed by the employer and the individual
19 under penalties of perjury, to the des-
20 ignated local agency as part of a written
21 request for such a certification from such
22 agency.

23 For purposes of this paragraph, the term ‘pre-
24 screening notice’ means a document (in such
25 form as the Secretary shall prescribe) which

1 contains information provided by the individual
2 on the basis of which the employer believes that
3 the individual is a member of a targeted group.

4 “(B) INCORRECT CERTIFICATIONS.—If—

5 “(i) an individual has been certified
6 by a designated local agency as a member
7 of a targeted group, and

8 “(ii) such certification is incorrect be-
9 cause it was based on false information
10 provided by such individual,

11 the certification shall be revoked and wages
12 paid by the employer after the date on which
13 notice of revocation is received by the employer
14 shall not be treated as qualified wages.

15 “(C) EXPLANATION OF DENIAL OF RE-
16 QUEST.—If a designated local agency denies a
17 request for certification of membership in a tar-
18 geted group, such agency shall provide to the
19 person making such request a written expla-
20 nation of the reasons for such denial.”.

21 (d) MINIMUM EMPLOYMENT PERIOD.—Paragraph
22 (3) of section 51(i) of the Internal Revenue Code of 1986
23 (relating to certain individuals ineligible) is amended to
24 read as follows:

1 “(3) INDIVIDUALS NOT MEETING MINIMUM EM-
2 PLOYMENT PERIOD.—No wages shall be taken into
3 account under subsection (a) with respect to any in-
4 dividual unless such individual either—

5 “(A) is employed by the employer at least
6 180 days (20 days in the case of a qualified
7 summer youth employee), or

8 “(B) has completed at least 500 hours
9 (120 hours in the case of a qualified summer
10 youth employee) of services performed for the
11 employer.”.

12 (e) TERMINATION.—Paragraph (4) of section 51(c)
13 of the Internal Revenue Code of 1986 (relating to wages
14 defined) is amended to read as follows:

15 “(4) TERMINATION.—The term ‘wages’ shall
16 not include any amount paid or incurred to an indi-
17 vidual who begins work for the employer—

18 “(A) after December 31, 1994, and before
19 January 1, 1996, or

20 “(B) after December 31, 1996.”.

21 (f) REDESIGNATION OF CREDIT.—

22 (1) Sections 38(b)(2) and 51(a) of the Internal
23 Revenue Code of 1986 are each amended by striking
24 “targeted jobs credit” and inserting “work oppor-
25 tunity credit”.

1 (2) The subpart heading for subpart F of part
2 IV of subchapter A of chapter 1 of such Code is
3 amended by striking “**Targeted Jobs Credit**”
4 and inserting “**Work Opportunity Credit**”.

5 (3) The table of subparts for such part IV is
6 amended by striking “targeted jobs credit” and in-
7 serting “work opportunity credit”.

8 (4) The heading for paragraph (3) of section
9 1396(c) of such Code is amended by striking “TAR-
10 GETED JOBS CREDIT” and inserting “WORK OPPOR-
11 TUNITY CREDIT”.

12 (f) TECHNICAL AMENDMENTS.—

13 (1) Paragraph (1) of section 51(c) of the Inter-
14 nal Revenue Code of 1986 is amended by striking “,
15 subsection (d)(8)(D),”.

16 (2) Paragraph (3) of section 51(i) of such Code
17 is amended by striking “(d)(12)” each place it ap-
18 pears and inserting “(d)(6)”.

19 (g) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to individuals who begin work for
21 the employer after December 31, 1996.

1 **Subtitle B—Contracting Set-Aside**
2 **Reform**

3 **SEC. 111. AMENDMENTS TO THE SMALL BUSINESS ACT.**

4 (a) FINDINGS AND PURPOSES.—Section 2 of the
5 Small Business Act (15 U.S.C. 631) is amended—

6 (1) by striking subsection (f);

7 (2) by redesignating subsections (g) through (i)
8 as subsections (f) through (h), respectively; and

9 (3) in subsection (g)(1)(H), as redesignated, by
10 striking “socially and”.

11 (b) DEFINITIONS.—Section 3 of the Small Business
12 Act (15 U.S.C. 632) is amended by adding at the end the
13 following new subsection:

14 “(o) ECONOMICALLY DISADVANTAGED.—For pur-
15 poses of this Act, the terms ‘economically disadvantaged
16 small business concern’ and ‘economically disadvantaged
17 individual’ have the same meanings as in section 8(a).”.

18 (c) ADMINISTRATION OF PROGRAMS.—Section
19 4(b)(1) of the Small Business Act (15 U.S.C. 633(b)(1))
20 is amended by striking the sixth sentence.

21 (d) GUARANTEED LOAN PROGRAM.—Section
22 7(a)(20)(A) of the Small Business Act (15 U.S.C.
23 636(a)(20)(A)) is amended by striking “subsection (j)(10)
24 and”.

1 (e) FINANCIAL ASSISTANCE FOR PROJECTS PROVID-
2 ING TECHNICAL OR MANAGEMENT ASSISTANCE.—Section
3 7(j) of the Small Business Act (15 U.S.C. 636(j)) is
4 amended—

5 (1) in paragraph (1), by striking “sections 7(i),
6 7(j)(10), and” and inserting “subsection (i) of this
7 section and section”;

8 (2) in paragraph (2)(C), by striking “sections
9 7(i), 7(j)(10), and” and inserting “subsection (i) of
10 this section and section”;

11 (3) by striking paragraph (4) and inserting the
12 following:

13 “(4) PREFERENCE.—In carrying out this sub-
14 section, the Administrator shall give preference to
15 projects that promote the training and hiring by
16 small business concerns of economically disadvan-
17 taged individuals.”;

18 (4) by striking paragraph (10);

19 (5) by redesignating paragraph (11) as para-
20 graph (8) and inserting it immediately after para-
21 graph (7);

22 (6) in paragraph (8), as redesignated—

23 (A) in subparagraph (A)—

24 (i) by striking “(A)”;

1 (ii) by striking “and small business
2 concerns” and all that follows before the
3 period; and

4 (B) by striking subparagraphs (B) through
5 (I); and

6 (7) by striking paragraphs (12) through (16).

7 (f) PROCUREMENT CONTRACTS.—Section 8(a) of the
8 Small Business Act (15 U.S.C. 637(a)) is amended—

9 (1) in paragraph (1)—

10 (A) in subparagraph (B), by striking “so-
11 cially and”;

12 (B) in subparagraph (C)—

13 (i) by moving the margins 2 ems to
14 the left; and

15 (ii) by striking “a small business con-
16 cern owned and controlled by socially and
17 economically disadvantaged individuals”
18 and inserting “an economically disadvan-
19 taged small business concern”; and

20 (C) in subparagraph (D)(ii), by striking
21 “Associate Administrator for Minority Small
22 Business and Capital Ownership Development”
23 and inserting “Administrator”;

24 (2) by striking paragraphs (4) through (6) and
25 inserting the following:

1 “(4) APPLICATIONS; REQUIRED CERTIFICATIONS.—

2 Each small business concern seeking assistance under this
3 subsection shall, for each contract with respect to which
4 such assistance is sought, submit an application to the Ad-
5 ministrator, which shall include—

6 “(A) a written certification that—

7 “(i) the small business concern meets the
8 requirements of paragraphs (5) and (6), and
9 expects to continue to meet those requirements
10 during the term of the contract at issue;

11 “(ii) not less than 30 percent of the con-
12 tract at issue will be performed by economically
13 disadvantaged individuals employed by the
14 small business concern; and

15 “(iii) during the term of the contract at
16 issue, the small business concern will not termi-
17 nate the employment of any economically dis-
18 advantaged individual employed by the small
19 business concern or any individual employed by
20 the small business concern who resides in any
21 area described in paragraph (5)(B)(i), except
22 for just cause; and

23 “(B) such documentation as the Administrator
24 may require, in order to verify the status of the

1 small business concern as an economically disadvan-
2 tagged small business concern, including—

3 “(i) relevant tax forms and information;

4 “(ii) a copy of the birth certificates of de-
5 pendent children of economically disadvantaged
6 individuals employed by the small business con-
7 cern; and

8 “(iii) sworn affidavits from economically
9 disadvantaged individuals employed by the
10 small business concern necessary to verify the
11 status of those individuals as economically dis-
12 advantaged individuals.

13 “(5) ECONOMICALLY DISADVANTAGED SMALL BUSI-
14 NESS CONCERN.—For purposes of this subsection, the
15 term ‘economically disadvantaged small business concern’
16 means—

17 “(A) a small business concern, if not less than
18 35 percent of the employees of the small business
19 concern, who are employed by the small business
20 concern as of the date on which the application is
21 submitted under paragraph (4), and who were hired
22 by the small business concern during the 5-year pe-
23 riod preceding the date on which the small business
24 concern submits an application for assistance under
25 this subsection, were economically disadvantaged in-

1 dividuals, as of the date on which those employees
2 were hired by the small business concern; or

3 “(B) a small business concern, the operations
4 and facilities of which are predominately located in
5 an area nominated before the date of enactment of
6 the Community Renewal and Economic Opportunity
7 Act for designation—

8 “(i) under section 1391 of the Internal
9 Revenue Code of 1986 as an empowerment zone
10 or enterprise community (whether or not so
11 designated); or

12 “(ii) under section 701 of the Housing and
13 Community Development Act of 1987 as an en-
14 terprise zone (whether or not so designated).

15 “(6) ECONOMICALLY DISADVANTAGED INDIVID-
16 UAL.—

17 “(A) DEFINITION.—For purposes of this sub-
18 section, the term ‘economically disadvantaged indi-
19 vidual’ means an individual who is a United States
20 citizen, having a net financial worth of not more
21 than \$2,000—

22 “(i) who, as of the date on which the indi-
23 vidual was hired by the small business con-
24 cern—

1 “(I) was not claimed as a dependent
2 on any Federal or State income tax return
3 filed for the 4 taxable years preceding that
4 date; and

5 “(II) earned a net monthly income
6 that did not exceed 100 percent of the pov-
7 erty line (as that term is defined in section
8 673 of the Community Service Block
9 Grant Act (42 U.S.C. 9902)), both during
10 the 1-year period preceding that date, and
11 during not less than 3 of the 4 taxable
12 years immediately preceding that date; or

13 “(ii) who, as of the date on which the indi-
14 vidual was hired by the small business con-
15 cern—

16 “(I) was not claimed as a dependent
17 on any Federal or State income tax return
18 filed for the taxable year preceding that
19 date;

20 “(II) earned a net monthly income
21 that did not exceed 100 percent of the pov-
22 erty line (as that term is defined in section
23 673 of the Community Service Block
24 Grant Act (42 U.S.C. 9902)) during the 1-
25 year period preceding that date; and

1 “(III) had one or more dependents
2 who were 18 years of age or younger.

3 “(B) CALCULATION OF NET FINANCIAL
4 WORTH.—In calculating the net financial worth of
5 an individual for purposes of subparagraph (A), the
6 administrator shall—

7 “(i) include the fair market value of any
8 checking or savings accounts, cash, stocks,
9 bonds, and any other personal property of the
10 individual;

11 “(ii) exclude any equity of the individual in
12 the primary personal residence of the individual
13 or in the furnishings of that residence; and

14 “(iii) establish procedures for calculating
15 the value of any motor vehicle owned by the in-
16 dividual.”;

17 (3) by striking paragraph (8) and inserting the
18 following:

19 “(7) PREFERENCES.—In awarding contracts under
20 this subsection, the administrator shall establish a system
21 that gives preference to economically disadvantaged small
22 business concerns—

23 “(A) more than 35 percent of the employees of
24 which are economically disadvantaged individuals; or

1 “(B) not less than 35 percent of the ownership
2 of which is vested in one or more individuals who re-
3 side in any area described in paragraph (5)(B)(i).”;

4 (4) in paragraph (10), in the second sentence,
5 by striking “for certification”;

6 (5) in paragraph (12)—

7 (A) by striking subparagraphs (A) and (B)
8 and redesignating subparagraphs (C) through
9 (F) as subparagraphs (A) through (D);

10 (B) in subparagraph (B), as redesignated,
11 by striking “subparagraph (C)” and inserting
12 “subparagraph (A)”; and

13 (C) in subparagraph (C), as redesignated,
14 by striking “subparagraph (D)” and inserting
15 “subparagraph (B)”;

16 (6) in paragraph (16)(A)—

17 (A) by striking “Program Participant”
18 each place that term appears and inserting
19 “small business concern”;

20 (B) in clause (i), by adding “and” at the
21 end;

22 (C) in clause (ii), by striking “; and” and
23 inserting a period; and

24 (D) by striking clause (iii);

25 (7) in paragraph (18)—

1 (A) in subparagraph (A)—

2 (i) by striking “Program Participant”
3 the second place that term appears and in-
4 serting “small business concern”;

5 (ii) by striking “Program Participant”
6 the first place that term appears and in-
7 serting “small business concern receiving
8 assistance under this subsection”;

9 (iii) by striking “Program Partici-
10 pants” and inserting “small business con-
11 cerns”; and

12 (iv) by striking “, section 7(j)(10),”;
13 and

14 (B) in subparagraph (C)(ii)—

15 (i) by striking subclause (III), and re-
16 designating subclauses (IV) and (V) as
17 subclauses (III) and (IV), respectively; and

18 (ii) in subclause (III), as redesign-
19 dated, by striking “or section 7(j)(10)”;

20 (8) in paragraph (21)—

21 (A) by striking “(A) Subject to the provi-
22 sions of subparagraph (B), a” and inserting
23 “Each”; and

1 (B) by striking “Notwithstanding the pro-
2 visions” and all that follows through the end of
3 the paragraph;

4 (9) by striking paragraph (9) and redesignating
5 paragraphs (10) through (12) as paragraphs (9)
6 through (11), respectively;

7 (10) by striking paragraph (13) and redesignat-
8 ing paragraph (14) as paragraph (12);

9 (11) by striking paragraph (15) and redesignat-
10 ing paragraphs (16) through (19) as paragraphs
11 (13) through (16), respectively;

12 (12) by striking paragraph (20) and redesignat-
13 ing paragraph (21) as paragraph (17); and

14 (13) by adding at the end the following new
15 paragraph:

16 “(18) ANNUAL REPORT.—The Administrator shall
17 annually submit a report to the Congress, which shall in-
18 clude the following with respect to the fiscal year imme-
19 diately preceding submission of the report:

20 “(A) COSTS AND BENEFITS.—A description and
21 estimate of the benefits and costs that have accrued
22 to the economy and the Federal Government during
23 that fiscal year due to the operations of those small
24 business concerns that were performing contracts

1 awarded pursuant to this subsection during that fis-
2 cal year.

3 “(B) LIST OF PARTICIPANTS.—A list of all
4 small business concerns receiving assistance under
5 this subsection during that fiscal year identifying, by
6 State and by Region, the dollar amount of advance
7 payments received by each small business concern
8 pursuant to contracts awarded under this sub-
9 section, and a description including (if appropriate)
10 an estimate of the dollar value of all benefits re-
11 ceived by each small business concern pursuant to
12 section 7(a)(20) during that fiscal year.

13 “(C) TOTAL VALUE OF CONTRACTS AND OP-
14 TIONS AWARDED.—The total dollar value of con-
15 tracts and options awarded under this subsection
16 during that fiscal year, and such amount expressed
17 as a percentage of total sales of all small business
18 concerns receiving assistance under this subsection
19 during that fiscal year.

20 “(D) VALUE OF CONTRACTS AND OPTIONS
21 AWARDED BY STANDARD INDUSTRIAL CLASSIFICA-
22 TION CODE.—The total dollar value of contracts and
23 options awarded under this subsection during that
24 fiscal year, at such dollar increments as the Admin-
25 istrator deems appropriate, for each 4-digit standard

1 industrial classification code under which such con-
2 tracts and options were classified.

3 “(E) ADDITIONAL RESOURCES.—A description
4 of such additional resources as may be required to
5 provide the types of services needed over the suc-
6 ceeding 2-year period to service the projected port-
7 folio of small business concerns receiving assistance
8 under this subsection.”.

9 (g) PERFORMANCE OF CONTRACTS.—Section 8(d) of
10 the Small Business Act (15 U.S.C. 637(d)) is amended—

11 (1) in paragraph (1)—

12 (A) in the first sentence, by striking “,,
13 small business concerns owned and controlled
14 by socially and economically disadvantaged indi-
15 viduals, and small business concerns owned and
16 controlled by women,” and inserting “and eco-
17 nomically disadvantaged small business con-
18 cerns”; and

19 (B) in the second sentence, by striking “,
20 small business concerns owned and controlled
21 by socially and economically disadvantaged indi-
22 viduals, and small business concerns owned and
23 controlled by women” and inserting “and eco-
24 nomically disadvantaged small business con-
25 cerns”;

1 (2) in paragraph (3)—

2 (A) in subparagraph (A), by striking “,
3 small business concerns owned and controlled
4 by socially and economically disadvantaged indi-
5 viduals, and small business concerns owned and
6 controlled by women” each place that term ap-
7 pears and inserting “and economically dis-
8 advantaged small business concerns”;

9 (B) by striking subparagraphs (C) and (D)
10 and inserting the following:

11 “(C) For purposes of this contract, the terms
12 ‘small business concern’ and ‘economically disadvan-
13 taged small business concern’ have the same mean-
14 ings as in section 3 of the Small Business Act.”;

15 (C) by redesignating subparagraph (E) as
16 subparagraph (D); and

17 (D) in subparagraph (D), as redesignated,
18 by striking “, a small business concern owned
19 and controlled by socially and economically dis-
20 advantaged individuals, or a small business con-
21 cern owned and controlled by women” and in-
22 serting “or an economically disadvantaged small
23 business concern”;

24 (3) in paragraph (4)—

1 (A) in subparagraph (D), by striking “,
2 small business concerns owned and controlled
3 by socially and economically disadvantaged indi-
4 viduals, and small business concerns owned and
5 controlled by women” and inserting “and eco-
6 nomically disadvantaged small business con-
7 cerns”; and

8 (B) in subparagraph (E), by striking
9 “small business concerns owned and controlled
10 by socially and economically disadvantaged indi-
11 viduals” and all that follows through “women”
12 and inserting “economically disadvantaged
13 small business concerns”;

14 (4) in paragraph (6), by striking subparagraph
15 (A) and inserting the following:

16 “(A) percentage goals for the utilization as sub-
17 contractors of small business concerns and economi-
18 cally disadvantaged small business concerns;” and

19 (5) in paragraph (10)(B), by striking “, small
20 business concerns owned and controlled by socially
21 and economically disadvantaged individuals, and
22 small business concerns owned and controlled by
23 women” and inserting “and economically disadvan-
24 taged small business concerns”.

1 (h) POLICY DIRECTIVES.—Section 9(j)(2)(F) of the
2 Small Business Act (15 U.S.C. 638(j)(2)(F)) is amend-
3 ed—

4 (1) by striking “socially and”; and

5 (2) by striking “, as defined in section
6 8(a)(4),”.

7 (i) AWARDS OR CONTRACTS.—Section 15 of the
8 Small Business Act (15 U.S.C. 644) is amended—

9 (1) in subsection (g)(1)—

10 (A) by striking “, small business concerns
11 owned and controlled by socially and economi-
12 cally disadvantaged individuals, and small busi-
13 ness concerns owned and controlled by women”
14 each place that term appears and inserting
15 “and economically disadvantaged small business
16 concerns”;

17 (B) in the third sentence, by striking
18 “small business concerns owned and controlled
19 by socially and economically disadvantaged indi-
20 viduals” and inserting “economically disadvan-
21 taged small business concerns”; and

22 (C) by striking the fourth sentence;

23 (2) in subsection (g)(2)—

24 (A) in the first sentence, by striking “,, by
25 small business concerns owned and controlled

1 by socially and economically disadvantaged indi-
2 viduals, and by small business concerns owned
3 and controlled by women” and inserting “and
4 by economically disadvantaged small business
5 concerns”;

6 (B) in the second sentence, by striking “,
7 small business concerns owned and controlled
8 by socially and economically disadvantaged indi-
9 viduals, and small business concerns owned and
10 controlled by women” and inserting “and eco-
11 nomically disadvantaged small business con-
12 cerns”; and

13 (C) in the fourth sentence, by striking
14 “small business concerns owned and controlled
15 by socially and economically disadvantaged indi-
16 viduals and participation by small business con-
17 cerns owned and controlled by women” and in-
18 serting “economically disadvantaged small busi-
19 ness concerns”; and

20 (3) in subsection (h)—

21 (A) by striking “, small business concerns
22 owned and controlled by socially and economi-
23 cally disadvantaged individuals, and small busi-
24 ness concerns owned and controlled by women”
25 each place that term appears and inserting

1 “and economically disadvantaged small business
2 concerns”; and

3 (B) in paragraph (2)—

4 (i) in subparagraph (D)(ii), by strik-
5 ing “small business concerns owned and
6 controlled by socially and economically dis-
7 advantaged individuals” and inserting
8 “economically disadvantaged small busi-
9 ness concerns”; and

10 (ii) by striking subparagraph (F).

11 (j) OFFENSES AND PENALTIES.—Section 16 of the
12 Small Business Act (15 U.S.C. 645) is amended—

13 (1) in subsection (d)(1)—

14 (A) by striking “, a ‘small business con-
15 cern owned and controlled by socially and eco-
16 nomically disadvantaged individuals’” and all
17 that follows through “women’” and inserting
18 “or an ‘economically disadvantaged small busi-
19 ness concern’”; and

20 (B) in subparagraph (D), by striking “sec-
21 tion 8(d)” and inserting “subsection (a) or (d)
22 of section 8(a) of this Act”;

23 (2) in subsection (e), by striking “, a ‘small
24 business concern owned and controlled by socially
25 and economically disadvantaged individuals’” and all

1 that follows through “women’” and inserting “or an
2 ‘economically disadvantaged small business con-
3 cern’”; and

4 (3) by striking subsection (f).

5 **SEC. 112. TECHNICAL AND CONFORMING AMENDMENTS IN**
6 **OTHER LAW.**

7 (a) TITLE 10, UNITED STATES CODE.—Section 2323
8 of title 10, United States Code, is amended—

9 (1) in subsection (a)(1), by striking subpara-
10 graph (A) and inserting the following:

11 “(A) economically disadvantaged small business
12 concerns, including mass media and advertising
13 firms;”;

14 (2) in subsection (f), by striking “a small busi-
15 ness concern owned and controlled by a minority”
16 and inserting “an economically disadvantaged small
17 business concern”;

18 (3) in subsection (i)(3)—

19 (A) in subparagraph (B), by striking “not
20 owned and controlled by socially and economi-
21 cally disadvantaged individuals” and inserting
22 “that are not economically disadvantaged small
23 business concerns”; and

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

1 (4) in subsection (j), by adding at the end the
2 following new paragraph:

3 “(3) The term ‘economically disadvantaged
4 small business concern’ has the same meaning as in
5 section 8(a) of the Small Business Act.”.

6 (b) FEDERAL HOME LOAN BANK ACT.—Section
7 21A(b)(13) of the Federal Home Loan Bank Act (12
8 U.S.C. 1441a(b)(13)) is amended by striking “small busi-
9 ness concerns owned and controlled by socially and eco-
10 nomically disadvantaged individuals” and inserting “eco-
11 nomically disadvantaged small business concerns (as that
12 term is defined in section 8(a) of the Small Business
13 Act)”.

14 (c) SMALL BUSINESS ECONOMIC POLICY ACT OF
15 1980.—Section 303(e) of the Small Business Economic
16 Policy Act of 1980 (15 U.S.C. 631b(e)) is amended by
17 striking paragraph (1) and inserting the following:

18 “(1) economically disadvantaged small business
19 concerns (as that term is defined in section 8(a) of
20 the Small Business Act);”.

21 (d) SMALL BUSINESS INVESTMENT ACT OF 1958.—
22 Section 411(c)(3)(B) of the Small Business Investment
23 Act of 1958 (15 U.S.C. 694b(c)(3)(B)) is amended by
24 striking “a small business concern owned” and all that
25 follows before the semicolon and inserting “an economi-

1 cally disadvantaged small business concern (as that term
2 is defined in section 8(a) of the Small Business Act)”.
3

4 (e) TITLE 31, UNITED STATES CODE.—Title 31,
5 United States Code, is amended—

6 (1) in section 3718(b)—

7 (A) in paragraph (1)(B), by striking “law
8 firms owned and controlled by socially and eco-
9 nomically disadvantaged individuals” and in-
10 sserting “economically disadvantaged law firms”;
11 and

12 (B) in paragraph (3), by striking “law
13 firms owned and controlled by socially and eco-
14 nomically disadvantaged individuals. For pur-
15 poses of” and all that follows through the end
16 of the paragraph, and inserting the following:
17 “economically disadvantaged law firms. For
18 purposes of this paragraph, the term ‘economi-
19 cally disadvantaged law firm’ means a law firm,
20 regardless of whether or not the law firm is a
21 small business concern (as that term is defined
22 in section 3 of the Small Business Act), that is
23 otherwise described in either section 8(a)(5)(A)
24 of the Small Business Act or clauses (i) and (ii)
25 of section 8(a)(5)(B) of the Small Business
Act.”;

1 (2) in section 6701(f)—

2 (A) in paragraph (1)(A), by striking
3 “small business concerns controlled by socially
4 and economically disadvantaged individuals and
5 women” and inserting “economically disadvan-
6 tagged small business concerns”; and

7 (B) by striking paragraph (3)(B) and in-
8 serting the following:

9 “(B) the term ‘economically disadvantaged
10 small business concern’ has the same meaning
11 as in section 8(a) of the Small Business Act.”;
12 and

13 (3) in section 7505(c), by striking “business
14 concerns owned and controlled by socially and eco-
15 nomically disadvantaged individuals” and inserting
16 “economically disadvantaged small business concerns
17 (as that term is defined in section 8(a) of the Small
18 Business Act)”.

19 (f) OFFICE OF FEDERAL PROCUREMENT POLICY
20 ACT.—

21 (1) ENUMERATION OF INCLUDED FUNC-
22 TIONS.—Section 6(d) of the Office of Federal Pro-
23 curement Policy Act (41 U.S.C. 405(d)) is amend-
24 ed—

1 (A) in paragraph (5)(C), by striking
2 “small business concerns owned” and all that
3 follows through “minorities” and inserting
4 “economically disadvantaged small business
5 concerns (as that term is defined in section 8(a)
6 of the Small Business Act)”;

7 (B) in paragraph (10), by striking “small
8 businesses,” and all that follows through
9 “women” and inserting “small business con-
10 cerns and economically disadvantaged small
11 business concerns (as those terms are defined in
12 section 3 of the Small Business Act)”;

13 (C) in paragraph (11), by striking “small
14 businesses,” and all that follows through
15 “women” and inserting “small business con-
16 cerns and economically disadvantaged small
17 business concerns (as those terms are defined in
18 section 3 of the Small Business Act)”.

19 (2) PROCUREMENT DATA.—Section 19A of the
20 Office of Federal Procurement Policy Act (41 U.S.C.
21 417a) is amended—

22 (A) in subsection (a), by striking “small
23 businesses owned” and all that follows through
24 “gender,” and inserting “economically dis-
25 advantaged small business concerns”; and

1 (B) by striking subsection (b) and insert-
2 ing the following:

3 “(b) DEFINITION.—For purposes of this section, the
4 term ‘economically disadvantaged small business concern’
5 has the same meaning as in section 8(a) of the Small
6 Business Act.”.

7 (g) ENERGY POLICY ACT OF 1992.—Section 3021 of
8 the Energy Policy Act of 1992 (42 U.S.C. 13556) is
9 amended—

10 (1) in subsection (a), by striking paragraph (1)
11 and inserting the following:

12 “(1) economically disadvantaged small business
13 concerns;”; and

14 (2) in subsection (b), by striking paragraph (2)
15 and inserting the following:

16 “(2) The term ‘economically disadvantaged
17 small business concern’ has the same meaning as in
18 section 8(a) of the Small Business Act.”.

19 (h) TITLE 49, UNITED STATES CODE.—Title 49,
20 United States Code, is amended—

21 (1) in section 47107(e)—

22 (A) in paragraph (1), by striking “small
23 business concerns” and all that follows before
24 the period and inserting “economically dis-
25 advantaged small business concerns (as that

1 term is defined in section 8(a) of the Small
2 Business Act)”;

3 (B) in paragraph (4)(B), by striking “a
4 small business concern owned and controlled by
5 a socially and economically disadvantaged indi-
6 vidual” and inserting “an economically dis-
7 advantaged small business concern (as that
8 term is defined in section 8(a) of the Small
9 Business Act)”; and

10 (C) in paragraph (6), by striking “a small
11 business concern” and all that follows before
12 the period and inserting “an economically dis-
13 advantaged small business concern (as that
14 term is defined in section 8(a) of the Small
15 Business Act)”; and

16 (2) in section 47113—

17 (A) by striking subsection (a) and insert-
18 ing the following:

19 “(a) DEFINITIONS.—For purposes of this section—

20 “(1) the term ‘economically disadvantaged small
21 business concern’ has the same meaning as in sec-
22 tion 8(a) of the Small Business Act; and

23 “(2) the term ‘small business concern’ has the
24 same meaning as in section 3 of the Small Business
25 Act, except that the term does not include a small

1 business concern that has average annual gross re-
2 ceipts during the most recent 3 fiscal years of more
3 than \$16,015,000, as adjusted by the Secretary of
4 Transportation for inflation.”; and

5 (B) in subsection (b), by striking “small
6 business concerns owned and controlled by so-
7 cially and economically disadvantaged individ-
8 uals” and inserting “economically disadvan-
9 tagged small business concerns”.

10 (i) DEFENSE PRODUCTION ACT OF 1950.—Section
11 702 of the Defense Production Act of 1950 (50 U.S.C.
12 2152) is amended—

13 (1) in paragraph (16), by striking “such busi-
14 ness concerns owned and controlled by socially and
15 economically disadvantaged individuals or by
16 women” and inserting “economically disadvantaged
17 small business concerns”; and

18 (2) by striking paragraph (17) and inserting
19 the following:

20 “(17) ECONOMICALLY DISADVANTAGED SMALL
21 BUSINESS CONCERN.—The term ‘economically dis-
22 advantaged small business concern’ has the same
23 meaning as in section 8(a) of the Small Business
24 Act.”.

1 **SEC. 113. SAVINGS PROVISION.**

2 Nothing in this title or the amendments made by this
3 title shall affect the terms or conditions of any contract
4 entered into before the date of enactment of this Act.

5 **SEC. 114. ADDITIONAL TECHNICAL AND CONFORMING**
6 **AMENDMENTS.**

7 Not later than 1 year after the date of enactment
8 of this Act, the Administrator of the Small Business Ad-
9 ministration shall submit to the Congress any rec-
10 ommended technical and conforming legislative changes
11 necessary to carry out this title and the amendments made
12 by this title.

13 **Subtitle C—Small Business Mentor**
14 **Program**

15 **SEC. 121. ESTABLISHMENT OF MENTOR PROGRAM.**

16 (a) IN GENERAL.—Not later than 90 days after the
17 date of enactment of this Act, the Administrator shall es-
18 tablish and carry out a program, under which—

19 (1) the Administrator shall recruit qualified
20 mentors to provide assistance to eligible small busi-
21 ness concerns;

22 (2) to the maximum extent practicable, each eli-
23 gible small business concern shall be assigned a
24 qualified mentor from the same or similar industry
25 as the eligible small business concern; and

1 (2) each qualified mentor assigned to an eligible
2 small business concern under paragraph (2) shall—

3 (A) provide assistance to the eligible small
4 business concern in the establishment and oper-
5 ation of that small business concern; and

6 (B) otherwise serve as a resource for infor-
7 mation, consultation, and assistance for that el-
8 igible small business concern.

9 (b) DEFINITIONS.—For purposes of this section—

10 (1) the term “Administrator” means the Ad-
11 ministrator of the Small Business Administration;

12 (2) the term “eligible small business concern”
13 means a small business concern that—

14 (A) is a sole proprietorship; and

15 (B) is located in—

16 (i) an area designated—

17 (I) under section 1391 of the In-
18 ternal Revenue Code of 1986 as an
19 empowerment zone or enterprise com-
20 munity; or

21 (II) under section 701 of the
22 Housing and Community Development
23 Act of 1987 as an enterprise zone; or

1 (ii) any other area determined by the
2 Administrator to be an area of high unem-
3 ployment;

4 (3) the term “financial institution” means any
5 bank or savings association (as those terms are de-
6 fined in section 3 of the Federal Deposit Insurance
7 Act);

8 (4) the term “qualified mentor” means a small
9 business concern or financial institution that is de-
10 termined by the Administrator to be qualified to pro-
11 vide assistance described in subsection (a) to eligible
12 small business concerns in the same or similar in-
13 dustry as the small business concern or financial in-
14 stitution; and

15 (5) the term “small business concern” has the
16 same meaning as in section 3 of the Small Business
17 Act.

18 (c) LIST OF QUALIFIED MENTORS.—In carrying out
19 this section, the Administrator shall establish and main-
20 tain a list of available qualified mentors.

1 **TITLE II—COMMUNITY**
 2 **INFRASTRUCTURE**

3 **SEC. 201. LIMITATION ON THE APPLICATION OF THE DAVIS-**
 4 **BACON REQUIREMENTS TO EMPOWERMENT**
 5 **ZONES, ENTERPRISE COMMUNITIES, AND EN-**
 6 **TERPRISE ZONES.**

7 The provisions of the Act of March 3, 1931 (com-
 8 monly known as the Davis-Bacon Act) (40 U.S.C. 276a
 9 et seq.) shall not apply to a contract for construction, al-
 10 teration, or repair of a facility in an area designated—

11 (1) under section 1391 of the Internal Revenue
 12 Code of 1986 as an empowerment zone or enterprise
 13 community; or

14 (2) under section 701 of the Housing and Com-
 15 munity Development Act of 1987 (42 U.S.C. 11501)
 16 as an enterprise zone.

17 **SEC. 202. REFORM OF COMMUNITY DEVELOPMENT BLOCK**
 18 **GRANT PROGRAM.**

19 (a) INCREASED ASSISTANCE TO LOW- AND MOD-
 20 ERATE-INCOME FAMILIES.—Section 104(b)(3) of the
 21 Housing and Community Development Act of 1974 (42
 22 U.S.C. 5304(b)(3)) is amended by striking “except that
 23 (A)” and all that follows through “(B) a grantee” and
 24 inserting the following: “except that—

1 “(A) of funds received under section 106
2 and, if applicable, as a result of a guarantee or
3 a grant under section 108—

4 “(i) with respect to activities de-
5 scribed in paragraph (14), (15), and (17)
6 of section 105(a), during a period specified
7 by the grantee of not more than 3 years,
8 not less than 70 percent shall principally
9 benefit persons of low and moderate in-
10 come; and

11 “(ii) with respect to other activities
12 assisted with amounts made available
13 under this title, during a period specified
14 by the grantee of not more than 12
15 months, not less than 75 percent shall
16 principally benefit persons of low and mod-
17 erate income; and

18 “(B) a grantee”.

19 (b) REDUCTION IN ADMINISTRATION AND PLANNING
20 COSTS.—Section 104(b) of the Housing and Community
21 Development Act of 1974 (42 U.S.C. 5304(b)) is amend-
22 ed—

23 (1) in paragraph (5), by striking “and” at the
24 end;

1 (2) in paragraph (6), by striking the period at
2 the end and inserting “; and”; and

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

5 “(7) not more than 12 percent of amounts re-
6 ceived by the grantee under this title in any fiscal
7 year will be used for administration and planning
8 costs associated with any activity funded in whole or
9 in part with assistance made available under this
10 title.”.

11 (c) MATCHING FUND REQUIREMENT.—

12 (1) IN GENERAL.—Section 106(b) of the Hous-
13 ing and Community Development Act of 1974 (42
14 U.S.C. 5306(b)) is amended by adding at the end
15 the following new paragraph:

16 “(7) MATCHING FUND REQUIREMENT.—Not-
17 withstanding any other provision of law, in each fis-
18 cal year, the Secretary shall—

19 “(A) require each metropolitan city or
20 urban county that is among the wealthiest 10
21 percent (or such other percentage as the Sec-
22 retary may establish) of metropolitan cities and
23 urban counties receiving assistance under this
24 title in that fiscal year, to make available con-
25 tributions (from sources other than assistance

1 made available under this title) in an amount
2 equal to a specified percentage of the amount
3 allocated under this subsection to that metro-
4 politan city or urban county, which percentage
5 shall be established by the Secretary;

6 “(B) reduce the amount allocated under
7 this subsection to that metropolitan city or
8 urban county by the amount of the contribu-
9 tions made available under subparagraph (A);
10 and

11 “(C) increase the total amount otherwise
12 available for allocation under this subsection to
13 metropolitan cities and urban counties that are
14 not described in subparagraph (A) by the ag-
15 gregate amount of the reductions under sub-
16 paragraph (B).”.

17 (2) APPLICABILITY.—The amendment made by
18 paragraph (1) shall be effective with respect to fiscal
19 year 1997, and each fiscal year thereafter.

20 (d) INCREASED DAVIS-BACON THRESHOLD FOR
21 CONSTRUCTION PROJECTS.—Section 110 of the Housing
22 and Community Development Act of 1974 (42 U.S.C.
23 5310) is amended by adding at the end the following new
24 subsection:

1 “(c) MINIMUM THRESHOLD.—Subsection (a) does
 2 not apply to any individual engaged construction work if
 3 the total cost of the activity assisted under this title to
 4 which the construction work relates does not exceed
 5 \$250,000.”.

6 (e) PENALTY FOR DEFAULT ON ECONOMIC DEVEL-
 7 OPMENT LOAN.—Section 111 of the Housing and Commu-
 8 nity Development Act of 1974 (42 U.S.C. 5311) is amend-
 9 ed by adding at the end the following new subsection:

10 “(d) EXCESSIVE DEFAULTS ON ECONOMIC DEVEL-
 11 OPMENT LOANS.—With respect to any recipient of assist-
 12 ance under this title that the Secretary determines to have
 13 an excessive rate of default on loans guaranteed under sec-
 14 tion 108 and assisted under section 108(q), the Secretary
 15 may reduce payments to the recipient under this title by
 16 an amount equal to the sum of the outstanding balance
 17 of that loan, including principal and interest.”.

18 **TITLE III—SAFE STREETS**

19 **Subtitle A—Mandatory Restitution**

20 **SEC. 301. ORDER OF RESTITUTION.**

21 Section 3556 of title 18, United States Code, is
 22 amended—

23 (1) by striking “may” and inserting “shall”;
 24 and

1 (2) by striking “sections 3663 and 3664.” and
2 inserting “3663A, and may order restitution in ac-
3 cordance with section 3663. The procedures under
4 section 3664 shall apply to all orders of restitution
5 under this section.”.

6 **SEC. 302. CONDITIONS OF PROBATION.**

7 Section 3563 of title 18, United States Code, is
8 amended—

9 (1) in subsection (a)—

10 (A) in paragraph (3), by striking “and” at
11 the end;

12 (B) in the first paragraph (4) (relating to
13 conditions of probation for a domestic crime of
14 violence), by striking the period and inserting a
15 semicolon;

16 (C) by redesignating the second paragraph
17 (4) (relating to conditions of probation concern-
18 ing drug use and testing) as paragraph (5);

19 (D) in paragraph (5), as redesignated, by
20 striking the period at the end and inserting a
21 semicolon; and

22 (E) by inserting after paragraph (5), as re-
23 designated, the following new paragraphs:

24 “(6) that the defendant—

1 “(A) make restitution in accordance with
2 sections 2248, 2259, 2264, 2327, 3663, 3663A,
3 and 3664; and

4 “(B) pay the assessment imposed in ac-
5 cordance with section 3013; and

6 “(7) that the defendant will notify the court of
7 any material change in the defendant’s economic cir-
8 cumstances that might affect the defendant’s ability
9 to pay restitution, fines, or special assessments.”;
10 and

11 (2) in subsection (b)—

12 (A) by striking paragraph (2);

13 (B) by redesignating paragraphs (3)
14 through (22) as paragraphs (2) through (21),
15 respectively; and

16 (C) by amending paragraph (2), as redес-
17 ignated, to read as follows:

18 “(2) make restitution to a victim of the offense
19 under section 3556 (but not subject to the limitation
20 of section 3663(a) or 3663A(c)(1)(A));”.

21 **SEC. 303. MANDATORY RESTITUTION.**

22 (a) IN GENERAL.—Chapter 232 of title 18, United
23 States Code, is amended by inserting immediately after
24 section 3663 the following new section:

1 **“§ 3663A. Mandatory restitution to victims of certain**
2 **crimes**

3 “(a)(1) Notwithstanding any other provision of law,
4 when sentencing a defendant convicted of an offense de-
5 scribed in subsection (c), the court shall order, in addition
6 to any other penalty authorized by law, that the defendant
7 make restitution to the victim of the offense, or, if the
8 victim is deceased, to the victim’s estate.

9 “(2) For the purposes of this section, the term ‘vie-
10 tim’ means a person directly and proximately harmed as
11 a result of the commission of an offense for which restitu-
12 tion may be ordered including, in the case of an offense
13 that involves as an element a scheme, conspiracy, or pat-
14 tern of criminal activity, any person directly harmed by
15 the defendant’s criminal conduct in the course of the
16 scheme, conspiracy, or pattern. In the case of a victim who
17 is under 18 years of age, incompetent, incapacitated, or
18 deceased, the legal guardian of the victim or representative
19 of the victim’s estate, another family member, or any other
20 person appointed as suitable by the court, may assume
21 the victim’s rights under this section, but in no event shall
22 the defendant be named as such representative or guard-
23 ian.

24 “(3) The court shall also order, if agreed to by the
25 parties in a plea agreement, restitution to persons other
26 than the victim of the offense.

1 “(b) The order of restitution shall require that such
2 defendant—

3 “(1) in the case of an offense resulting in dam-
4 age to or loss or destruction of property of a victim
5 of the offense—

6 “(A) return the property to the owner of
7 the property or someone designated by the
8 owner; or

9 “(B) if return of the property under sub-
10 paragraph (A) is impossible, impracticable, or
11 inadequate, pay an amount equal to—

12 “(i) the greater of—

13 “(I) the value of the property on
14 the date of the damage, loss, or de-
15 struction; or

16 “(II) the value of the property on
17 the date of sentencing, less

18 “(ii) the value (as of the date the
19 property is returned) of any part of the
20 property that is returned;

21 “(2) in the case of an offense resulting in bodily
22 injury to a victim—

23 “(A) pay an amount equal to the cost of
24 necessary medical and related professional serv-
25 ices and devices relating to physical, psy-

1 chiatric, and psychological care, including
2 nonmedical care and treatment rendered in ac-
3 cordance with a method of healing recognized
4 by the law of the place of treatment;

5 “(B) pay an amount equal to the cost of
6 necessary physical and occupational therapy
7 and rehabilitation; and

8 “(C) reimburse the victim for income lost
9 by such victim as a result of such offense;

10 “(3) in the case of an offense resulting in bodily
11 injury that results in the death of the victim, pay an
12 amount equal to the cost of necessary funeral and
13 related services; and

14 “(4) in any case, reimburse the victim for lost
15 income and necessary child care, transportation, and
16 other expenses incurred during participation in the
17 investigation or prosecution of the offense or attend-
18 ance at proceedings related to the offense.

19 “(c)(1) This section shall apply in all sentencing pro-
20 ceedings for convictions of, or plea agreements relating to
21 charges for, any offense—

22 “(A) that is—

23 “(i) a crime of violence, as defined in sec-
24 tion 16;

1 “(ii) an offense against property under this
2 title, including any offense committed by fraud
3 or deceit; or

4 “(iii) an offense described in section 1365
5 (relating to tampering with consumer products);
6 and

7 “(B) in which an identifiable victim or victims
8 has suffered a physical injury or pecuniary loss.

9 “(2) In the case of a plea agreement that does not
10 result in a conviction for an offense described in para-
11 graph (1), this section shall apply only if the plea specifi-
12 cally states that an offense listed under such paragraph
13 gave rise to the plea agreement.

14 “(3) This section shall not apply if the court finds,
15 from facts on the record, that—

16 “(A) the number of identifiable victims is so
17 large as to make restitution impracticable; or

18 “(B) determining complex issues of fact related
19 to the cause or amount of the victim’s losses would
20 complicate or prolong the sentencing process to a de-
21 gree that the need to provide restitution to any vic-
22 tim is outweighed by the burden on the sentencing
23 process.

24 “(d) An order of restitution under this section shall
25 be issued and enforced in accordance with section 3664.”.

1 (b) CLERICAL AMENDMENT.—The analysis for chap-
 2 ter 232 of title 18, United States Code, is amended by
 3 inserting immediately after the matter relating to section
 4 3663 the following:

“3663A. Mandatory restitution to victims of certain crimes.”.

5 **SEC. 304. ORDER OF RESTITUTION TO VICTIMS OF OTHER**
 6 **CRIMES.**

7 (a) IN GENERAL.—Section 3663 of title 18, United
 8 States Code, is amended—

9 (1) in subsection (a)(1)—

10 (A) by striking “(a)(1) The court” and in-
 11 serting “(a)(1)(A) The court”;

12 (B) by inserting “, section 401, 408(a),
 13 409, 416, 420, or 422(a) of the Controlled Sub-
 14 stances Act (21 U.S.C. 841, 848(a), 849, 856,
 15 861, 863) (but in no case shall a participant in
 16 an offense under such sections be considered a
 17 victim of such offense under this section),” be-
 18 fore “or section 46312,”;

19 (C) by inserting “other than an offense de-
 20 scribed in section 3663A(c),” after “title 49,”;

21 (D) by inserting before the period at the
 22 end the following: “, or if the victim is de-
 23 ceased, to the victim’s estate”;

24 (E) by adding at the end the following new
 25 subparagraph:

1 “(B)(i) The court, in determining whether to order
2 restitution under this section, shall consider—

3 “(I) the amount of the loss sustained by each
4 victim as a result of the offense; and

5 “(II) the financial resources of the defendant,
6 the financial needs and earning ability of the defend-
7 ant and the defendant’s dependents, and such other
8 factors as the court deems appropriate.

9 “(ii) To the extent that the court determines that the
10 complication and prolongation of the sentencing process
11 resulting from the fashioning of an order of restitution
12 under this section outweighs the need to provide restitu-
13 tion to any victims, the court may decline to make such
14 an order.”; and

15 (F) by amending paragraph (2) to read as
16 follows:

17 “(2) For the purposes of this section, the term ‘vie-
18 tim’ means a person directly and proximately harmed as
19 a result of the commission of an offense for which restitu-
20 tion may be ordered including, in the case of an offense
21 that involves as an element a scheme, conspiracy, or pat-
22 tern of criminal activity, any person directly harmed by
23 the defendant’s criminal conduct in the course of the
24 scheme, conspiracy, or pattern. In the case of a victim who
25 is under 18 years of age, incompetent, incapacitated, or

1 deceased, the legal guardian of the victim or representative
2 of the victim's estate, another family member, or any other
3 person appointed as suitable by the court, may assume
4 the victim's rights under this section, but in no event shall
5 the defendant be named as such representative or guard-
6 ian.”;

7 (2) by striking subsections (e) through (i); and
8 (3) by adding at the end the following new sub-
9 sections:

10 “(c)(1) Notwithstanding any other provision of law
11 (but subject to the provisions of subsections (a)(1)(B)
12 (i)(II) and (ii), when sentencing a defendant convicted of
13 an offense described in section 401, 408(a), 409, 416,
14 420, or 422(a) of the Controlled Substances Act (21
15 U.S.C. 841, 848(a), 849, 856, 861, 863), in which there
16 is no identifiable victim, the court may order that the de-
17 fendant make restitution in accordance with this sub-
18 section.

19 “(2)(A) An order of restitution under this subsection
20 shall be based on the amount of public harm caused by
21 the offense, as determined by the court in accordance with
22 guidelines promulgated by the United States Sentencing
23 Commission.

1 “(B) In no case shall the amount of restitution or-
2 dered under this subsection exceed the amount of the fine
3 ordered for the offense charged in the case.

4 “(3) Restitution under this subsection shall be dis-
5 tributed as follows:

6 “(A) 65 percent of the total amount of restitu-
7 tion shall be paid to the Victim Assistance Adminis-
8 tration of the State in which the crime occurred.

9 “(B) 35 percent of the total amount of restitu-
10 tion shall be paid to the State entity designated to
11 receive Federal substance abuse block grant funds.

12 “(4) The court shall not make an award under this
13 subsection if it appears likely that such award would inter-
14 fere with a forfeiture under section 981 or 982.

15 “(5) Notwithstanding section 3612(c) or any other
16 provision of law, a penalty assessment under section 3013
17 or a fine under subchapter C of chapter 227 shall take
18 precedence over an order of restitution under this sub-
19 section.

20 “(6) Requests for community restitution under this
21 subsection shall be considered in all plea agreements nego-
22 tiated by the United States.

23 “(7)(A) The United States Sentencing Commission
24 shall promulgate guidelines to assist courts in determining

1 the amount of restitution that may be ordered under this
2 subsection.

3 “(B) No restitution shall be ordered under this sub-
4 section until such time as the Sentencing Commission pro-
5 mulgates guidelines pursuant to this paragraph.

6 “(d) An order of restitution made pursuant to this
7 section shall be issued and enforced in accordance with
8 section 3664.”.

9 (b) SEXUAL ABUSE.—Section 2248 of title 18,
10 United States Code, is amended—

11 (1) in subsection (a), by inserting “or 3663A”
12 after “3663”;

13 (2) in subsection (b)—

14 (A) by amending paragraph (1) to read as
15 follows:

16 “(1) DIRECTIONS.—The order of restitution
17 under this section shall direct the defendant to pay
18 to the victim (through the appropriate court mecha-
19 nism) the full amount of the victim’s losses as deter-
20 mined by the court pursuant to paragraph (2).”;

21 (B) by amending paragraph (2) to read as
22 follows:

23 “(2) ENFORCEMENT.—An order of restitution
24 under this section shall be issued and enforced in ac-

1 cordance with section 3664 in the same manner as
2 an order under section 3663A.”;

3 (C) in paragraph (4), by striking subpara-
4 graphs (C) and (D); and

5 (D) by striking paragraphs (5) through
6 (10);

7 (3) by striking subsections (c) through (e); and

8 (4) by redesignating subsection (f) as sub-
9 section (c).

10 (c) SEXUAL EXPLOITATION AND OTHER ABUSE OF
11 CHILDREN.—Section 2259 of title 18, United States
12 Code, is amended—

13 (1) in subsection (a), by inserting “or 3663A”
14 after “3663”;

15 (2) in subsection (b)—

16 (A) by amending paragraph (1) to read as
17 follows:

18 “(1) DIRECTIONS.—The order of restitution
19 under this section shall direct the defendant to pay
20 the victim (through the appropriate court mecha-
21 nism) the full amount of the victim’s losses as deter-
22 mined by the court pursuant to paragraph (2).”;

23 (B) by amending paragraph (2) to read as
24 follows:

1 “(2) ENFORCEMENT.—An order of restitution
2 under this section shall be issued and enforced in ac-
3 cordance with section 3664 in the same manner as
4 an order under section 3663A.”;

5 (C) in paragraph (4), by striking subpara-
6 graphs (C) and (D); and

7 (D) by striking paragraphs (5) through
8 (10);

9 (3) by striking subsections (c) through (e); and

10 (4) by redesignating subsection (f) as sub-
11 section (e).

12 (d) DOMESTIC VIOLENCE.—Section 2264 of title 18,
13 United States Code, is amended—

14 (1) in subsection (a), by inserting “or 3663A”
15 after “3663”;

16 (2) in subsection (b)—

17 (A) by amending paragraph (1) to read as
18 follows:

19 “(1) DIRECTIONS.—The order of restitution
20 under this section shall direct the defendant to pay
21 the victim (through the appropriate court mecha-
22 nism) the full amount of the victim’s losses as deter-
23 mined by the court pursuant to paragraph (2).”;

24 (B) by amending paragraph (2) to read as
25 follows:

1 “(2) ENFORCEMENT.—An order of restitution
2 under this section shall be issued and enforced in ac-
3 cordance with section 3664 in the same manner as
4 an order under section 3663A.”;

5 (C) in paragraph (4), by striking subpara-
6 graphs (C) and (D); and

7 (D) by striking paragraphs (5) through
8 (10);

9 (3) by striking subsections (c) through (g); and

10 (4) by adding at the end the following new sub-
11 section (c):

12 “(c) VICTIM DEFINED.—For purposes of this section,
13 the term ‘victim’ means the individual harmed as a result
14 of a commission of a crime under this chapter, including,
15 in the case of a victim who is under 18 years of age, in-
16 competent, incapacitated, or deceased, the legal guardian
17 of the victim or representative of the victim’s estate, an-
18 other family member, or any other person appointed as
19 suitable by the court, but in no event shall the defendant
20 be named as such representative or guardian.”.

21 (e) TELEMARKETING FRAUD.—Section 2327 of title
22 18, United States Code, is amended—

23 (1) in subsection (a), by inserting “or 3663A”
24 after “3663”;

25 (2) in subsection (b)—

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

3 “(1) DIRECTIONS.—The order of restitution
4 under this section shall direct the defendant to pay
5 to the victim (through the appropriate court mecha-
6 nism) the full amount of the victim’s losses as deter-
7 mined by the court pursuant to paragraph (2).”;

8 (B) by amending paragraph (2) to read as
9 follows:

10 “(2) ENFORCEMENT.—An order of restitution
11 under this section shall be issued and enforced in ac-
12 cordance with section 3664 in the same manner as
13 an order under section 3663A.”;

14 (C) in paragraph (4), by striking subpara-
15 graphs (C) and (D); and

16 (D) by striking paragraphs (5) through
17 (10);

18 (3) by striking subsections (c) through (e); and

19 (4) by redesignating subsection (f) as sub-
20 section (c).

21 **SEC. 305. PROCEDURE FOR ISSUANCE AND ENFORCEMENT**
22 **OF RESTITUTION ORDER.**

23 (a) IN GENERAL.—Section 3664 of title 18, United
24 States Code, is amended to read as follows:

1 **“§ 3664. Procedure for issuance and enforcement of**
2 **order of restitution**

3 “(a) For orders of restitution under this title, the
4 court shall order the probation service of the court to ob-
5 tain and include in its presentence report, or in a separate
6 report, as the court directs, information sufficient for the
7 court to exercise its discretion in fashioning a restitution
8 order. The report shall include, to the extent practicable,
9 a complete accounting of the losses to each victim, any
10 restitution owed pursuant to a plea agreement, and infor-
11 mation relating to the economic circumstances of each de-
12 fendant. If the number or identity of victims cannot be
13 reasonably ascertained, or other circumstances exist that
14 make this requirement clearly impracticable, the probation
15 service shall so inform the court.

16 “(b) The court shall disclose to both the defendant
17 and the attorney for the Government all portions of the
18 presentence or other report pertaining to the matters de-
19 scribed in subsection (a) of this section.

20 “(c) The provisions of this chapter, chapter 227, and
21 Rule 32(c) of the Federal Rules of Criminal Procedure
22 shall be the only rules applicable to proceedings under this
23 section.

24 “(d)(1) Within 60 days after conviction and, in any
25 event, not later than 10 days prior to sentencing—

1 “(A)(i) the attorney for the Government, after
2 consulting with all identified victims, shall promptly
3 provide the probation service of the court with a list-
4 ing of the amounts subject to restitution;

5 “(ii) the attorney for the Government shall pro-
6 vide notice to all identified victims, informing the
7 victims of the offenses of which the defendant was
8 convicted, the listing of amounts subject to restitu-
9 tion submitted to the probation service, the victim’s
10 right to submit information to the probation service
11 concerning the amount of the victim’s losses, and
12 the scheduled date, time, and place of the sentencing
13 hearing; and

14 “(iii) if any victim objects to any of the infor-
15 mation provided to the probation service relating to
16 the amount of the victim’s losses subject to restitu-
17 tion, the attorney for the Government shall advise
18 the victim that the victim may file a separate affida-
19 vit and shall provide the victim with an affidavit
20 form which may be used to do so; and

21 “(B) each defendant shall prepare and file with
22 the probation service of the court an affidavit fully
23 describing the financial resources of the defendant,
24 including a complete listing of all assets owned or
25 controlled by the defendant as of the date on which

1 the defendant was arrested, the financial needs and
2 earning ability of the defendant and the defendant's
3 dependents, and other information the court requires
4 relating to such other factors as the court deems ap-
5 propriate.

6 “(2) After reviewing the report of the probation serv-
7 ices of the court, the court may require additional docu-
8 mentation or hear testimony. The privacy of any records
9 filed, or testimony heard, pursuant to this section shall
10 be maintained to the greatest extent possible, and such
11 records may be filed or testimony heard in camera.

12 “(3) If the victim's losses are not ascertainable by
13 the date that is 10 days prior to sentencing as provided
14 in paragraph (1), the attorney for the Government shall
15 so inform the court, and the court shall set a date for
16 the final determination of the victim's losses, not to exceed
17 90 days after sentencing. If the victim subsequently dis-
18 covers further losses, the victim shall have 60 days after
19 discovery of those losses in which to petition the court for
20 an amended restitution order. Such order may be granted
21 only upon a showing of good cause for the failure to in-
22 clude such losses in the initial claim for restitutionary re-
23 lief.

24 “(4) The court may refer any issue arising in connec-
25 tion with a proposed order of restitution to a magistrate

1 or special master for proposed findings of fact and rec-
2 ommendations as to disposition, subject to a de novo de-
3 termination of the issue by the court.

4 “(e) Any dispute as to the proper amount or type
5 of restitution shall be resolved by the court by the prepon-
6 derance of the evidence. The burden of demonstrating the
7 amount of the loss sustained by a victim as a result of
8 the offense shall be on the attorney for the Government.
9 The burden of demonstrating the financial resources of
10 the defendant and the financial needs of the defendant
11 and such defendant’s dependents shall be on the defend-
12 ant. The burden of demonstrating such other matters as
13 the court deems appropriate shall be upon the party des-
14 igned by the court as justice requires.

15 “(f)(1)(A) In each order of restitution, the court shall
16 order restitution to each victim in the full amount of each
17 victim’s losses as determined by the court and without
18 consideration of the economic circumstances of the defend-
19 ant.

20 “(B) In no case shall the fact that a victim has re-
21 ceived or is entitled to receive compensation with respect
22 to a loss from insurance or any other source be considered
23 in determining the amount of restitution.

24 “(2) Upon determination of the amount of restitution
25 owed to each victim, the court shall, pursuant to section

1 3572, specify in the restitution order the manner in which
2 and the schedule according to which the restitution is to
3 be paid, in consideration of—

4 “(A) the financial resources and other assets of
5 the defendant, including whether any of these assets
6 are jointly controlled;

7 “(B) projected earnings and other income of
8 the defendant; and

9 “(C) any financial obligations of the defendant;
10 including obligations to dependents.

11 “(3)(A) A restitution order may direct the defendant
12 to make a single, lump-sum payment, partial payment at
13 specified intervals, in-kind payments, or a combination of
14 payments at specified intervals and in-kind payments.

15 “(B) A restitution order may direct the defendant to
16 make nominal periodic payments if the court finds from
17 facts on the record that the economic circumstances of the
18 defendant do not allow the payment of any amount of a
19 restitution order, and do not allow for the payment of the
20 full amount of a restitution order in the foreseeable future
21 under any reasonable schedule of payments.

22 “(4) An in-kind payment described in paragraph (3)
23 may be in the form of—

24 “(A) return of property;

25 “(B) replacement of property; or

1 “(C) if the victim agrees, services rendered to
2 the victim or a person or organization other than the
3 victim.

4 “(g)(1) No victim shall be required to participate in
5 any phase of a restitution order.

6 “(2) A victim may at any time assign the victim’s
7 interest in restitution payments to the Crime Victims
8 Fund in the Treasury without in any way impairing the
9 obligation of the defendant to make such payments.

10 “(h) If the court finds that more than 1 defendant
11 has contributed to the loss of a victim, the court may make
12 each defendant liable for payment of the full amount of
13 restitution or may apportion liability among the defend-
14 ants to reflect the level of contribution to the victim’s loss
15 and economic circumstances of each defendant.

16 “(i) If the court finds that more than 1 victim has
17 sustained a loss requiring restitution by a defendant, the
18 court may issue an order of priority based on the type
19 and amount of each victim’s loss, accounting for the eco-
20 nomic circumstances of each victim. In any case in which
21 the United States is a victim, the court shall ensure that
22 all individual victims receive full restitution before the
23 United States receives any restitution.

24 “(j)(1) If a victim has received or is entitled to receive
25 compensation with respect to a loss from insurance or any

1 other source, the court shall order that restitution shall
2 be paid to the person who provided or is obligated to pro-
3 vide the compensation, but the restitution order shall pro-
4 vide that all restitution of victims required by the order
5 be paid to the victims before any restitution is paid to
6 such a provider of compensation.

7 “(2) Any amount paid to a victim under an order of
8 restitution shall be reduced by any amount later recovered
9 as compensatory damages for the same loss by the victim
10 in—

11 “(A) any Federal civil proceeding; and

12 “(B) any State civil proceeding, to the extent
13 provided by the law of the State.

14 “(k) A restitution order shall provide that the defend-
15 ant shall notify the court and the Attorney General of any
16 material change in the defendant’s economic cir-
17 cumstances that might affect the defendant’s ability to
18 pay restitution. The court may also accept notification of
19 a material change in the defendant’s economic cir-
20 cumstances from the United States or from the victim.
21 The Attorney General shall certify to the court that the
22 victim or victims owed restitution by the defendant have
23 been notified of the change in circumstances. Upon receipt
24 of the notification, the court may, on its own motion, or
25 the motion of any party, including the victim, adjust the

1 payment schedule, or require immediate payment in full,
2 as the interests of justice require.

3 “(l) A conviction of a defendant for an offense involv-
4 ing the act giving rise to an order of restitution shall estop
5 the defendant from denying the essential allegations of
6 that offense in any subsequent Federal civil proceeding or
7 State civil proceeding, to the extent consistent with State
8 law, brought by the victim.

9 “(m)(1)(A)(i) An order of restitution may be enforced
10 by the United States in the manner provided for in sub-
11 chapter C of chapter 227 and subchapter B of chapter
12 229 of this title; or (ii) by all other available and reason-
13 able means.

14 “(B) An order of restitution may also be enforced by
15 a victim named in the order to receive the restitution, in
16 the same manner as a judgment in a civil action.

17 “(2) An order of in-kind restitution in the form of
18 services shall be enforced by the probation service of the
19 court.

20 “(n) If a person obligated to provide restitution or
21 pay a fine receives substantial resources from any source,
22 including inheritance, settlement, or other judgment, dur-
23 ing a period of incarceration, such person shall be required
24 to apply the value of such resources to any restitution or
25 fine still owed.”.

1 (b) TECHNICAL AMENDMENT.—The item relating to
 2 section 3664 in the analysis for chapter 232 of title 18,
 3 United States Code, is amended to read as follows:

“3664. Procedure for issuance and enforcement of order of restitution.”.

4 **SEC. 306. PROCEDURE.**

5 (a) AMENDMENT OF FEDERAL RULES OF CRIMINAL
 6 PROCEDURE.—Rule 32(b) of the Federal Rules of Crimi-
 7 nal Procedure is amended—

8 (1) in paragraph (1), by adding at the end the
 9 following: “Notwithstanding the preceding sentence,
 10 a presentence investigation and report, or other re-
 11 port containing information sufficient for the court
 12 to enter an order of restitution, as the court directs,
 13 shall be required in any case in which restitution is
 14 required to be ordered.”; and

15 (2) in paragraph (4)—

16 (A) by redesignating subparagraphs (F)
 17 and (G) as subparagraphs (G) and (H), respec-
 18 tively; and

19 (B) by inserting after subparagraph (E),
 20 the following new subparagraph:

21 “(F) in appropriate cases, information suf-
 22 ficient for the court to enter an order of restitu-
 23 tion;”.

24 (b) FINES.—Section 3572 of title 18, United States
 25 Code, is amended—

1 (1) in subsection (b) by inserting “other than
2 the United States,” after “offense,”;

3 (2) in subsection (d)—

4 (A) in the first sentence, by striking “A
5 person sentenced to pay a fine or other mone-
6 etary penalty” and inserting “(1) A person sen-
7 tenced to pay a fine or other monetary penalty,
8 including restitution,”;

9 (B) by striking the third sentence; and

10 (C) by adding at the end the following:

11 “(2) If the judgment, or, in the case of a restitution
12 order, the order, permits other than immediate payment,
13 the length of time over which scheduled payments will be
14 made shall be set by the court, but shall be the shortest
15 time in which full payment can reasonably be made.

16 “(3) A judgment for a fine which permits payments
17 in installments shall include a requirement that the de-
18 fendant will notify the court of any material change in
19 the defendant’s economic circumstances that might affect
20 the defendant’s ability to pay the fine. Upon receipt of
21 such notice the court may, on its own motion or the mo-
22 tion of any party, adjust the payment schedule, or require
23 immediate payment in full, as the interests of justice re-
24 quire.”;

1 (3) in subsection (f), by inserting “restitution”
2 after “special assessment,”;

3 (4) in subsection (h), by inserting “or payment
4 of restitution” after “A fine”; and

5 (5) in subsection (i)—

6 (A) in the first sentence, by inserting “or
7 payment of restitution” after “A fine”; and

8 (B) by amending the second sentence to
9 read as follows: “Notwithstanding any install-
10 ment schedule, when a fine or payment of res-
11 titution is in default, the entire amount of the
12 fine or restitution is due within 30 days after
13 notification of the default, subject to the provi-
14 sions of section 3613A.”.

15 (c) POSTSENTENCE ADMINISTRATION.—

16 (1) PAYMENT OF A FINE OR RESTITUTION.—

17 Section 3611 of title 18, United States Code, is
18 amended—

19 (A) by amending the heading to read as
20 follows:

21 **“§ 3611. Payment of a fine or restitution”;**

22 and

23 (B) by striking “or assessment shall pay
24 the fine or assessment” and inserting “, assess-

1 ment, or restitution, shall pay the fine, assess-
2 ment, or restitution”.

3 (2) COLLECTION.—Section 3612 of title 18,
4 United States, is amended—

5 (A) by amending the heading to read as
6 follows:

7 **“§ 3612. Collection of unpaid fine or restitution”;**

8 (B) in subsection (b)(1)—

9 (i) in the matter preceding subpara-
10 graph (A), by inserting “or restitution
11 order” after “fine”;

12 (ii) in subparagraph (C), by inserting
13 “or restitution order” after “fine”;

14 (iii) in subparagraph (E), by striking
15 “and”;

16 (iv) in subparagraph (F)—

17 (I) by inserting “or restitution
18 order” after “fine”; and

19 (II) by striking the period at the
20 end and inserting “; and”; and

21 (v) by adding at the end the following
22 new subparagraph:

23 “(G) in the case of a restitution order, in-
24 formation sufficient to identify each victim to
25 whom restitution is owed. It shall be the re-

1 sponsibility of each victim to notify the Attor-
2 ney General, or the appropriate entity of the
3 court, by means of a form to be provided by the
4 Attorney General or the court, of any change in
5 the victim’s mailing address while restitution is
6 still owed the victim. The confidentiality of any
7 information relating to a victim shall be main-
8 tained.”;

9 (C) in subsection (c)—

10 (i) in the first sentence, by inserting
11 “or restitution” after “fine”; and

12 (ii) by adding at the end the follow-
13 ing: “Any money received from a defend-
14 ant shall be disbursed so that each of the
15 following obligations is paid in full in the
16 following sequence:

17 “(1) A penalty assessment under section 3013
18 of title 18, United States Code.

19 “(2) Restitution of all victims.

20 “(3) All other fines, penalties, costs, and other
21 payments required under the sentence.”;

22 (D) in subsection (d)—

23 (i) by inserting “or restitution” after
24 “fine”; and

1 (ii) by striking “is delinquent, to in-
2 form him that the fine is delinquent” and
3 inserting “or restitution is delinquent, to
4 inform the person of the delinquency”;

5 (E) in subsection (e)—

6 (i) by inserting “or restitution” after
7 “fine”; and

8 (ii) by striking “him that the fine is
9 in default” and inserting “the person that
10 the fine or restitution is in default”;

11 (F) in subsection (f)—

12 (i) in the heading, by inserting “and
13 restitution” after “on fines”; and

14 (ii) in paragraph (1), by inserting “or
15 restitution” after “any fine”;

16 (G) in subsection (g), by inserting “or res-
17 titution” after “fine” each place it appears; and

18 (H) in subsection (i), by inserting “and
19 restitution” after “fines”.

20 (3) CIVIL REMEDIES.—Section 3613 of title 18,
21 United States Code, is amended—

22 (A) in subsection (b), by amending para-
23 graph (1) to read as follows:

24 “(1) the later of 20 years after the entry of the
25 judgment or 20 years after the release from impris-

1 onment of the person fined or ordered to pay restitu-
2 tion; or”; and

3 (B) in subsection (e), by striking “, but in
4 no event” and all that follows through the end
5 of the subsection and inserting a period.

6 (4) DEFAULT.—Chapter 229 of title 18, United
7 States Code, is amended by inserting after section
8 3613 the following new section:

9 **“§ 3613A. Effect of default**

10 “(a)(1) Upon a finding that the defendant is in de-
11 fault on a payment of a fine or restitution, the court may,
12 pursuant to section 3565, revoke probation or a term of
13 supervised release or modify the terms or conditions of
14 probation on a term of supervised release, resentence a
15 defendant pursuant to section 3614, hold the defendant
16 in contempt of court, enter a restraining order or injunc-
17 tion, order the sale of property of the defendant, accept
18 a performance bond, enter or adjust a payment schedule,
19 or take any other action necessary to obtain compliance
20 with the order of a fine or restitution.

21 “(2) In determining what action to take, the court
22 shall consider the defendant’s employment status, earning
23 ability, financial resources, the willfulness in failing to
24 comply with the restitution order, and any other cir-

1 cumstances that may have a bearing on the defendant's
2 ability to comply with the order of a fine or restitution.

3 “(b)(1) Any hearing held pursuant to this section
4 may be conducted by a magistrate judge, subject to de
5 novo review by the court.

6 “(2) To the extent practicable, in a hearing held pur-
7 suant to this section involving a defendant who is confined
8 in any jail, prison, or other correctional facility, proceed-
9 ings in which the prisoner's participation is required or
10 permitted shall be conducted by telephone, video con-
11 ference, or other communications technology without re-
12 moving the prisoner from the facility in which the prisoner
13 is confined.

14 “(3) Subject to the agreement of the official of the
15 Federal, State, or local unit of government with custody
16 over the prisoner, hearings may be conducted at the facil-
17 ity in which the prisoner is confined. To the extent prac-
18 ticable, the court shall allow counsel to participate by tele-
19 phone, video conference, or other communications tech-
20 nology in any hearing held at the facility.”.

21 (5) RESENTENCING.—Section 3614 of title 18,
22 United States Code, is amended—

23 (A) in the heading, by inserting “or res-
24 titution” after “fine”;

1 (B) in subsection (a), by inserting “or res-
 2 titution” after “fine”; and

3 (C) by adding at the end the following new
 4 subsection:

5 “(c) EFFECT OF INDIGENCY.—In no event shall a de-
 6 fendant be incarcerated under this section solely on the
 7 basis of inability to make payments because the defendant
 8 is indigent.”.

9 (d) CONFORMING AMENDMENT.—The analysis for
 10 subchapter B of chapter 229 of title 18, United States
 11 Code, is amended to read as follows:

“Sec.

“3611. Payment of a fine or restitution.

“3612. Collection of an unpaid fine or restitution.

“3613. Civil remedies for collection of an unpaid fine or restitution.

“3613A. Effect of default.

“3614. Resentencing upon failure to pay a fine or restitution.

“3615. Criminal default.”.

12 **SEC. 307. INSTRUCTION TO SENTENCING COMMISSION.**

13 Pursuant to section 994 of title 28, United States
 14 Code, the United States Sentencing Commission shall pro-
 15 mulgate guidelines or amend existing guidelines to reflect
 16 this subtitle and the amendments made by this subtitle.

17 **SEC. 308. JUSTICE DEPARTMENT REGULATIONS.**

18 Not later than 90 days after the date of enactment
 19 of this Act, the Attorney General shall promulgate guide-
 20 lines, or amend existing guidelines, to carry out this sub-
 21 title and to ensure that—

1 (1) in all plea agreements negotiated by the
2 United States, consideration is given to requesting
3 that the defendant provide full restitution to all vic-
4 tims of all charges contained in the indictment or in-
5 formation, without regard to the counts to which the
6 defendant actually pleaded; and

7 (2) orders of restitution made pursuant to the
8 amendments made by this subtitle are enforced to
9 the fullest extent of the law.

10 **SEC. 309. SPECIAL ASSESSMENTS ON CONVICTED PERSONS.**

11 Section 3013(a)(2) of title 18, United States Code,
12 is amended—

13 (1) in subparagraph (A), by striking “\$50” and
14 inserting “not less than \$100”; and

15 (2) in subparagraph (B), by striking “\$200”
16 and inserting “not less than \$400”.

17 **SEC. 310. CRIME VICTIMS FUND.**

18 (a) PROHIBITION OF PAYMENTS TO DELINQUENT
19 CRIMINAL DEBTORS BY STATE CRIME VICTIM COM-
20 PENSATION PROGRAMS.—

21 (1) IN GENERAL.—Section 1403(b) of the Vic-
22 tims of Crime Act of 1984 (42 U.S.C. 10602(b)) is
23 amended—

24 (A) by striking “and” at the end of para-
25 graph (7);

1 (B) by redesignating paragraph (8) as
2 paragraph (9); and

3 (C) by inserting after paragraph (7) the
4 following new paragraph:

5 “(8) such program does not provide compensa-
6 tion to any person who has been convicted of an of-
7 fense under Federal law with respect to any time pe-
8 riod during which the person is delinquent in paying
9 a fine or other monetary penalty imposed for the of-
10 fense; and”.

11 (2) APPLICATION OF AMENDMENT.—The
12 amendment made by paragraph (1) shall not be ap-
13 plied to deny victims compensation to any person
14 until the date on which the Attorney General, in
15 consultation with the Director of the Administrative
16 Office of the United States Courts, issues a written
17 determination that a cost-effective, readily available
18 criminal debt payment tracking system operated by
19 the agency responsible for the collection of criminal
20 debt has established cost-effective, readily available
21 communications links with entities that administer
22 Federal victims compensation programs that are suf-
23 ficient to ensure that victims compensation is not
24 denied to any person except as authorized by law.

1 (b) EXCLUSION FROM INCOME FOR PURPOSES OF
2 MEANS TESTS.—Section 1403 of the Victims of Crime
3 Act of 1984 (42 U.S.C. 10602) is amended by inserting
4 after subsection (b) the following new subsection:

5 “(c) EXCLUSION FROM INCOME FOR PURPOSES OF
6 MEANS TESTS.—Notwithstanding any other law, for the
7 purpose of any maximum allowed income eligibility re-
8 quirement in any Federal, State, or local government pro-
9 gram using Federal funds that provides medical or other
10 assistance (or payment or reimbursement of the cost of
11 such assistance) that becomes necessary to an applicant
12 for such assistance in full or in part because of the com-
13 mission of a crime against the applicant, as determined
14 by the Director, any amount of crime victim compensation
15 that the applicant receives through a crime victim com-
16 pensation program under this section shall not be included
17 in the income of the applicant until the total amount of
18 assistance that the applicant receives from all such pro-
19 grams is sufficient to fully compensate the applicant for
20 losses suffered as a result of the crime.”.

21 **SEC. 311. VICTIMS OF TERRORISM ACT.**

22 (a) AUTHORITY TO PROVIDE ASSISTANCE AND COM-
23 PENSATION TO VICTIMS OF TERRORISM.—The Victims of
24 Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended
25 by inserting after section 1404A the following new section:

1 **“SEC. 1404B. COMPENSATION AND ASSISTANCE TO VICTIMS**
2 **OF TERRORISM OR MASS VIOLENCE.**

3 “(a) VICTIMS OF ACTS OF TERRORISM OUTSIDE THE
4 UNITED STATES.—The Director may make supplemental
5 grants to States to provide compensation and assistance
6 to the residents of such States who, while outside the terri-
7 torial boundaries of the United States, are victims of a
8 terrorist act or mass violence and are not persons eligible
9 for compensation under title VIII of the Omnibus Diplo-
10 matic Security and Antiterrorism Act of 1986.

11 “(b) VICTIMS OF DOMESTIC TERRORISM.—The Di-
12 rector may make supplemental grants to States for eligible
13 crime victim compensation and assistance programs to
14 provide emergency relief, including crisis response efforts,
15 assistance, training, and technical assistance, for the bene-
16 fit of victims of terrorist acts or mass violence occurring
17 within the United States and may provide funding to
18 United States Attorney’s Offices for use in coordination
19 with State victims compensation and assistance efforts in
20 providing emergency relief.”.

21 (b) FUNDING OF COMPENSATION AND ASSISTANCE
22 TO VICTIMS OF TERRORISM, MASS VIOLENCE, AND
23 CRIME.—Section 1402(d)(4) of the Victims of Crime Act
24 of 1984 (42 U.S.C. 10601(d)(4)) is amended to read as
25 follows:

1 “(4)(A) If the sums available in the Fund are
2 sufficient to fully provide grants to the States pursu-
3 ant to section 1403(a)(1), the Director may retain
4 any portion of the Fund that was deposited during
5 a fiscal year that was in excess of 110 percent of the
6 total amount deposited in the Fund during the pre-
7 ceding fiscal year as an emergency reserve. Such re-
8 serve shall not exceed \$50,000,000.

9 “(B) The emergency reserve may be used for
10 supplemental grants under section 1404B and to
11 supplement the funds available to provide grants to
12 States for compensation and assistance in accord-
13 ance with sections 1403 and 1404 in years in which
14 supplemental grants are needed.”.

15 (c) CRIME VICTIMS FUND AMENDMENTS.—

16 (1) UNOBLIGATED FUNDS.—Section 1402 of
17 the Victims of Crime Act of 1984 (42 U.S.C. 10601)
18 is amended—

19 (A) in subsection (c), by striking “sub-
20 section” and inserting “chapter”; and

21 (B) by amending subsection (e) to read as
22 follows:

23 “(e) AMOUNTS AWARDED AND UNSPENT.—Any
24 amount awarded as part of a grant under this chapter
25 that remains unspent at the end of a fiscal year in which

1 the grant is made may be expended for the purpose for
2 which the grant is made at any time during the 2 succeed-
3 ing fiscal years, at the end of which period, any remaining
4 unobligated sums in excess of \$500,000 shall be returned
5 to the Treasury. Any remaining unobligated sums in an
6 amount less than \$500,000 shall be returned to the
7 Fund.”.

8 (2) **BASE AMOUNT.**—Section 1404(a)(5) of such
9 Act (42 U.S.C. 10603(a)(5)) is amended to read as
10 follows:

11 “(5) As used in this subsection, the term ‘base
12 amount’ means—

13 “(A) except as provided in subparagraph
14 (B), \$500,000; and

15 “(B) for the territories of the Northern
16 Mariana Islands, Guam, American Samoa, and
17 the Republic of Palau, \$200,000, with the Re-
18 public of Palau’s share governed by the Com-
19 pact of Free Association between the United
20 States and the Republic of Palau.”.

21 **SEC. 312. SEVERABILITY.**

22 If any provision of this subtitle, an amendment made
23 by this subtitle, or the application of such provision or
24 amendment to any person or circumstance is held to be
25 unconstitutional, the remainder of this subtitle, the

1 amendments made by this subtitle, and the application of
2 the provisions of such to any person or circumstance shall
3 not be affected thereby.

4 **SEC. 313. STUDY AND REPORT.**

5 (a) **STUDY.**—The Attorney General, in cooperation
6 with the Director of the Administrative Office of the Unit-
7 ed States Courts, shall conduct a study of the funds paid
8 out of the Crime Victims Fund and the impact that the
9 amendments made by this subtitle have on funds available
10 in the Crime Victims Fund, including an assessment of
11 any reduction or increase in fines collected and deposited
12 into the Fund directly attributable to the amendments
13 made by this subtitle.

14 (b) **REPORT.**—The Attorney General and the Direc-
15 tor of the Administrative Office of the United States
16 Courts shall report interim findings to the Chairman and
17 ranking Member of the Committees on the Judiciary of
18 the Senate and House of Representatives 1 year after the
19 date of enactment of this Act, and annually thereafter
20 until issuing a final report, together with recommenda-
21 tions, not later than 4 years after the date of enactment
22 of this Act.

23 **SEC. 314. EFFECTIVE DATE.**

24 (a) **IN GENERAL.**—Except as provided in subsection
25 (b), the amendments made by this subtitle shall be effec-

1 tive for sentencing proceedings in cases in which the de-
 2 fendant is convicted on or after the date of enactment of
 3 this Act.

4 (b) CRIME VICTIMS FUND.—The amendments made
 5 by sections 310 and 311 shall take effect on the date of
 6 enactment of this Act.

7 **Subtitle B—Asset Forfeiture**
 8 **Assistance**

9 **SEC. 321. FORFEITURES UNDER THE CONTROLLED SUB-**
 10 **STANCES ACT.**

11 (a) AMENDMENT TO CONTROLLED SUBSTANCES
 12 ACT.—Section 513(e)(3) of the Controlled Substances Act
 13 (21 U.S.C. 881(e)(3)) is amended to read as follows:

14 “(3)(A)(i) If the Attorney General transfers
 15 forfeited property to a State or local law enforce-
 16 ment agency under paragraph (1)(A), the Attorney
 17 General shall transfer an amount equal to the value
 18 of the property that bears a reasonable relationship
 19 to the degree of direct participation of the State or
 20 local agency in the law enforcement effort resulting
 21 in the forfeiture, taking into account the total value
 22 of all property forfeited and the total law enforce-
 23 ment effort with respect to the violation of law on
 24 which the forfeiture is based.

1 “(ii) Amounts transferred under this subpara-
2 graph shall be used to encourage further cooperation
3 between the recipient State or local agency and the
4 Federal law enforcement agencies.

5 “(B)(i) The Attorney General shall transfer an
6 additional 20 percent of the amount remaining after
7 the operation of subparagraph (A) to any participat-
8 ing local law enforcement agency located within a
9 community disproportionately impacted by violent
10 crime. Funds transferred under this subparagraph
11 shall be used for the prevention of violent crime.

12 “(ii) For purposes of this subparagraph—

13 “(I) the term ‘violent crime’ means a crime
14 involving force or threat of force, including
15 murder, nonnegligent manslaughter, forcible
16 rape, robbery and aggravated assault; and

17 “(II) the term ‘community disproportion-
18 ately impacted by violent crime’ means any
19 metropolitan area, city outside of a metropoli-
20 tan area, or rural community having a violent
21 crime rate that is at least 2.5 times the na-
22 tional violent crime rate for metropolitan areas,
23 cities outside of metropolitan areas, or rural
24 communities, respectively, as reported to the

1 Federal Bureau of Investigation for purposes of
2 the Uniform Crime Reports.”.

3 (b) AMENDMENT TO TITLE 18.—Section 1963(g) of
4 title 18, United States Code, is amended—

5 (1) in paragraph (4), by striking “and”;

6 (2) in paragraph (5), by striking the period at
7 the end and inserting “; and”; and

8 (3) by adding at the end the following new
9 paragraph:

10 “(6) transfer forfeited property to any State or
11 local law enforcement agency participating directly
12 or indirectly in the seizure or forfeiture of the prop-
13 erty.”.

14 (c) AMENDMENT TO THE TARIFF ACT OF 1930.—
15 Section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a)
16 is amended by adding at the end the following new sub-
17 section:

18 “(e) APPLICATION IN FORFEITURE CASES UNDER
19 RICO.—In the application of this section to asset forfeit-
20 ures under section 1963 of title 18, United States Code,
21 if the Attorney General transfers forfeited property to a
22 State or local law enforcement agency under subsection
23 (c)(1)(B), such property shall be distributed in accordance
24 with the equitable sharing provisions under section

1 513(e)(3) of the Controlled Substances Act (21 U.S.C.
2 881(e)(3)).”.

3 **TITLE IV—EDUCATIONAL**
4 **OPPORTUNITY**

5 **SEC. 401. PURPOSE.**

6 The purpose of this title is to provide education cer-
7 tificates to low-income families in areas of high poverty
8 to enable such families to select and pay for the choice
9 school their children will attend.

10 **SEC. 402. DEFINITIONS.**

11 As used in this title—

12 (1) the term “choice school” means any public
13 or private school, including a private sectarian
14 school or a public charter school, that is involved in
15 a demonstration project under this title;

16 (2) the term “eligible child” means a child in
17 grades 1 through 12 who is eligible for free or re-
18 duced price lunches under the National School
19 Lunch Act;

20 (3) the term “eligible entity” means a public
21 agency, institution, or organization, such as a State,
22 a State or local educational agency, a consortium of
23 public agencies, or a consortium of public and pri-
24 vate nonprofit organizations, that can demonstrate,
25 to the satisfaction of the Secretary, its ability to—

1 (A) receive, disburse, and account for Fed-
2 eral funds; and

3 (B) carry out the activities described in its
4 application under this title;

5 (4) the term “evaluating agency” means any
6 academic institution, consortium of professionals, or
7 private or nonprofit organization, with demonstrated
8 experience in conducting evaluations, that is not an
9 agency or instrumentality of the Federal Govern-
10 ment;

11 (5) the term “local educational agency” has the
12 same meaning given such term in section 14101 of
13 the Elementary and Secondary Education Act of
14 1965;

15 (6) the term “parent” includes a legal guardian
16 or other individual acting in loco parentis;

17 (7) the term “school” means a school that pro-
18 vides elementary education or secondary education
19 (through grade 12), as determined under State law;
20 and

21 (8) the term “Secretary” means the Secretary
22 of Education.

23 **SEC. 403. FUNDING.**

24 The Secretary shall make available \$25,000,000 for
25 each of the fiscal years 1996, 1997, and 1998, to carry

1 out this title from amounts appropriated for such year to
2 carry out part A of title I of the Elementary and Second-
3 ary Education Act of 1965 (20 U.S.C. 6311 et seq.).

4 **SEC. 404. PROGRAM AUTHORIZED.**

5 (a) RESERVATION.—From the amount made avail-
6 able pursuant to section 403 for each fiscal year, the Sec-
7 retary shall reserve and make available to the Comptroller
8 General of the United States \$1,000,000 for the evalua-
9 tions and reports required under section 410.

10 (b) GRANTS.—

11 (1) IN GENERAL.—From the amount made
12 available pursuant to section 403 and not reserved
13 under subsection (a) for any fiscal year, the Sec-
14 retary shall award grants to eligible entities to en-
15 able such entities to carry out not less than 7 dem-
16 onstration projects under which parents receive edu-
17 cation certificates for the costs of enrolling their eli-
18 gible children in a choice school.

19 (2) PRIORITY.—In awarding grants under this
20 title, the Secretary shall give priority to demonstra-
21 tion projects that serve the greatest number of eligi-
22 ble children.

23 (3) CONTINUING ELIGIBILITY.—The Secretary
24 shall continue a demonstration project under this
25 title by awarding a grant under paragraph (1) to an

1 eligible entity that received such a grant for a fiscal
2 year preceding the fiscal year for which the deter-
3 mination is made, if the Secretary determines that
4 such eligible entity was in compliance with this title
5 for such preceding fiscal year.

6 (c) USE OF GRANTS.—Grants awarded under sub-
7 section (b) shall be used to pay the costs of providing edu-
8 cation certificates to parents to enable such parents to pay
9 the tuition, the fees, the allowable costs of transportation,
10 if any, and the costs of complying with section 408(a)(1),
11 if any, for their eligible children to attend a choice school.

12 (d) SPECIAL RULE.—Each school participating in a
13 demonstration project under this title shall comply with
14 title VI of the Civil Rights Act of 1964 which prohibits
15 discrimination on the basis of race, color, or national ori-
16 gin.

17 **SEC. 405. AUTHORIZED PROJECTS.**

18 The Secretary may award a grant under this title
19 only for a demonstration project that—

20 (1) involves at least one local educational agen-
21 cy that—

22 (A) receives funds under section 1124A of
23 the Elementary and Secondary Education Act
24 of 1965; and

1 (B) is among the 20 percent of local edu-
2 cational agencies receiving funds under section
3 1124A of such Act in the State that have the
4 highest number of children described in section
5 1124(c) of such Act; and

6 (2) includes the involvement of a sufficient
7 number of public and private choice schools, in the
8 judgment of the Secretary, to allow for a valid dem-
9 onstration project.

10 **SEC. 406. APPLICATIONS.**

11 (a) IN GENERAL.—Any eligible entity that wishes to
12 receive a grant for a demonstration project under this title
13 shall submit an application to the Secretary at such time
14 and in such manner as the Secretary may prescribe.

15 (b) CONTENTS.—Each application described in sub-
16 section (a) shall contain—

17 (1) a description of how the eligible entity will
18 annually determine the number of spaces available
19 for eligible children in each choice school participat-
20 ing in the demonstration project;

21 (2) a description of each choice school partici-
22 pating in the demonstration project, including a de-
23 scription of the distances and costs associated with
24 commuting to each such choice school;

1 (3) a description of the estimated costs to eligi-
2 ble students for tuition, fees, and transportation, at
3 each choice school participating in the demonstration
4 project;

5 (4) a description of the process to be used when
6 the number of parents provided education certifi-
7 cates under this title who desire to enroll their eligi-
8 ble children in a particular choice school participat-
9 ing in the demonstration project exceeds the number
10 of eligible children that such choice school will ac-
11 cept;

12 (5) a description of the procedures to be used
13 for the issuance and redemption of education certifi-
14 cates under this title;

15 (6) an assurance the eligible entity will submit
16 to the evaluating agency entering into the contract
17 under section 410(a) an annual report, at such time,
18 in such manner, and accompanied by such informa-
19 tion as such evaluating agency may require, describ-
20 ing the activities and expenditures of such eligible
21 entity under the demonstration project; and

22 (7) such other assurances and information as
23 the Secretary may require.

24 **SEC. 407. EDUCATION CERTIFICATES.**

25 (a) EDUCATION CERTIFICATES.—

1 (1) AMOUNT.—The amount of an eligible
2 child’s education certificate under this title shall be
3 determined by the eligible entity, but shall be an
4 amount that provides to the recipient of the edu-
5 cation certificate the maximum degree of choice in
6 selecting the choice school the eligible child will at-
7 tend.

8 (2) CONSIDERATIONS.—

9 (A) IN GENERAL.—Subject to such regula-
10 tions as the Secretary shall prescribe, in deter-
11 mining the amount of an education certificate
12 under this title an eligible entity shall con-
13 sider—

14 (i) the additional reasonable costs of
15 transportation directly attributable to the
16 eligible child’s participation in the dem-
17 onstration project; and

18 (ii) the cost of complying with section
19 408(a)(1).

20 (B) SCHOOLS CHARGING TUITION.—If an
21 eligible child participating in a demonstration
22 project under this title was attending a public
23 or private school that charged tuition for the
24 year preceding the first year of such participa-
25 tion, then in determining the amount of an edu-

1 cation certificate for such eligible child under
2 this title the eligible entity shall consider—

3 (i) the tuition charged by such school
4 for such eligible child in such preceding
5 year; and

6 (ii) the amount of the education cer-
7 tificates under this title that are provided
8 to other eligible children.

9 (3) SPECIAL RULE.—An eligible entity may pro-
10 vide an education certificate under this title to the
11 parent of an eligible child who chooses to attend a
12 school that does not charge tuition or fees, to pay
13 the additional reasonable costs of transportation di-
14 rectly attributable to the eligible child's participation
15 in the demonstration project or the cost of comply-
16 ing with section 408(a)(1).

17 (b) ADJUSTMENT.—The amount of the education cer-
18 tificate for a fiscal year may be adjusted in the second
19 and third years of an eligible child's participation in a
20 demonstration project under this title to reflect any in-
21 crease or decrease in the tuition, fees, or transportation
22 costs directly attributable to that eligible child's continued
23 attendance at a choice school, but shall not be increased
24 for this purpose by more than 10 percent of the amount
25 of the education certificate for the fiscal year preceding

1 the fiscal year for which the determination is made. The
2 amount of the education certificate may also be adjusted
3 in any fiscal year to comply with section 408(a)(1).

4 (c) MAXIMUM AMOUNT.—Notwithstanding any other
5 provision of this section, the amount of an eligible child’s
6 education certificate shall not exceed the per pupil expend-
7 iture for elementary or secondary education, as appro-
8 priate, by the local educational agency in which the public
9 school to which the eligible child would normally be as-
10 signed is located for the fiscal year preceding the fiscal
11 year for which the determination is made.

12 (d) INCOME.—An education certificate under this
13 title, and funds provided under the education certificate,
14 shall not be treated as income of the parents for purposes
15 of Federal tax laws or for determining eligibility for any
16 other Federal program.

17 **SEC. 408. EFFECT ON OTHER PROGRAMS; USE OF SCHOOL**
18 **LUNCH DATA.**

19 (a) EFFECT ON OTHER PROGRAMS.—

20 (1) IN GENERAL.—An eligible child participat-
21 ing in a demonstration project under this title, who,
22 in the absence of such a demonstration project,
23 would have received services under part A of title I
24 of the Elementary and Secondary Education Act of
25 1965 shall be provided such services.

1 (2) PART B OF THE INDIVIDUALS WITH DIS-
2 ABILITIES EDUCATION ACT.—Nothing in this title
3 shall be construed to affect the requirements of part
4 B of the Individuals with Disabilities Education Act.

5 (b) COUNTING OF ELIGIBLE CHILDREN.—Notwith-
6 standing any other provision of law, any local educational
7 agency participating in a demonstration project under this
8 title may count eligible children who, in the absence of
9 such a demonstration project, would attend the schools of
10 such agency, for purposes of receiving funds under any
11 program administered by the Secretary.

12 (c) SPECIAL RULE.—Notwithstanding section 9 of
13 the National School Lunch Act, an eligible entity receiving
14 a grant under this title may use information collected for
15 the purpose of determining eligibility for free or reduced
16 price lunches to determine an eligible child's eligibility to
17 participate in a demonstration project under this title. All
18 such information shall otherwise remain confidential, and
19 information pertaining to income may be disclosed only
20 to persons who need that information for the purposes of
21 a demonstration project under this title.

22 (d) CONSTRUCTION.—

23 (1) OTHER INSTITUTIONS.—Nothing in this
24 title shall be construed to supersede or modify any
25 provision of a State constitution or State law that

1 prohibits the expenditure of public funds in or by
2 religious or other private institutions, except that no
3 provision of a State constitution or State law shall
4 be construed or applied to prohibit—

5 (A) any eligible entity receiving funds
6 under this title from using such funds to pay
7 the administrative costs of a demonstration
8 project under this title; or

9 (B) the expenditure in or by religious or
10 other private institutions of any Federal funds
11 provided under this title.

12 (2) DESEGREGATION PLANS.—Nothing in this
13 title shall be construed to interfere with any desegre-
14 gation plans that involve school attendance areas af-
15 fected by this title.

16 **SEC. 409. PARENTAL NOTIFICATION.**

17 Each eligible entity receiving a grant under this title
18 shall provide timely notice of the demonstration project
19 to parents of eligible children residing in the area to be
20 served by the demonstration project. At a minimum, such
21 notice shall—

22 (1) describe the demonstration project;

23 (2) describe the eligibility requirements for par-
24 ticipation in the demonstration project;

1 (3) describe the information needed to make a
2 determination of eligibility for participation in the
3 demonstration project for an eligible child;

4 (4) describe the selection procedures to be used
5 if the number of eligible children seeking to partici-
6 pate in the demonstration project exceeds the num-
7 ber that can be accommodated in the demonstration
8 project;

9 (5) provide information about each choice
10 school participating in the demonstration project, in-
11 cluding information about any admission require-
12 ments or criteria for each such choice school; and

13 (6) include the schedule for parents to apply for
14 their eligible children to participate in the dem-
15 onstration project.

16 **SEC. 410. EVALUATION AND REPORT.**

17 (a) **EVALUATION.**—The Comptroller General of the
18 United States shall enter into a contract with an evaluat-
19 ing agency for the conduct of an ongoing evaluation of
20 each demonstration project assisted under this title.

21 (b) **REPORT.**—The evaluating agency entering into a
22 contract under subsection (a) annually shall report to the
23 Congress regarding the evaluations conducted under such
24 subsection.

1 TITLE V—FAMILY OPPORTUNITY**2 SEC. 501. FINDINGS AND PURPOSE.**

3 (a) FINDINGS.—Congress finds that—

4 (1) nearly 500,000 children are in foster care in
5 the United States;

6 (2) tens of thousands of children in foster care
7 are waiting for adoption;

8 (3) 2 years and 8 months is the median length
9 of time that children wait to be adopted, and minor-
10 ity children often wait twice as long as other chil-
11 dren to be adopted; and

12 (4) child welfare agencies should work to elimi-
13 nate racial, ethnic, and national origin discrimina-
14 tion and bias in adoption and foster care recruit-
15 ment, selection, and placement procedures.

16 (b) PURPOSE.—The purpose of this title is to pro-
17 mote the best interests of children by—

18 (1) decreasing the length of time that children
19 wait to be adopted; and

20 (2) preventing discrimination in the placement
21 of children on the basis of race, color, or national or-
22 igin.

1 **SEC. 502. REMOVAL OF BARRIERS TO INTERRACIAL AND**
2 **INTERETHNIC ADOPTIONS.**

3 (a) PROHIBITION.—A State or other entity that re-
4 ceives funds from the Federal Government and is involved
5 in adoption or foster care placements may not—

6 (1) deny to any person the opportunity to be-
7 come an adoptive or a foster parent, on the basis of
8 the race, color, or national origin of the person, or
9 of the child, involved; or

10 (2) delay or deny the placement of a child for
11 adoption or into foster care, or otherwise discrimi-
12 nate in making a placement decision, on the basis of
13 the race, color, or national origin of the adoptive or
14 foster parent, or the child, involved.

15 (b) PENALTIES.—

16 (1) STATE VIOLATORS.—A State that violates
17 subsection (a) shall remit to the Secretary of Health
18 and Human Services all funds that were paid to the
19 State under part E of title IV of the Social Security
20 Act (42 U.S.C. 670 et seq.) (relating to foster care
21 and adoption assistance) during the period of the
22 violation.

23 (2) PRIVATE VIOLATORS.—Any other entity
24 that violates subsection (a) shall remit to the Sec-
25 retary of Health and Human Services all funds that
26 were paid to the entity during the period of the vio-

1 lation by a State from funds provided under part E
2 of title IV of the Social Security Act.

3 (c) PRIVATE CAUSE OF ACTION.—

4 (1) IN GENERAL.—Any individual or class of in-
5 dividuals aggrieved by a violation of subsection (a)
6 by a State or other entity may bring an action seek-
7 ing relief in any United States district court or State
8 court of appropriate jurisdiction.

9 (2) STATUTE OF LIMITATIONS.—An action
10 under this subsection may not be brought more than
11 2 years after the date the alleged violation occurred.

12 (d) ATTORNEY'S FEES.—In any action or proceeding
13 under this title, the court, in the discretion of the court,
14 may allow the prevailing party, other than the United
15 States, a reasonable attorney's fee, including litigation ex-
16 penses and costs, and the States and the United States
17 shall be liable for the fee to the same extent as a private
18 individual.

19 (e) STATE IMMUNITY.—A State shall not be immune
20 under the 11th amendment to the Constitution from an
21 action in Federal or State court of appropriate jurisdiction
22 for a violation of this title.

23 (f) NO EFFECT ON INDIAN CHILD WELFARE ACT OF
24 1978.—Nothing in this title shall be construed to affect

1 the application of the Indian Child Welfare Act of 1978
2 (25 U.S.C. 1901 et seq.).

3 **SEC. 503. REPEAL.**

4 Subpart 1 of part E of title V of the Improving Amer-
5 ica’s Schools Act of 1994 (42 U.S.C. 5115a) is amended—

6 (1) by repealing sections 551 through 553; and

7 (2) by redesignating section 554 as section 551.

8 **SEC. 504. EFFECTIVE DATE.**

9 This title, and the amendments made by this title,
10 shall take effect 90 days after the date of enactment of
11 this Act.

12 **TITLE VI—VOLUNTEER**
13 **PROTECTION**

14 **SEC. 601. FINDINGS AND PURPOSE.**

15 (a) FINDINGS.—Congress finds that—

16 (1) the willingness of volunteers to offer their
17 services is deterred by potential personal liability for
18 simple mistakes made in the course of volunteer
19 service;

20 (2) as a result, many nonprofit public and pri-
21 vate organizations and governmental entities, includ-
22 ing voluntary associations, social service agencies,
23 educational institutions, local governments, founda-
24 tions, and other civic programs, have been adversely

1 affected through the withdrawal of volunteers from
2 boards of directors and service in other capacities;

3 (3) the contribution of such programs to the
4 communities served by the programs is diminished
5 by the withdrawal of volunteers, resulting in fewer
6 and higher cost programs than would be obtainable
7 if the volunteers were participating; and

8 (4) because Federal funds are expended on use-
9 ful and cost-effective social service programs that de-
10 pend heavily on volunteer participation, protection of
11 voluntarism through clarification and limitation of
12 the personal liability risks assumed by a volunteer in
13 connection with such participation is an appropriate
14 subject for Federal encouragement of State reform.

15 (b) PURPOSE.—It is the purpose of this title to pro-
16 mote the interests of social service program beneficiaries
17 and taxpayers and to sustain the availability of programs,
18 nonprofit organizations, and governmental entities, that
19 depend on volunteer contributions by encouraging reason-
20 able reform of State laws to provide protection from per-
21 sonal financial liability to volunteers serving with such or-
22 ganizations and entities for actions undertaken in good
23 faith on behalf of such organizations and entities.

24 **SEC. 602. DEFINITIONS.**

25 As used in this title:

1 (1) DAMAGE OR INJURY.—The term “damage
2 or injury” includes physical, nonphysical, economic,
3 and noneconomic damage.

4 (2) NONPROFIT ORGANIZATION.—The term
5 “nonprofit organization” means an organization de-
6 scribed in section 501(c) of the Internal Revenue
7 Code of 1986 and exempt from tax under section
8 501(a) of such Code.

9 (3) STATE.—The term “State” means each of
10 the several States, the District of Columbia, the
11 Commonwealth of Puerto Rico, the United States
12 Virgin Islands, Guam, American Samoa, the Com-
13 monwealth of the Northern Mariana Islands, any
14 other territory or possession of the United States, or
15 any political subdivision of any such State, territory,
16 or possession.

17 (4) VOLUNTEER.—The term “volunteer” means
18 an individual who—

19 (A) performs services (including serving as
20 a director, officer, or trustee or providing direct
21 services) for a nonprofit organization or a gov-
22 ernmental entity; and

23 (B) does not receive—

1 (i) compensation (including reim-
2 bursement or allowance for expenses) in
3 excess of \$300 for such services; or

4 (ii) any other thing of value (in lieu of
5 compensation) in excess of \$300 for such
6 services.

7 **SEC. 603. NO PREEMPTION OF STATE TORT LAW.**

8 Nothing in this title shall be construed to preempt
9 the laws of any State governing tort liability actions.

10 **SEC. 604. LIMITATION ON LIABILITY FOR VOLUNTEERS.**

11 (a) LIABILITY PROTECTION FOR VOLUNTEERS.—Ex-
12 cept as provided in subsections (b) and (d), no volunteer
13 for a nonprofit organization or governmental entity shall
14 incur any personal financial liability for any tort claim al-
15 leging damage or injury from any act or omission of the
16 volunteer on behalf of the organization or entity if—

17 (1) such volunteer was acting in good faith and
18 within the scope of the official functions and duties
19 of the volunteer with the organization or entity; and

20 (2) such damage or injury was not caused by
21 willful and wanton misconduct by such volunteer.

22 (b) CONCERNING RESPONSIBILITY OF VOLUNTEERS
23 WITH RESPECT TO ORGANIZATIONS.—Nothing in this
24 section shall be construed to affect any civil action brought

1 by any nonprofit organization or any governmental entity
2 against any volunteer for such organization or entity.

3 (c) NO EFFECT ON LIABILITY OF ORGANIZATION.—

4 Nothing in this section shall be construed to affect the
5 liability of any nonprofit organization or governmental en-
6 tity with respect to injury caused to any person.

7 (d) EXCEPTIONS TO VOLUNTEER LIABILITY PRO-
8 TECTION.—A State may impose 1 or more of the following
9 conditions on and exceptions to the granting of liability
10 protection to any volunteer for an organization or entity
11 as required by subsection (a):

12 (1) PROCEDURES.—The organization or entity
13 shall follow risk management procedures, including
14 mandatory training of volunteers, as defined by the
15 Secretary of Health and Human Services by regula-
16 tion.

17 (2) LIABILITY OF ORGANIZATION OR ENTITY.—
18 The organization or entity shall be liable for the acts
19 or omissions of volunteers for the organization or en-
20 tity to the same extent as an employer is liable,
21 under the laws of that State, for the acts or omis-
22 sions of the employees of the employer.

23 (3) EXCEPTIONS.—The protection from liability
24 shall not apply to an act or omission of a volun-
25 teer—

1 (A) if, at the time of the act or omission,
2 the volunteer was operating a motor vehicle,
3 vessel, aircraft, or other vehicle for which the
4 State involved requires the operator or vehicle
5 owner to maintain insurance;

6 (B) in the case of a suit relating to the act
7 or omission brought by an appropriate officer of
8 a State or local government to enforce a Fed-
9 eral, State, or local law; and

10 (C) to the extent a claim relating to the
11 act or omission would be covered under any in-
12 surance policy.

13 (4) SOURCE OF RECOVERY.—The protection
14 from liability shall apply only if the organization or
15 entity provides a financially secure source of recov-
16 ery for individuals who suffer injury as a result of
17 acts or omissions by a volunteer on behalf of the or-
18 ganization or entity. For purposes of this paragraph,
19 a financially secure source of recovery may be an in-
20 surance policy within specified limits, comparable
21 coverage from a risk pooling mechanism, equivalent
22 assets, or an alternative arrangement that satisfies
23 the State that the entity will be able to pay for
24 losses up to a specified amount. In specifying stand-
25 ards for such a source, the State may specify sepa-

1 rate standards for different types of liability expo-
2 sure.

3 **SEC. 605. CERTIFICATION REQUIREMENT AND ADJUST-**
4 **MENT OF SOCIAL SERVICES BLOCK GRANT**
5 **ALLOTMENTS.**

6 (a) CERTIFICATION AND BLOCK GRANT ALLOT-
7 MENTS.—In the case of any State that certifies, not later
8 than 2 years after the date of the enactment of this Act,
9 to the Secretary of Health and Human Services that the
10 State has enacted, has adopted, or otherwise has in effect
11 State law which substantially complies with section
12 604(a), the Secretary shall increase by 1 percent the fiscal
13 year allotment that would otherwise be made to such State
14 to carry out the social services block grant program under
15 title XX of the Social Security Act (42 U.S.C. 1397 et
16 seq.).

17 (b) CONTINUATION OF INCREASE.—Any increase
18 made under subsection (a) in an allotment to a State shall
19 remain in effect only if the State makes a certification
20 described in subsection (a) to the Secretary of Health and
21 Human Services by such day and by the end of each 1-
22 year period after such day, for 1 year after the date of
23 the most recent certification.

1 **TITLE VII—SPECTRUM AUCTION**

2 **SEC. 701. AUCTION OF ELECTROMAGNETIC SPECTRUM.**

3 (a) REPEAL OF EXISTING AUTHORITY TO ALLOCATE
4 SPECTRUM.—(1) Subsections (i) and (j) of section 309 of
5 the Communications Act of 1934 (47 U.S.C. 309) are re-
6 pealed.

7 (2) No regulation prescribed by the Federal Commu-
8 nications Commission under the authority set forth in
9 such subsection (i) or (j), or under any other provision
10 of law authorizing the Commission to prescribe regulations
11 for the grant of licenses or permits for the use of the elec-
12 tromagnetic spectrum, shall have any further force or ef-
13 fect after the date of the enactment of this Act.

14 (b) GRANT OF LICENSES AND PERMITS BY COMPETI-
15 TIVE BIDDING.—Such section is further amended by add-
16 ing at the end the following:

17 “(i) REQUIREMENT FOR COMPETITIVE BIDDING.—

18 “(1) REQUIREMENT.—Except as provided in
19 paragraph (2), the Commission shall grant a license
20 or construction permit involving the use of a portion
21 of the electromagnetic spectrum not covered by a li-
22 cense or permit granted before the date of the enact-
23 ment of the Balanced Budget Reconciliation Act of
24 1995 only through the use of a system of competi-
25 tive bidding established by the Commission.

1 “(2) EXCEPTIONS.—

2 “(A) IN GENERAL.—Subject to subpara-
3 graphs (B) and (C), the Commission may grant
4 a license or permit covered this subsection—

5 “(i) by alternative adjudication;

6 “(ii) without a fee; or

7 “(iii) for a nominal fee.

8 “(B) TERM OF LOW-FEE LICENSES AND
9 PERMITS.—The term of a license granted under
10 clause (ii) of subparagraph (A) or a permit
11 granted under clause (iii) of that subparagraph
12 may not exceed 10 years, except that the Com-
13 mission may permit the renewal of the license
14 or permit for an additional period of 10 years.

15 “(C) NOTICE AND WAIT REQUIREMENT.—
16 The Commission may not grant a license or
17 permit under this paragraph until 120 days
18 after the date on which the Commission sub-
19 mits to the Committee on Commerce, Science,
20 and Transportation of the Senate and the Com-
21 mittee on Commerce of the House of Represent-
22 atives a notice of the intent of the Commission
23 to so grant the license or permit.

1 “(D) CONTENTS OF NOTICE.—Each notice
2 submitted under subparagraph (C) shall include
3 the following:

4 “(i) A justification for the decision to
5 grant the license or permit in question
6 under this paragraph.

7 “(ii) An estimate of the revenue that
8 the United States will forgo as a result of
9 the grant of the license or permit under
10 this paragraph.

11 “(iii) An explanation of the manner in
12 which the license or permit will be granted.

13 “(iv) If the license or permit will be
14 granted under clause (ii) or (iii) of sub-
15 subparagraph (A), an explanation why the
16 grant of the license or permit under such
17 clause will be more beneficial to the public
18 interest than the grant of the license or
19 permit under paragraph (1).”.

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