

104TH CONGRESS
2D SESSION

S. 1722

To amend the Fair Labor Standards Act of 1938 and the National Labor Relations Act to strengthen minimum wage and striker replacement, and to ensure quality job training, education, health care, and pension security for workers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 2, 1996

Mr. WELLSTONE introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To amend the Fair Labor Standards Act of 1938 and the National Labor Relations Act to strengthen minimum wage and striker replacement, and to ensure quality job training, education, health care, and pension security for workers, 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.**

4 This Act may be cited as the “Working Families Eco-
5 nomic Security Act of 1996”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—MINIMUM WAGE GUARANTEE

- Sec. 101. Findings and policies.
- Sec. 102. Minimum wage increase and indexation.

TITLE II—INCOME EQUITY

- Sec. 201. Denial of deduction for payments of excessive compensation.

TITLE III—WORKER PROTECTION IN LABOR DISPUTES

- Sec. 301. Prevention of discrimination during and at the conclusion of labor disputes.
- Sec. 302. Prevention of discrimination during and at the conclusion of railway labor disputes.
- Sec. 303. Initial contract disputes.

TITLE IV—WORKFORCE OF THE FUTURE

Subtitle A—General Provisions

- Sec. 401. Short title.
- Sec. 402. Findings and purpose.
- Sec. 403. Definitions.
- Sec. 404. Authorization of appropriations.

Subtitle B—Streamlining and Consolidation

- Sec. 411. Purpose; findings; sense of the Congress.
- Sec. 412. Elimination of certain programs.
- Sec. 413. Streamlining and integration of adult training programs.
- Sec. 414. Process for establishing 21st century workforce development system.
- Sec. 415. Centralized waivers.

Subtitle C—Market Building Activities

CHAPTER 1—FEDERAL LEVEL ACTIVITIES

- Sec. 421. Purpose.
- Sec. 422. National Workforce Development Board.
- Sec. 423. Mechanisms for building high quality integrated workforce development systems.
- Sec. 424. Quality assurance system.

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- Sec. 431. State Workforce Development Councils.
- Sec. 432. Membership.
- Sec. 433. Chairperson.
- Sec. 434. Duties and responsibilities.
- Sec. 435. Development of quality assurance systems and consumer reports.
- Sec. 436. Administration.
- Sec. 437. Establishment of unified service delivery areas.
- Sec. 438. Financial and management information systems.
- Sec. 439. Capacity building grants.
- Sec. 440. Performance standards for unified service delivery areas.

CHAPTER 3—LOCAL LEVEL ACTIVITIES

- Sec. 441. Workforce development boards.
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- Sec. 451. Career centers.

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- Sec. 501. Short title.
- Sec. 502. Findings.
- Sec. 503. Corporate code of conduct.
- Sec. 504. Preference for entities adopting and enforcing corporate code of conduct.
- Sec. 505. Certificate of compliance.
- Sec. 506. Annual compliance review and petition process.
- Sec. 507. Regulations.
- Sec. 508. Definitions.

TITLE VI—HEALTH INSURANCE REFORM

- Sec. 601. Short title.
- Sec. 602. Definitions.

Subtitle A—Health Care Access, Portability, and Renewability

CHAPTER 1—GROUP MARKET RULES

- Sec. 611. Guaranteed availability of health coverage.
- Sec. 612. Guaranteed renewability of health coverage.
- Sec. 613. Portability of health coverage and limitation on preexisting condition exclusions.
- Sec. 614. Special enrollment periods.
- Sec. 615. Disclosure of information.

CHAPTER 2—INDIVIDUAL MARKET RULES

- Sec. 620. Individual health plan portability.
- Sec. 621. Guaranteed renewability of individual health coverage.
- Sec. 622. State flexibility in individual market reforms.
- Sec. 623. Definition.

CHAPTER 3—COBRA CLARIFICATIONS

- Sec. 631. COBRA clarifications.

CHAPTER 4—PRIVATE HEALTH PLAN PURCHASING COOPERATIVES

- Sec. 641. Private health plan purchasing cooperatives.

Subtitle B—Application and Enforcement of Standards

- Sec. 651. Applicability.
- Sec. 652. Enforcement of standards.

Subtitle C—Miscellaneous Provisions

1 (A) help restore the value and purchasing
2 power of the minimum wage to prior levels;

3 (B) increase incentives for the poor to seek
4 and retain jobs; and

5 (C) help to mitigate poverty in inner city
6 communities that have a disproportionate share
7 of low-wage and unskilled workers; and

8 (4) indexing is needed to prevent continual ero-
9 sion in the value of the minimum wage and to sub-
10 stitute modest annual increases in the minimum
11 wage consistent with general wage trends for large,
12 belated, and sometimes inadequate adjustments by
13 Congress.

14 **SEC. 102. MINIMUM WAGE INCREASE AND INDEXATION.**

15 Paragraph (1) of section 6(a) of the Fair Labor
16 Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended
17 to read as follows:

18 “(1) except as otherwise provided in this sec-
19 tion—

20 “(A) not less than—

21 “(i) \$4.70 an hour during the year be-
22 ginning on September 1, 1996; and

23 “(ii) \$5.15 an hour during the year
24 beginning September 1, 1997; and

1 “(B) with respect to the year beginning on
 2 September 1, 1999, and biennially thereafter,
 3 not less than the amount applicable under this
 4 paragraph adjusted on June 1 of such year to
 5 equal 45 percent of the monthly average hourly
 6 earnings for nonfarm, nonsupervisory private
 7 workers for the preceding 12 months, as deter-
 8 mined by the Bureau of Labor Statistics,
 9 rounded to the nearest multiple of \$0.05, except
 10 that any amount determined under this sub-
 11 paragraph shall not be less than the amount
 12 applicable under this paragraph for the preced-
 13 ing year;”.

14 **TITLE II—INCOME EQUITY**

15 **SEC. 201. DENIAL OF DEDUCTION FOR PAYMENTS OF EX-** 16 **CESSIVE COMPENSATION.**

17 (a) **IN GENERAL.**—Section 162 of the Internal Reve-
 18 nue Code of 1986 (relating to deduction for trade or busi-
 19 ness expenses) is amended by inserting after subsection
 20 (h) the following new subsection:

21 “(i) **EXCESSIVE COMPENSATION.**—

22 “(1) **IN GENERAL.**—No deduction shall be al-
 23 lowed under this chapter for any excessive com-
 24 pensation with respect to any full-time employee.

1 “(2) EXCESSIVE COMPENSATION.—For pur-
2 poses of this subsection, the term ‘excessive com-
3 pensation’ means, with respect to any employee, the
4 amount by which—

5 “(A) the compensation for services per-
6 formed by such employee during the taxable
7 year, exceeds

8 “(B) an amount equal to 25 times the low-
9 est compensation for services performed by any
10 other employee during such taxable year.

11 “(3) DEFINITIONS AND SPECIAL RULES.—For
12 purposes of this subsection—

13 “(A) COMPENSATION.—

14 “(i) IN GENERAL.—The term ‘com-
15 pensation’ means salary, wages, and bo-
16 nuses.

17 “(ii) PART-YEAR EMPLOYEES.—In the
18 case of any part-year employee, the com-
19 pensation of the employee shall be com-
20 puted on an annualized basis.

21 “(B) EMPLOYER.—All persons treated as a
22 single employer under subsection (a) or (b) of
23 section 52 or subsection (m) or (o) of section
24 414 shall be treated as 1 employer.”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to taxable years beginning after
 3 the date of the enactment of this Act.

4 **TITLE III—WORKER PROTEC-**
 5 **TION IN LABOR DISPUTES**

6 **SEC. 301. PREVENTION OF DISCRIMINATION DURING AND**
 7 **AT THE CONCLUSION OF LABOR DISPUTES.**

8 Section 8(a) of the National Labor Relations Act (29
 9 U.S.C. 158(a)) is amended—

10 (1) by striking the period at the end of para-
 11 graph (5) and inserting “; or”; and

12 (2) by adding at the end thereof the following
 13 new paragraph:

14 “(6) to promise, to threaten, or take other ac-
 15 tion—

16 “(A) to hire a permanent replacement for
 17 an employee who—

18 “(i) at the commencement of a labor
 19 dispute, was an employee of the employer
 20 in a bargaining unit in which a labor orga-
 21 nization—

22 “(I) was the certified or recog-
 23 nized exclusive representative; or

24 “(II) on the basis of written au-
 25 thorizations by a majority of the unit

1 employees, was seeking to be so cer-
2 tified or recognized; and

3 “(ii) in connection with that dispute,
4 has engaged in concerted activities for the
5 purpose of collective bargaining or other
6 mutual aid or protection through that
7 labor organization; or

8 “(B) to withhold or deny any other em-
9 ployment right or privilege to an employee, who
10 meets the criteria described in clauses (i) and
11 (ii) of paragraph (A) and who is working for or
12 has unconditionally offered to return to work
13 for the employer, out of a preference for any
14 other individual that is based on the fact that
15 the individual is performing, has performed or
16 has indicated a willingness to perform bargain-
17 ing unit work for the employer during the labor
18 dispute.”.

19 **SEC. 302. PREVENTION OF DISCRIMINATION DURING AND**
20 **AT THE CONCLUSION OF RAILWAY LABOR**
21 **DISPUTES.**

22 Paragraph Fourth of section 2 of the Railway Labor
23 Act (45 U.S.C. 152) is amended—

- 24 (1) by inserting “(a)” after “Fourth.”; and
25 (2) by adding at the end thereof the following:

1 “(b) No carrier, or officer or agent of the carrier,
2 shall promise, threaten or take other action—

3 “(1) to hire a permanent replacement for an
4 employee who—

5 “(A) at the commencement of a dispute,
6 was an employee of the carrier in a craft or
7 class in which a labor organization—

8 “(i) was the designated or authorized
9 representative; or

10 “(ii) on the basis of written authoriza-
11 tions by a majority of the craft or class,
12 was seeking to be so designated or author-
13 ized; and

14 “(B) in connection with that dispute, has
15 exercised the right to join, to organize, to assist
16 in organizing, or to bargain collectively through
17 that labor organization; or

18 “(2) to withhold or deny any other employment
19 right or privilege to an employee, who meets the cri-
20 teria described in subparagraphs (A) and (B) of
21 paragraph (1) and who is working for or has uncon-
22 ditionally offered to return to work for the carrier,
23 out of a preference for any other individual that is
24 based on the fact that the individual is employed,

1 was employed, or indicated a willingness to be em-
2 ployed during the dispute.”.

3 **SEC. 303. INITIAL CONTRACT DISPUTES.**

4 Section 8 of the National Labor Relations Act (29
5 U.S.C. 158) is amended by adding at the end thereof the
6 following new subsection:

7 “(h)(1) If, not later than 60 days after the certifi-
8 cation of a new representative of employees for the pur-
9 pose of collective bargaining, the employer of the employ-
10 ees and the representative have not reached a collective
11 bargaining agreement with respect to the terms and condi-
12 tions of employment, the employer and representative shall
13 jointly select a mediator to mediate the issues on which
14 the employer and representative cannot agree.

15 “(2) If the employer and representative are unable
16 to agree upon a mediator, the employer or the representa-
17 tive may request the Federal Mediation and Conciliation
18 Service to select a mediator and the Federal Mediation
19 and Conciliation Service shall upon the request select a
20 person to serve as mediator.

21 “(3) If, not later than 30 days after the date of the
22 selection of a mediator under paragraph (1) or (2), the
23 employer and the representative have not reached agree-
24 ment on the issues described in paragraph 1, the employer
25 or the representative may transfer the matters remaining

1 in controversy to the Federal Mediation and Conciliation
2 Service for binding arbitration.”.

3 **TITLE IV—WORKFORCE OF THE**
4 **FUTURE**

5 **Subtitle A—General Provisions**

6 **SEC. 401. SHORT TITLE.**

7 This title may be cited as the “Workforce of the Fu-
8 ture Development Act”.

9 **SEC. 402. FINDINGS AND PURPOSE.**

10 (a) FINDINGS.—Congress finds that—

11 (1) increasing international competition, techno-
12 logical advances, and structural changes in the Unit-
13 ed States economy present new challenges to private
14 firms and public policymakers in creating a skilled
15 workforce with the ability to adapt to change and
16 technological progress;

17 (2) the Federal Government should work with
18 the private sector to create a streamlined, high-per-
19 formance workforce development system that is driv-
20 en by the needs of its customers rather than bureau-
21 cratic requirements;

22 (3) such a system should actively encourage col-
23 laboration among private sector firms and publicly
24 funded education and training efforts in order to as-

1 sist jobseekers and workers to adjust to structural
2 economic changes;

3 (4) although it is necessary for the Federal
4 Government to consolidate or eliminate unnecessary
5 programs, the primary goal of Federal workforce de-
6 velopment policy should be to help facilitate trans-
7 actions taking place between jobseekers, workers,
8 and business in local labor markets;

9 (5) while the Federal Government must main-
10 tain its commitment to provide economically and
11 educationally disadvantaged individuals with skills
12 and support services necessary to succeed in the
13 labor market, Federal workforce development policy
14 must also begin to provide incentives to assist firms
15 to help upgrade the skills of their frontline workers;

16 (6) in order for labor markets to function more
17 effectively, there must be—

18 (A) timely, accurate information about the
19 supply, demand, price, and quality of services
20 available in the job training marketplace; and

21 (B) trained brokers available to assist cus-
22 tomers to choose the most suitable service;

23 (7) accordingly, the United States needs a com-
24 prehensive integrated labor market information sys-
25 tem to ensure that workforce development programs

1 are related to the demand for particular skills in
2 local labor markets, and a mechanism for providing
3 brokerage services to ensure that information about
4 the employment and earnings of the local workforce,
5 and the performance of education and training insti-
6 tutions, will be available to jobseekers, workers, and
7 firms;

8 (8) in order to bring more coherence to Federal
9 workforce development policy, there should be a sin-
10 gle entity at the Federal, State, and local level vest-
11 ed with the necessary authority to strategically plan
12 ways to transform the separate training and employ-
13 ment programs into an integrated and accountable
14 workforce development system;

15 (9) these Federal, State, and local strategic
16 planning bodies should be structured in such a way
17 to give businesses and workers a meaningful role in
18 shaping policy and overseeing the quality of
19 workforce development programs;

20 (10) in recent years, many States and commu-
21 nities have made progress in developing new ap-
22 proaches to better integrate Federal employment
23 and training programs;

24 (11) the Federal Government should take more
25 systematic measures to encourage experimentation

1 and flexibility, and to disseminate best practices in
2 the design and implementation of a comprehensive
3 workforce development system throughout the coun-
4 try; and

5 (12) the Federal Government should address
6 the findings of this subsection through the imple-
7 mentation of immediate and long-term improvements
8 that result in the establishment of a high-quality
9 workforce development system needed for the econ-
10 omy of the 21st century.

11 (b) PURPOSE.—It is the purpose of this title to take
12 certain immediate actions, and to establish a process for
13 bringing about longer term improvements, that are needed
14 to begin the transformation of federally funded education
15 and job training efforts from a collection of fragmented
16 programs into a coherent, integrated, accountable
17 workforce development system that—

18 (1) is based on the needs of jobseekers, work-
19 ers, and employers, rather than bureaucratic re-
20 quirements;

21 (2) is accessible to any jobseeker, worker, or
22 employer;

23 (3) focuses on accountability, performance, and
24 accurate information;

1 (4) provides flexibility and responsibility to the
2 States, and in turn to local communities, for design
3 and implementation of workforce development sys-
4 tems;

5 (5) requires the active involvement of firms and
6 workers in the governance, design, and implementa-
7 tion of such system;

8 (6) is linked directly to employment and train-
9 ing opportunities in the private sector; and

10 (7) adopts best practices of quality administra-
11 tion and management that have been successful in
12 the private sector.

13 **SEC. 403. DEFINITIONS.**

14 As used in this title:

15 (1) DEVELOPMENT GRANT.—The term “devel-
16 opment grant” means a grant provided to each State
17 under section 423(a).

18 (2) HARD-TO-SERVE.—The term “hard-to-
19 serve” means an individual meeting the require-
20 ments of section 203(b) of the Job Training Part-
21 nership Act (29 U.S.C. 1603(b)).

22 (3) IMPLEMENTATION GRANT.—The term “im-
23 plementation grant” means a grant provided under
24 section 423(b).

1 (4) INTEGRATED WORKFORCE DEVELOPMENT
2 SYSTEM; INTEGRATED SYSTEM.—The terms “inte-
3 grated workforce development system” and “inte-
4 grated system” mean the system of employment,
5 training, and employment-related education pro-
6 grams, including the programs described in section
7 413(a) and any additional Federal or State pro-
8 grams designated by the Governor of a State, com-
9 prising the system described in section 423(b).

10 (5) LEADING EDGE STATE.—The term “leading
11 edge State” means a State that has been awarded
12 an implementation grant under section 423(b).

13 (6) NATIONAL BOARD.—The term “National
14 Board” means the National Workforce Development
15 Board established under section 422(b).

16 (7) NATIONAL REPORT CARD.—The term “Na-
17 tional Report Card” means the Nation’s Workforce
18 Development Report Card prepared pursuant to sec-
19 tion 422(c)(1).

20 (8) ONE-STOP CAREER CENTER.—The term
21 “one-stop career center” means an access point for
22 intake, assessment, referral, and placement services,
23 including services provided electronically, that is
24 part of the network established pursuant to section
25 451.

1 (9) SECRETARY.—The term “Secretary” means
2 the Secretary of Labor, unless otherwise specified.

3 (10) STATE BLUEPRINT.—The term “State
4 Blueprint” means the State Workforce Development
5 Policy Blueprint prepared pursuant to section
6 434(a);

7 (11) STATE COUNCIL.—The term “State Coun-
8 cil” means a State Workforce Development Council
9 established pursuant to section 431.

10 (12) STATE REPORT CARD.—The term “State
11 Report Card” means the State Workforce Develop-
12 ment Report Card issued pursuant to section
13 434(b).

14 (13) UNIFIED SERVICE DELIVERY AREA.—The
15 term “unified service delivery area” means the com-
16 mon geographic service area boundaries established
17 pursuant to section 437 and overseen by a workforce
18 development board.

19 (14) WORKFORCE DEVELOPMENT BOARD.—The
20 term “workforce development board” means a local
21 board established pursuant to section 441.

22 (15) WORKFORCE DEVELOPMENT PROGRAM.—
23 The term “workforce development program” means
24 any federally funded or State-funded program that

1 provides job training assistance to individuals or as-
2 sists employers to identify or train workers.

3 **SEC. 404. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) IN GENERAL.—Subject to subsection (b), there
5 are authorized to be appropriated to carry out subtitles
6 C and D such sums as may be necessary for each of fiscal
7 years 1996 through 2000.

8 (b) LIMITATIONS.—

9 (1) FISCAL YEAR 1996.—Of the funds made
10 available pursuant to subsection (a) for fiscal year
11 1996—

12 (A) not more than 5 percent shall be used
13 for the activities of the National Board;

14 (B) not more than 15 percent shall be
15 used for development grants pursuant to section
16 423(a); and

17 (C) not less than 70 percent shall be used
18 for implementation grants pursuant to section
19 423(b).

20 (2) FISCAL YEARS 1997 THROUGH 2000.—Of the
21 funds made available pursuant to subsection (a) for
22 each of fiscal years 1997 through 2000—

23 (A) not more than 5 percent shall be used
24 for the activities of the National Board; and

1 (B) not less than 85 percent shall be used
2 for implementation grants pursuant to section
3 423(b).

4 **Subtitle B—Streamlining and**
5 **Consolidation**

6 **SEC. 411. PURPOSE; FINDINGS; SENSE OF THE CONGRESS.**

7 (a) PURPOSE.—The purpose of this subtitle is to
8 streamline the system of federally funded employment
9 training services available to jobseekers, workers, and
10 businesses.

11 (b) FINDINGS.—The Congress finds that—

12 (1) the process of streamlining the current col-
13 lection of federally funded employment training pro-
14 grams begins with eliminating and consolidating sep-
15 arate employment training programs; and

16 (2) as such programs are eliminated, the fund-
17 ing for such programs should be utilized to support
18 the creation of a market-driven workforce develop-
19 ment system, as described in section 402(b).

20 (c) SENSE OF THE CONGRESS.—It is the sense of the
21 Congress that—

22 (1) any budget savings realized as a result of
23 the repeal of programs pursuant to section 412 or
24 through the consolidation of programs pursuant to

1 sections 413 and 414 should be reinvested in the
2 Nation's job training system; and

3 (2) as programs are eliminated and merged, it
4 is imperative that such elimination and merging be
5 done without in any way reducing the commitment
6 or level of effort of the Federal Government to im-
7 proving the education, employment, and earnings of
8 all workers and jobseekers, particularly hard-to-serve
9 individuals.

10 **SEC. 412. ELIMINATION OF CERTAIN PROGRAMS.**

11 (a) IN GENERAL.—The following provisions are re-
12 pealed:

13 (1) Section 6(d)(4) of the Food Stamp Act of
14 1977 (7 U.S.C. 2015(d)(4)).

15 (2) Section 211 of the Appalachian Regional
16 Development Act of 1965 (40 U.S.C. App. 211).

17 (3) Section 204 of the Immigration Reform and
18 Control Act of 1986 (8 U.S.C. 1255a note).

19 (4) Section 20 of the Federal Transit Act (49
20 U.S.C. App. 1616).

21 (5) Section 43 of the Airline Deregulation Act
22 of 1978 (49 U.S.C. App. 1552).

23 (6) Title II of Public Law 95–250 (92 Stat.
24 172).

1 (7) Section 413 of the Carl D. Perkins Voca-
2 tional and Applied Technology Education Act (21
3 U.S.C. 2413).

4 (8) Title V of the Job Training Partnership Act
5 (29 U.S.C. 1791 et seq.).

6 (9) Part J of title IV such Act (29 U.S.C. 1784
7 et seq.).

8 (10) Section 325 of such Act (29 U.S.C.
9 1662d).

10 (11) Section 325A of such Act (29 U.S.C.
11 1662d-1).

12 (12) Section 326 of such Act (29 U.S.C.
13 1662e).

14 (13) Sections 1141 through 1144 of title 10,
15 United States Code.

16 (b) REPEALS OF EMPLOYMENT TRAINING PRO-
17 GRAMS.—The repeals made by subsection (a) shall take
18 effect on the date of enactment of this Act.

19 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
20 The National Board shall include in the draft joint resolu-
21 tion submitted under section 414(b), technical and con-
22 forming amendments regarding the provisions repealed
23 under subsection (a). Such proposed amendments should
24 be consistent with the purposes of this title.

1 **SEC. 413. STREAMLINING AND INTEGRATION OF ADULT**
2 **TRAINING PROGRAMS.**

3 (a) REQUIREMENTS.—

4 (1) IN GENERAL.—A State that receives an im-
5 plementation grant to develop an integrated
6 workforce development system—

7 (A) shall include in such system the com-
8 ponents of the program and activities carried
9 out on the date of enactment of this Act under
10 the provisions described in subsection (b)(1);
11 and

12 (B) may include any other Federal or
13 State workforce development program identified
14 by the Governor under paragraph (2).

15 (2) ADDITIONAL PROGRAMS.—Any other Fed-
16 eral or State workforce development program identi-
17 fied by the Governor pursuant to section 423(b),
18 subject to a two-thirds vote of the National Board,
19 may be included in the integrated system of a State
20 described in paragraph (1).

21 (b) REPEALS OF JOB TRAINING PROGRAMS.—

22 (1) IN GENERAL.—The following provisions are
23 repealed:

24 (A) Part A of title II of the Job Training
25 Partnership Act (29 U.S.C. 1601 et seq.).

1 (B) Title III of such Act (29 U.S.C. 1651
2 et seq.).

3 (C) Part C of title IV of such Act (29
4 U.S.C. 1721).

5 (D) Sections 235 and 236 of the Trade
6 Act of 1974 (19 U.S.C. 2295 and 2296), and
7 paragraphs (1) and (2) of section 250(d) of
8 such Act (19 U.S.C. 2331(d) (1) and (2)).

9 (2) EFFECTIVE DATE.—The repeals made by
10 paragraph (1) shall take effect on September 30,
11 1999.

12 (3) TECHNICAL AND CONFORMING AMEND-
13 MENTS.—The National Board shall include in the
14 draft joint resolution submitted under section
15 414(b), technical and conforming amendments re-
16 garding the provisions repealed under paragraph (1).
17 Such proposed amendments should be consistent
18 with the purposes of this title.

19 **SEC. 414. PROCESS FOR ESTABLISHING 21ST CENTURY**
20 **WORKFORCE DEVELOPMENT SYSTEM.**

21 (a) ANNUAL RECOMMENDATIONS.—Not later than
22 180 days after the date of enactment of this Act, and each
23 June 1 thereafter, the National Board shall make rec-
24 ommendations to the President and Congress for the
25 elimination of Federal workforce development programs,

1 or programs whose functions should be subsumed under
2 other Federal programs.

3 (b) REPORT AND JOINT RESOLUTION.—

4 (1) REPORT.—Not later than June 1, 1999, the
5 National Board, based on such board's analysis of
6 the experience of leading edge States and the
7 progress made toward establishing an integrated,
8 market-driven workforce development system, shall
9 prepare and submit to the Committee on Economic
10 and Educational Opportunities of the House of Rep-
11 resentatives and the Committee on Labor and
12 Human Resources of the Senate a report containing
13 the findings of such board, and recommendations for
14 proposed reforms.

15 (2) JOINT RESOLUTION.—Not later than June
16 1, 1999, the National Board shall submit to the
17 Congress a draft of a joint resolution containing pro-
18 visions to develop a streamlined, integrated, market-
19 driven workforce development system, from the pro-
20 grams described in section 413(b) and any other
21 Federal workforce development program determined
22 by the National Board as appropriate to be included
23 that is consistent with this title, pursuant to section
24 402(b). The joint resolution shall include rec-
25 ommendations for standard outcome measures as de-

1 scribed in section 424(a)(2) and shall describe how
2 the new system will maintain services to hard-to-
3 serve populations.

4 **SEC. 415. CENTRALIZED WAIVERS.**

5 (a) **EXPEDITED PROCESS.**—Not later than 180 days
6 after the date of enactment of this Act, the President shall
7 establish an expedited process to consider and act on waiv-
8 er requests submitted by the States under this section.

9 (b) **STATES NOT RECEIVING IMPLEMENTATION**
10 **GRANTS.**—

11 (1) **IN GENERAL.**—Any State may apply, in ac-
12 cordance with this section, for a waiver of statutory
13 or regulatory requirements under 1 or more of the
14 programs described in section 413(b)(1), for a pe-
15 riod of 2 years to facilitate the provision of assist-
16 ance for workforce development.

17 (2) **WAIVER AUTHORITY.**—A waiver may be
18 granted under this subsection only if—

19 (A) the requirement sought to be waived
20 impedes the ability of the State, or a local en-
21 tity in the States, to carry out the State or
22 local workforce development plan;

23 (B) the State has waived, or agrees to
24 waive, similar requirements of State law; and

1 (C) in the case of a statewide waiver, the
2 State—

3 (i) provides all State and local agen-
4 cies and appropriate organizations in the
5 State, including labor organizations, with
6 notice and an opportunity to comment on
7 the State’s proposal to seek a waiver; and

8 (ii) submits the affected agency’s com-
9 ments with the waiver application.

10 (3) APPLICATION.—Each application submitted
11 under this subsection shall—

12 (A) identify the statutory or regulatory re-
13 quirements that are requested to be waived and
14 the goals that the State or local agency intends
15 to achieve;

16 (B) describe the action that the State has
17 undertaken to remove State statutory or regu-
18 latory barriers identified in the application;

19 (C) describe the purpose of the waiver and
20 the expected programmatic outcomes if the re-
21 quest is granted;

22 (D) describe the numbers and types of peo-
23 ple to be affected by such waiver;

24 (E) describe a timetable for implementing
25 the waiver;

1 (F) describe the process the State will use
 2 to monitor, on a biannual basis, the progress in
 3 implementing the waiver; and

4 (G) describe how the goals of the program
 5 or programs for which a waiver is granted will
 6 continue to be met.

7 (c) STATES RECEIVING IMPLEMENTATION
 8 GRANTS.—Subject to subsection (d), each State receiving
 9 an implementation grant under section 423(b) shall have
 10 the statutory or regulatory requirement, described in its
 11 grant application or State Blueprint of such State waived
 12 for the duration of the implementation grant.

13 (d) LIMITATIONS.—

14 (1) IN GENERAL.—A waiver shall not be grant-
 15 ed under a workforce development program if such
 16 waiver would alter—

17 (A) the purposes or goals of such program;

18 (B) the allocation of funds under such pro-
 19 gram;

20 (C) any statutory or regulatory require-
 21 ment under such program relating to public
 22 health or safety, civil rights, protections granted
 23 under title I and sections 503 and 504 of the
 24 Rehabilitation Act of 1973 (29 U.S.C. 701 et
 25 seq.), occupational safety and health, environ-

1 mental protection, displacement of current em-
2 ployees, or fraud and abuse; or

3 (D) eligibility requirements under such
4 program, except that a waiver may be granted
5 with respect to an eligibility requirement if such
6 waiver would provide for increased flexibility in
7 developing common definitions for individuals
8 eligible for such program.

9 (2) CIRCULARS AND RELATED REGULATIONS.—

10 The following circulars promulgated by the Office of
11 Management and Budget shall be subject to the
12 waiver authority of this subsection:

13 (A) A-87, relating to cost principles for
14 State and local governments.

15 (B) A-102, relating to grants and coopera-
16 tive agreements with State and local govern-
17 ments.

18 (C) A-122, relating to nonprofit organiza-
19 tions.

20 (D) A-110, relating to administrative re-
21 quirements for grants and cooperative agree-
22 ments with nonprofit organizations and institu-
23 tions of higher education.

24 (E) A-21, relating to cost principles for in-
25 stitutions of higher education.

1 (3) EFFECTIVE DATE.—A waiver granted under
2 this section shall take effect on the date such waiver
3 is granted.

4 (4) REVIEW OF APPLICATION.—Each applica-
5 tion submitted by a State pursuant to subsection
6 (b)(3) shall be reviewed by the Secretary or agency
7 head who has jurisdiction over the workforce devel-
8 opment program or programs to which such waiver
9 request relates.

10 (5) APPROVAL OR DISAPPROVAL OF APPLICA-
11 TION.—

12 (A) TIMING.—Each application submitted
13 by a State in accordance with subsection (b)(3)
14 shall be reviewed promptly upon receipt, and
15 shall be approved or disapproved not later than
16 the end of the 60-day period beginning on the
17 date such application is received.

18 (B) APPROVAL.—A waiver or waivers pro-
19 posed in an application may be approved for the
20 2-year period beginning on the date such appli-
21 cation is approved, if the State demonstrates in
22 the application that such waiver or waivers will
23 achieve coordination, expansion, and improve-
24 ment in the quality of services under its
25 workforce development system.

1 (C) DISAPPROVAL AND RESUBMISSION.—If
2 an application is incomplete or unsatisfactory,
3 the appropriate Federal official shall, before the
4 end of the period referred to in subparagraph
5 (A)—

6 (i) notify the State of the reasons for
7 the failure to approve the application;

8 (ii) notify the State that the applica-
9 tion may be resubmitted during the period
10 referred to in clause (iii); and

11 (iii) permit the State to resubmit a
12 corrected or amended application during
13 the 60-day period beginning on the date of
14 notification under this subparagraph.

15 (D) REVIEW OF RESUBMITTED APPLICA-
16 TION.—Any application resubmitted under sub-
17 paragraph (C) shall be approved or disapproved
18 before the expiration of the 60-day period be-
19 ginning on the date of the resubmission.

20 (6) REVOCATION OF WAIVER.—If, after the ap-
21 proval of an application under this subsection, the
22 Secretary determines that the waiver or waivers do
23 not achieve coordination, expansion, and improve-
24 ment in the quality of services under the workforce
25 development programs to which such waiver or waiv-

1 ers relate, the waiver or waivers may be revoked in
2 whole or in part.

3 **Subtitle C—Market Building**
4 **Activities**

5 **CHAPTER 1—FEDERAL LEVEL ACTIVITIES**

6 **SEC. 421. PURPOSE.**

7 The purpose of this subtitle and subtitle D is to es-
8 tablish a framework at the Federal, State, and local levels
9 for key stakeholders to work cooperatively to build the in-
10 frastructure, brokerage, and accountability systems need-
11 ed to transform current Federally funded job training pro-
12 grams into a market-driven workforce development sys-
13 tem.

14 **SEC. 422. NATIONAL WORKFORCE DEVELOPMENT BOARD.**

15 (a) FINDINGS.—The Congress finds that a national
16 workforce development board is necessary to ensure—

17 (1) the establishment and continuous improve-
18 ment of the national workforce development system;

19 (2) that integrated strategic planning takes
20 place among the Federal agencies currently respon-
21 sible for administering job training programs;

22 (3) incorporation of private sector expertise to
23 the governance of the national workforce develop-
24 ment system; and

1 (4) that unnecessary legislative and regulatory
2 barriers to service integration are removed as a mar-
3 ket-driven workforce development system is estab-
4 lished.

5 (b) ESTABLISHMENT.—

6 (1) IN GENERAL.—There is established the Na-
7 tional Workforce Development Board.

8 (2) COMPOSITION.—The National Board shall
9 be comprised of 16 members, of whom—

10 (A) 1 member shall be the Secretary of
11 Labor;

12 (B) 1 member shall be the Secretary of
13 Education;

14 (C) 1 member shall be the Secretary of
15 Health and Human Services;

16 (D) 1 member shall be the Secretary of
17 Commerce;

18 (E) 3 members shall be representatives of
19 business (including representatives of small
20 businesses and large employers);

21 (F) 3 members shall be representatives of
22 organized labor;

23 (G) 3 members shall be State and local
24 elected officials of whom 2 shall be Governors

1 of a State and 1 shall be a local elected official;
2 and

3 (H)(i) 1 member shall be selected from
4 representatives of community-based organiza-
5 tions;

6 (ii) 1 member shall be selected from rep-
7 resentatives of secondary schools or postsecond-
8 ary educational institutions; and

9 (iii) 1 member shall be selected from rep-
10 resentatives of nongovernmental organizations
11 that have a history of successfully protecting
12 the rights of individuals with disabilities or
13 older persons.

14 (3) ADDITIONAL REQUIREMENTS.—The mem-
15 bers described in subparagraphs (E) and (F) of
16 paragraph (2) shall—

17 (A) in the aggregate, represent a broad
18 cross section of occupations and industries;

19 (B) to the extent feasible, be geographi-
20 cally representative of the United States, and
21 reflect the racial, ethnic, and gender diversity of
22 the United States; and

23 (C) include at least 1 member of the Na-
24 tional Skill Standards Board established pursu-

1 ant to section 503 of the National Skill Stand-
2 ards Act of 1994 (20 U.S.C. 5933).

3 (4) EXPERTISE.—The National Board and the
4 staff shall have sufficient expertise to effectively
5 carry out the duties and functions of the National
6 Board.

7 (5) APPOINTMENT.—The members described in
8 subparagraphs (E), (F), (G), and (H) of paragraph
9 (2) shall be appointed by the President, by and with
10 the advice and consent of the Senate.

11 (6) EX OFFICIO NONVOTING MEMBERS.—The
12 Director of the Office of Management and Budget
13 and the chairpersons and ranking minority members
14 of the Committee on Labor and Human Resources
15 of the Senate and the Committee on Economic and
16 Educational Opportunities of the House of Rep-
17 resentatives shall be ex officio, nonvoting members
18 of the National Board.

19 (7) TERMS.—Each member of the National
20 Board appointed under subparagraph (E), (F), (G),
21 and (H) of paragraph (2) shall be appointed for a
22 term of 4 years, except that of the initial members
23 of the National Board appointed under such sub-
24 paragraphs—

1 (A) 4 members shall be appointed for a
2 term of 2 years;

3 (B) 4 members shall be appointed for a
4 term of 3 years; and

5 (C) 4 members shall be appointed for a
6 term of 4 years.

7 (8) VACANCIES.—Any vacancy on the National
8 Board shall not affect the powers of the National
9 Board, but shall be filled in the same manner as the
10 original appointments.

11 (9) CHAIRPERSONS.—The President, by and
12 with the advice and consent of the Senate, shall se-
13 lect 1 cochairperson of the National Board from
14 among the members of the National Board ap-
15 pointed under paragraph (2)(E) and 1 cochairperson
16 from among the members appointed pursuant to
17 paragraph (2)(F).

18 (10) COMPENSATION AND EXPENSES.—

19 (A) COMPENSATION.—Each member of the
20 National Board who is not a full-time employee
21 or officer of the Federal Government shall serve
22 without compensation. Each member of the Na-
23 tional Board who is an officer or employee of
24 the Federal Government shall serve without
25 compensation in addition to that received for

1 the services of such member as an officer or
2 employee of the Federal Government.

3 (B) EXPENSES.—The members of the Na-
4 tional Board shall be allowed travel expenses,
5 including per diem in lieu of subsistence, at
6 rates authorized for employees of agencies
7 under subchapter I of chapter 57 of title 5,
8 United States Code, while away from their
9 homes or regular places of business in the per-
10 formance of services for the National Board.

11 (11) EXECUTIVE DIRECTOR AND STAFF.—

12 (A) EXECUTIVE DIRECTOR.—The cochair-
13 persons of the National Board shall appoint an
14 Executive Director who shall be compensated at
15 a rate determined by the National Board, not
16 to exceed the rate payable for level V of the Ex-
17 ecutive Schedule under section 5316 of title 5,
18 United States Code.

19 (B) STAFF.—The Executive Director
20 may—

21 (i) appoint and compensate such addi-
22 tional staff as may be necessary to enable
23 the National Board to perform its duties;
24 and

1 (ii) fix the compensation of the staff
2 without regard to the provisions of chapter
3 51 and subchapter III of chapter 53 of
4 title 5, United States Code, relating to
5 classifications of positions and General
6 Schedule pay rates, except that the rate of
7 pay for the staff may not exceed the rate
8 payable for level V of the Executive Sched-
9 ule under section 5316 of such title.

10 (12) AGENCY SUPPORT.—

11 (A) USE OF FACILITIES.—The National
12 Board may use the research, equipment, serv-
13 ices, and facilities of any agency or instrumen-
14 tality of the United States with the consent of
15 such agency or instrumentality.

16 (B) STAFF OF FEDERAL AGENCIES.—Upon
17 the request of the National Board, the head of
18 any Federal agency may detail to the National
19 Board, on a reimbursable basis, any of the per-
20 sonnel of such Federal agency to assist the Na-
21 tional Board in carrying out this title. Such de-
22 tail shall be without interruption or loss of civil
23 service status or privilege.

24 (13) PROCUREMENT OF TEMPORARY AND
25 INTERMITTENT SERVICES.—The cochairpersons of

1 the National Board may procure temporary and
2 intermittent services of experts and consultants
3 under section 3109(b) of title 5, United States Code.

4 (c) DUTIES.—

5 (1) NATIONAL REPORT CARD.—

6 (A) IN GENERAL.—Not later than January
7 1, 1997, and each January 1 thereafter, the
8 National Board shall prepare a report to be
9 known as the Nation’s Workforce Development
10 Report Card.

11 (B) REQUIREMENTS.—The National Re-
12 port Card shall assess the performance of the
13 workforce development system of the United
14 States, based on the earnings and employment
15 gains and other nonemployment-related out-
16 comes of individuals assisted by the programs
17 comprising such system. The National Report
18 Card shall evaluate all workforce development
19 programs that receive Federal funding, and
20 shall—

21 (i) assess the performance of each
22 program;

23 (ii) assess performance based on the
24 type of assistance provided, including the

1 categories of services identified in section
2 424(b)(1)(C);

3 (iii) assess year-to-year changes in
4 performance;

5 (iv) report on the extent to which
6 hard-to-serve populations are receiving
7 services and the related outcomes in rela-
8 tion to services received in the preceding 3
9 years;

10 (v) determine the annual Federal in-
11 vestment in workforce development in each
12 State;

13 (vi) assess the lessons learned from
14 the experience of leading-edge States, and
15 States that waive certain program require-
16 ments to experiment with alternative
17 workforce development strategies; and

18 (vii) assess the performance of the
19 workforce development system in each
20 State.

21 (2) CONGRESSIONAL TESTIMONY.—The cochair-
22 persons of the National Board shall, at least annu-
23 ally, provide testimony, during a joint hearing before
24 the Committee on Labor and Human Resources of
25 the Senate and the Committee on Economic and

1 Educational Opportunities of the House of Rep-
2 resentatives on the progress being made in—

3 (A) developing a more streamlined inte-
4 grated and accountable public and private
5 workforce development system in the United
6 States; and

7 (B) carrying out the purposes described in
8 section 402(b).

9 (3) REVIEW OF GRANT PROPOSALS.—The Na-
10 tional Board shall review the development grant pro-
11 posals pursuant section 423(a), and the implementa-
12 tion grant proposals pursuant to section 423(b), and
13 make recommendations to the Secretary regarding
14 such proposals.

15 (4) FINAL RECOMMENDATIONS.—Not later than
16 January 1, 1999, the National Board shall submit
17 recommendations in the form of a joint resolution to
18 the President and Congress, pursuant to section
19 414(b).

20 (d) TERMINATION.—The National Board shall termi-
21 nate on the date on which the National Board submits
22 the joint resolution to President and Congress under sec-
23 tion 414(b).

24 (e) NATIONAL COMMISSION FOR EMPLOYMENT POL-
25 ICY.—

1 (1) IN GENERAL.—Part F of title IV of the Job
2 Training Partnership Act (29 U.S.C. 1771 et seq.)
3 is repealed.

4 (2) CONFORMING AMENDMENT.—Subsection (i)
5 of section 106 of such Act (29 U.S.C. 1516(i)) is
6 amended by striking “(i) FUNCTIONS OF NCEP.—
7 The National Commission for Employment Policy”
8 and inserting “(i) FUNCTIONS OF NATIONAL
9 WORKFORCE DEVELOPMENT BOARD.—The National
10 Workforce Development Board established under
11 section 422 of the Workforce of the Future Develop-
12 ment Act”.

13 **SEC. 423. MECHANISMS FOR BUILDING HIGH QUALITY IN-**
14 **TEGRATED WORKFORCE DEVELOPMENT SYS-**
15 **TEMS.**

16 (a) STATE DEVELOPMENT GRANTS.—

17 (1) PURPOSE.—The purpose of this subsection
18 is to assist States and communities in strategic
19 planning for integrated workforce development sys-
20 tems, including the development of a financial and
21 management information system, a quality assur-
22 ance system, and an integrated labor market infor-
23 mation system.

24 (2) GRANTS TO STATES.—The Secretary may
25 provide a development grant to a State in such

1 amount as the Secretary, in consultation with the
2 National Board, determines to be necessary to en-
3 able such State to develop a strategic plan, as de-
4 scribed in paragraph (1), for the development of a
5 comprehensive statewide integrated workforce devel-
6 opment system.

7 (3) APPLICATION.—To be eligible to receive a
8 development grant under this subsection, the Gov-
9 ernor of a State, on behalf of the State, shall submit
10 to the National Board and the Secretary an applica-
11 tion, at such time, in such form, and containing
12 such information as the Secretary may require.

13 (b) IMPLEMENTATION GRANTS TO LEADING-EDGE
14 STATES.—

15 (1) PURPOSE.—The purpose of this subsection
16 is to assist States in implementing statewide high-
17 quality integrated workforce development systems
18 that are accountable for achieving results.

19 (2) GRANTS TO STATES.—The Secretary, in
20 consultation with the National Board, may provide
21 an implementation grant to the State in such
22 amount as the Secretary determines to be necessary
23 to enable such State to implement an integrated
24 workforce development system.

1 (3) PERIOD OF GRANT.—The provision of pay-
2 ments under a grant under this subsection shall not
3 exceed 4 fiscal years, and shall be subject to the an-
4 nual approval of the Secretary, in consultation with
5 the National Board, and the availability of appro-
6 priations for the fiscal year involved.

7 (4) ALLOCATION REQUIREMENTS.—

8 (A) FIRST YEAR.—For the first fiscal year
9 for which a State receives amounts from an im-
10 plementation grant under this subsection, the
11 State shall use not less than 75 percent of such
12 amount to provide subgrants to local workforce
13 development boards.

14 (B) SECOND YEAR.—For the second fiscal
15 year for which a State receives amounts from
16 an implementation grant under this subsection,
17 the State shall use not less than 80 percent of
18 such amount to provide subgrants to local
19 workforce development boards.

20 (C) THIRD AND SUCCEEDING YEARS.—For
21 the third, and each succeeding, fiscal year for
22 which a State receives amounts from an imple-
23 mentation grant under this subsection, the
24 State shall use not less than 85 percent of such

1 amount to provide subgrants to local workforce
2 development boards.

3 (5) LIMITATION.—A State shall be eligible to
4 receive not more than 1 implementation grant under
5 this subsection.

6 (6) APPLICATION.—To be eligible to receive an
7 implementation grant under this subsection, the
8 Governor of a State, on behalf of the State, shall
9 submit to the National Board and the Secretary an
10 application that shall include a copy of the State
11 Blueprint and such other information as the Sec-
12 retary, with the advice of the National Board, may
13 require.

14 (c) DISSEMINATION OF INFORMATION ON BEST
15 PRACTICES.—The Secretary, in consultation with the Na-
16 tional Board, shall—

17 (1) collect and disseminate information that will
18 assist State and local communities undertaking ac-
19 tivities to streamline and reform their job training
20 systems, including information on—

21 (A) the successful experiences of States
22 and localities that—

23 (i) have received development or im-
24 plementation grants;

25 (ii) have been granted waivers; or

1 (iii) are experimenting with training
2 account systems; and

3 (B) research concerning the restructuring
4 of workforce development systems; and

5 (2) facilitate the exchange of information and
6 ideas among States and local entities that are build-
7 ing market-based workforce development systems.

8 (d) WORKFORCE DEVELOPMENT IMPACT RE-
9 PORTS.—

10 (1) SUBMISSION.—For each bill or resolution
11 concerning workforce development reported by any
12 committee of the Senate or the House of Represent-
13 atives, the National Board shall determine whether
14 proposed Federal job training legislation complies
15 with the requirements relating to data reporting,
16 common definitions, and common funding cycles de-
17 scribed in subsections (b) and (e) of section 424. A
18 determination of compliance by the National Board
19 under this subsection shall be included in the com-
20 mittee report accompanying such legislation, if time-
21 ly submitted to such committee before such report is
22 filed.

23 (2) PROCEDURE.—It shall not be in order in
24 the Senate or the House of Representatives to con-
25 sider any bill or resolution concerning workforce de-

1 velopment that would not comply with the national
2 workforce development system, as determined by the
3 National Board under paragraph (1).

4 (3) WAIVER.—Paragraph (2) may be waived or
5 suspended in the Senate or the House of Represent-
6 atives only by the affirmative vote of three-fifths of
7 the members of such House.

8 **SEC. 424. QUALITY ASSURANCE SYSTEM.**

9 (a) PURPOSE.—The purpose of this section is to im-
10 prove the quality of all Federal programs directed at im-
11 proving the knowledge, skills, and abilities of members of
12 the workforce by strengthening accountability and encour-
13 aging the adoption of quality improvement processes at
14 all levels of the workforce development system. In order
15 to accomplish this purpose, this title—

16 (1) directs the Secretaries of Labor, Education,
17 and Health and Human Services to jointly, in con-
18 sultation with the National Board—

19 (A) develop common terms and definitions
20 as described in subsection (b);

21 (B) develop a placement accountability sys-
22 tem as described in subsection (c); and

23 (C) adjust existing program performance
24 standards as described in section 440(c); and

1 (2) directs the National Board to recommend a
 2 system of performance standards in its joint resolu-
 3 tion submitted to Congress pursuant to section
 4 414(b) that includes standard outcome measures re-
 5 lating to—

6 (A) employment;

7 (B) job retention;

8 (C) earnings; and

9 (D) nonemployment outcome measures,

10 such as learning and competency gains.

11 (b) COMMON TERMS AND DEFINITIONS.—

12 (1) IN GENERAL.—Each workforce development
 13 program that receives Federal funds shall collect
 14 and report to the Governor and the State Council,
 15 if applicable, for each participant to whom assist-
 16 ance is provided, the following information:

17 (A) The quarterly employment status and
 18 earnings for 1 year after the participant no
 19 longer receives assistance under such program.

20 (B) Economic and demographic character-
 21 istics, including the participant's—

22 (i) social security number;

23 (ii) date of birth;

24 (iii) gender;

25 (iv) race or ethnicity;

- 1 (v) disability status;
- 2 (vi) education (highest formal grade
3 level achieved at commencement of partici-
4 pation in program);
- 5 (vii) academic degrees and credentials
6 at time of entry into the program; and
- 7 (viii) employment status at the time
8 of entry into the program.
- 9 (C) Services received, the extent, when ap-
10 propriate, and spending for such services, in-
11 cluding—
- 12 (i) assessments;
- 13 (ii) testing;
- 14 (iii) counseling;
- 15 (iv) job development or job search as-
16 sistance;
- 17 (v) occupational skills training;
- 18 (vi) work experience;
- 19 (vii) job readiness training;
- 20 (viii) basic skills education;
- 21 (ix) postsecondary academic education
22 (nonoccupational);
- 23 (x) supportive and supplementary
24 services; and
- 25 (xi) on-the-job training.

1 (D) Program outcomes, as specified by the
2 State, such as—

3 (i) advancement to higher level edu-
4 cation or training;

5 (ii) attainment of additional degrees
6 or credentials (including skill standards as
7 such standards become available);

8 (iii) assessment of learning gain in
9 basic skills programs;

10 (iv) attainment and retention of sub-
11 sidized or unsubsidized employment;

12 (v) quarterly earnings; and

13 (vi) reduction in welfare dependency.

14 (2) REPLACEMENT OF EXISTING REQUIRE-
15 MENTS.—Program monitoring under this section
16 shall supplant existing monitoring and reporting re-
17 quirements for program participants.

18 (3) ADOPTION OF COMMON TERMS AND DEFINI-
19 TIONS.—

20 (A) REPORT.—Not later than 180 days
21 after the date of enactment of this Act, each
22 Federal department and agency with respon-
23 sibility for a workforce development program
24 shall report to the National Board on its
25 progress in adopting the common terms and

1 definitions for program participants, service ac-
2 tivities, and outcomes by program operators
3 and grant recipients.

4 (B) IMPLEMENTATION.—Not later than 1
5 year after the date of enactment of this Act,
6 each workforce development program receiving
7 Federal funds shall use the common terms and
8 definitions.

9 (C) USE.—Upon adoption by the appro-
10 priate Federal agencies, the common definitions
11 for terminology developed and reported pursu-
12 ant to section 455 of the Job Training Partner-
13 ship Act (29 U.S.C. 1735(b)) shall be utilized
14 in interpreting and compiling the core data ele-
15 ments. Notwithstanding any other provision of
16 Federal law, such common definitions shall be
17 utilized in lieu of existing program definitions
18 for similar data elements.

19 (4) RECOMMENDATIONS.—Not later than 180
20 days after the date all of the Members of the Na-
21 tional Board are appointed, the National Board shall
22 make recommendations to the Secretaries of Labor,
23 Education, and Health and Human Services, and
24 the heads of other agencies operating workforce de-

1 velopment programs, on common definitions for
2 other terms, including terms relating to—

3 (A) program status, including—

4 (i) applicant;

5 (ii) participant;

6 (iii) trainee; and

7 (iv) training-related placement;

8 (B) program eligibility, including—

9 (i) family income; and

10 (ii) economically disadvantaged indi-
11 viduals; and

12 (C) other terms considered appropriate by
13 the National Board, such as common cost cat-
14 egories.

15 (5) AMENDMENTS.—If any of the proposed
16 common definitions require amendment to existing
17 laws, the National Board shall submit to Congress
18 recommendations for legislative action not later than
19 9 months after the date all of the members of the
20 National Board are appointed.

21 (c) PLACEMENT ACCOUNTABILITY.—

22 (1) IN GENERAL.—The purpose of this sub-
23 section is to establish a placement accountability
24 system using a cost-effective data source with infor-
25 mation on job placement, earnings, and job reten-

1 tion, to foster accountability by all federally funded
2 workforce development programs.

3 (2) PERFORMANCE MONITORING.—Each
4 workforce development program that receives Fed-
5 eral funds shall—

6 (A) engage in continuous performance self-
7 monitoring by measuring, at a minimum, the
8 quarterly employment status and earnings of
9 each recipient of assistance under such pro-
10 gram; and

11 (B) monitor each recipient of assistance
12 for a period of not less than 1 year, beginning
13 on the date on which the recipient no longer re-
14 ceives assistance under such program.

15 (3) REIMBURSEMENT.—Requesting programs
16 shall reimburse the State agency responsible for
17 wage record data for the cost of matching such in-
18 formation. Notwithstanding any other provision of
19 Federal law, requesting programs may use Federal
20 funds for such reimbursement.

21 (4) CONFIDENTIALITY.—Requesting pro-
22 grams—

23 (A) shall protect the confidentiality of
24 wage record data through the use of recognized
25 security procedures; and

1 (B) may not retain such data for more
2 than 10 years.

3 (5) SUBMISSION TO STATE COUNCIL.—The
4 State agency responsible for labor market informa-
5 tion shall submit the results of the matching to the
6 State Council, in accordance with procedures and
7 schedules specified by the National Board and the
8 Secretary.

9 (6) RESPONSIBILITY OF GOVERNORS.—The
10 Governor of each State shall ensure the submission
11 of the matched data to the State Council, the Na-
12 tional Board, the Secretary, and other Federal enti-
13 ties, as required by the National Board.

14 (d) DISSEMINATION OF QUALITY ASSURANCE.—The
15 information obtained under subsection (c) shall be made
16 available to—

17 (1) the State Council of the State in which the
18 program is located;

19 (2) the local workforce development boards in
20 the State in which the program is located; and

21 (3) consumers of labor market information to
22 judge individual program performance in an easily
23 accessible format.

24 (e) CONSISTENT FUNDING CYCLES.—

1 (1) IN GENERAL.—All federally funded
2 workforce development training activities shall, to
3 the extent practicable, be funded on a consistent
4 funding cycle basis.

5 (2) RECOMMENDATIONS FOR FUNDING
6 CYCLE.—Not later than 180 days after the date on
7 which all of the members of the National Board are
8 appointed, the National Board shall make rec-
9 ommendations to Congress on the appropriate fund-
10 ing cycle to be used for all workforce development
11 programs and activities.

12 **CHAPTER 2—STATE LEVEL ACTIVITIES**

13 **SEC. 431. STATE WORKFORCE DEVELOPMENT COUNCILS.**

14 (a) ESTABLISHMENT.—Each State desiring to par-
15 ticipate in the development or implementation of an inte-
16 grated and accountable workforce development system
17 under section 423 shall establish a State Workforce Devel-
18 opment Council or have located within such State an exist-
19 ing entity that is similar to a State Council and that in-
20 cludes members who are representatives of employers and
21 workers.

22 (b) PURPOSE.—Each State Council shall serve as the
23 principal advisory board for the Governor of such State
24 for all programs included in the integrated workforce de-
25 velopment system of such State.

1 (c) FUNCTIONS.—Each State Council shall assume
2 the functions and responsibilities of councils and commis-
3 sions required under Federal law that are part of the inte-
4 grated workforce development system of such State.

5 **SEC. 432. MEMBERSHIP.**

6 (a) IN GENERAL.—

7 (1) REPRESENTATIVES OF BUSINESS AND IN-
8 DUSTRY AND ORGANIZED LABOR.—Each State
9 Council shall be comprised of individuals who are
10 appointed by the Governor for a term of not less
11 than 2 years from among—

12 (A) representatives of business and indus-
13 try, who shall constitute not less than 33 per-
14 cent of the membership of the State Council,
15 including individuals who are members of local
16 workforce development boards;

17 (B) representatives of organized labor who
18 shall constitute not less than 25 percent of the
19 membership of the State Council and shall be
20 selected from among individuals nominated by
21 recognized State labor federations;

22 (C) representatives of secondary and post-
23 secondary academic or vocational education in-
24 stitutions;

1 (D) representatives of community-based
2 organizations; and

3 (E) representatives of community colleges.

4 (2) ADDITIONAL MEMBERS.—Each State Coun-
5 cil may include 1 or more qualified members who are
6 appointed by the Governor from among representa-
7 tives of the following:

8 (A) Nongovernmental organizations that
9 have a history of successfully protecting the
10 rights of individuals with disabilities or older
11 persons.

12 (B) Units of general local government or
13 consortia of such units.

14 (C) State officials responsible for admin-
15 istering programs described in sections 413 and
16 414 and included in the integrated system.

17 (D) The State legislature.

18 (E) Any local program that receives Fed-
19 eral funding from any program included in the
20 integrated workforce development system of the
21 State.

22 (b) EX OFFICIO.—

23 (1) NONVOTING MEMBERS.—The Governor may
24 appoint ex officio additional nonvoting members to
25 the State Council.

1 (2) EXPERTISE.—The Governor of the State
2 shall ensure that the State Council and the staff of
3 the State Council have sufficient expertise to effec-
4 tively carry out the duties and functions of the State
5 Council described under the laws relating to the ap-
6 plicable program.

7 **SEC. 433. CHAIRPERSON.**

8 The Governor of the State shall appoint a chairperson
9 of the State Council who shall be a representative of the
10 business community.

11 **SEC. 434. DUTIES AND RESPONSIBILITIES.**

12 (a) STATE WORKFORCE DEVELOPMENT POLICY
13 BLUEPRINT.—The State Council shall assist the Governor
14 to prepare and submit to the National Board a biennial
15 report to be known as the State Workforce Development
16 Policy Blueprint. The State Blueprint shall—

17 (1) serve as a strategic plan for integrating fed-
18 erally funded workforce development programs in-
19 cluded in an integrated system of the State, estab-
20 lished pursuant to section 423(b), with State-funded
21 job training, employment, employment-related edu-
22 cation, and economic development activities;

23 (2) summarize and analyze information about
24 training needs of critical industries in the State con-
25 tained in the local workforce development policy

1 blueprints developed by the workforce development
2 boards;

3 (3) establish State goals for the integrated
4 workforce development system and a common core
5 set of performance measures and standards for pro-
6 grams included in the system, to be used in lieu of
7 existing performance measures and standards for
8 each of the included programs;

9 (4) analyze how the businesses and labor orga-
10 nizations of the State are—

11 (A) progressing in the restructuring of the
12 work place to provide continuous learning;

13 (B) improving the skills and abilities of
14 frontline workers of such businesses; and

15 (C) participating in State and local efforts
16 to transform federally funded education and job
17 training programs into a coherent and account-
18 able workforce development system;

19 (5) utilize information available from the State
20 Report Card and other sources to analyze the rel-
21 ative effectiveness of individual workforce develop-
22 ment programs within the State and of the State's
23 workforce development system as a whole;

24 (6) evaluate the progress being made within the
25 State in streamlining, consolidating, and reforming

1 the workforce development system of the State in ac-
2 cordance with the purposes contained in section
3 402(b) and the framework for State implementation
4 contained in the implementation grant proposal of
5 the State;

6 (7) describe how service to special hard-to-serve
7 populations is to be maintained;

8 (8) identify how any funds that a State may be
9 receiving under section 423(b) are to be utilized in
10 conjunction with existing resources to continuously
11 improve the effectiveness of the workforce develop-
12 ment system of the State;

13 (9) describe the method to be used to allocate
14 funds received under section 423(b) in a fair and eq-
15 uitable manner among unified service delivery areas;

16 (10) specify the additional elements, if any, to
17 be included in operating agreements between local
18 workforce development boards and one-stop career
19 centers;

20 (11) specify additional criteria, if any, for selec-
21 tion of one-stop career centers;

22 (12) specify the nonemployment-related out-
23 come measures that will be used for the workforce
24 development system;

1 (13) specify the nature and scope of the budget
2 authority for local workforce development boards in
3 the State; and

4 (14) supplant federally required planning re-
5 ports for programs under the integrated workforce
6 development system of the State.

7 (b) STATE WORKFORCE DEVELOPMENT REPORT
8 CARD.—The State Council shall assist the Governor of the
9 State to issue an annual report to be known as the State
10 Workforce Development Report Card. The State Report
11 Card shall describe the performance of all workforce devel-
12 opment programs operating in the State that receive Fed-
13 eral funding and any additional State-funded programs
14 that the Governor may choose to include. The State Re-
15 port Card shall—

16 (1) include an integrated budget that docu-
17 ments the annual spending, number of clients
18 served, and types of services provided for workforce
19 development programs for the State as a whole and
20 for each unified service delivery area within the
21 State;

22 (2) assess the level of services to hard-to-serve
23 populations in relation to the number served and
24 outcomes for those populations during the preceding
25 3 years;

1 (3) utilize information available from the qual-
2 ity assurance system established under section 424
3 to assess—

4 (A) employment and earnings experiences
5 of individuals who have received assistance from
6 each workforce development program operated
7 in the State; and

8 (B) relative employment and earnings ex-
9 periences of participants receiving services from
10 each one-stop career center in the State;

11 (4) include an analysis of other nonemploy-
12 ment-related results for each workforce development
13 program operating within the State; and

14 (5) include a report of annual employment
15 trends and earnings (by industry and occupation) in
16 the State and each unified service delivery area, to
17 assist State and local policymakers, training provid-
18 ers, and users of the system to link the training pro-
19 vided to the skill and labor force needs of local em-
20 ployers.

21 (c) WORKFORCE DEVELOPMENT BOARD CERTIFI-
22 CATION AND EFFECTIVENESS CRITERIA.—Each State
23 Council shall—

24 (1) assist the Governor to certify each local
25 workforce development board; and

1 (2) make recommendations to the Governor for
2 criteria that will be used to judge the effectiveness
3 of each of the workforce development boards of the
4 State.

5 **SEC. 435. DEVELOPMENT OF QUALITY ASSURANCE SYS-**
6 **TEMS AND CONSUMER REPORTS.**

7 (a) IN GENERAL.—The State Council shall develop
8 a quality assurance system to complement and expand
9 upon the quality assurance system established in section
10 424 in order to provide customers of job training services
11 with consumer reports on the supply, demand, price, and
12 quality of job training services in each unified service de-
13 livery area in the State.

14 (b) SELECTION OF TOOLS AND MEASURES.—Each
15 State shall select the tools and measures that are appro-
16 priate to the needs of such State, including—

17 (1) collecting and organizing service provider
18 performance data in accordance with information
19 generated from the State Report Card under section
20 434(b), the financial and management information
21 system designed pursuant to section 438; and

22 (2) conducting surveys as appropriate to ascer-
23 tain customer satisfaction.

24 (c) COLLECTION AND DISSEMINATION.—The State
25 Council shall, in conjunction with the local workforce de-

1 velopment boards, establish mechanisms for collecting and
2 disseminating the quality assurance information on a reg-
3 ular basis to—

4 (1) individuals seeking employment;

5 (2) employers;

6 (3) policymakers at the Federal, State, and
7 local levels; and

8 (4) training and education providers.

9 (d) ASSURANCES.—Each public and private edu-
10 cation, training, and career development service provider
11 receiving Federal funds under a program in an integrated
12 system of the State pursuant to section 423(b) shall col-
13 lect and provide the quality assurance information re-
14 quired under this section.

15 **SEC. 436. ADMINISTRATION.**

16 (a) AUTHORITIES.—Each State Council shall be inde-
17 pendent of other State workforce development agencies
18 and have the authority to—

19 (1) employ staff; and

20 (2) receive and disburse funds.

21 (b) SPECIAL PROJECTS.—Each State Council may
22 fund and operate special pilot or demonstration projects
23 for purposes of research or continuous improvement of
24 system performance.

1 (c) LIMITATION ON USE OF FUNDS.—Not more than
 2 5 percent of the funds received by the State from an im-
 3 plementation grant under section 423(b) shall be used for
 4 the administration of the State Council.

5 **SEC. 437. ESTABLISHMENT OF UNIFIED SERVICE DELIVERY**
 6 **AREAS.**

7 (a) RECOMMENDATIONS.—Each State Council shall
 8 make recommendations to the Governor of such State for
 9 the establishment of unified service delivery areas that
 10 may be used as intrastate geographic boundaries, to the
 11 extent practicable, for all workforce development programs
 12 in an integrated system of the State implemented pursu-
 13 ant to section 423(b).

14 (b) ESTABLISHMENT.—Each State receiving an im-
 15 plementation grant under section 423(b) shall, based upon
 16 the recommendations of the State Council, and in con-
 17 sultation and cooperation with local communities, estab-
 18 lish unified service delivery areas throughout the State for
 19 the purpose of providing community-wide workforce devel-
 20 opment assistance in one-stop career centers under section
 21 451.

22 (c) RESPONSIBILITIES.—In establishing unified serv-
 23 ice delivery areas, the Governor, in consultation with the
 24 State Council and local communities—

25 (1) shall take into consideration—

1 (A) existing labor market areas;

2 (B) existing units of general local govern-
3 ment;

4 (C) existing service delivery areas estab-
5 lished under section 101 of the Job Training
6 Partnership Act (29 U.S.C. 1511); and

7 (D) the distance traveled by individuals to
8 receive services;

9 (2) may merge existing service delivery areas;
10 and

11 (3) may not approve a total number of unified
12 service delivery areas that is greater than the total
13 number of service delivery areas in existence in the
14 State on the date of enactment of this Act.

15 **SEC. 438. FINANCIAL AND MANAGEMENT INFORMATION**
16 **SYSTEMS.**

17 (a) **IN GENERAL.**—Each State shall use a portion of
18 the funds the State receives under section 423(a) to design
19 a unified financial and management information system.
20 Each State that receives an implementation grant under
21 section 423(b) shall require that all programs designated
22 in the integrated system use the unified financial and
23 management information system.

24 (b) **REQUIREMENTS.**—Each unified financial and
25 management information system shall—

1 (1) notwithstanding any other provision of Fed-
2 eral law, supplant federally required fiscal reporting
3 and monitoring for each individual program included
4 in the integrated system;

5 (2) be used by all agencies involved in
6 workforce development activities, including one-stop
7 career centers which shall have the capability to
8 track the overall public investments within the State
9 and unified service delivery areas, and to inform pol-
10 icymakers as to the results being achieved through
11 that investment;

12 (3) contain a common structure of financial re-
13 porting requirements, fiscal systems, and monitoring
14 for all workforce development expenditures included
15 in the integrated system that shall utilize the com-
16 mon data elements and definitions included in sec-
17 tion 424(b); and

18 (4) support local efforts to establish unified
19 service systems, including intake and eligibility de-
20 termination for all financial aid sources.

21 **SEC. 439. CAPACITY BUILDING GRANTS.**

22 From funds made available to a State for implemen-
23 tation pursuant to section 423(b) or development pursuant
24 to section 423(a), the State shall develop a strategy to
25 enhance the capacity of the institutions, organizations,

1 and staff involved in State and local workforce develop-
2 ment activities by providing services such as—

3 (1) training for members of the local workforce
4 development boards;

5 (2) training for frontline staff of any local edu-
6 cation or training service provider or one-stop career
7 center;

8 (3) technical assistance regarding managing
9 systemic change;

10 (4) customer service training;

11 (5) organization of peer-to-peer network for
12 training, technical assistance, and information shar-
13 ing;

14 (6) organizing a best practices database cover-
15 ing the various workforce development system com-
16 ponents; and

17 (7) training for State and local staff on the
18 principles of quality management and decentralizing
19 decisionmaking.

20 **SEC. 440. PERFORMANCE STANDARDS FOR UNIFIED SERV-**
21 **ICE DELIVERY AREAS.**

22 (a) IN GENERAL.—The Governor of each State that
23 implements an integrated workforce development system
24 under section 423(b) may, in consultation with the State
25 Council, the local workforce development boards in the

1 State, and employees of any of the job training programs
2 included in the integrated system or the employee organi-
3 zations of such employees, make adjustments to existing
4 performance standards for programs in such system in the
5 unified service delivery areas of the State by prescribing
6 performance criteria.

7 (b) CRITERIA.—Criteria prescribed under subsection
8 (a) may include such factors as—

9 (1) placement, retention, and earnings of par-
10 ticipants in unsubsidized employment, including—

11 (A) earnings at 1, 2, and 4 quarters after
12 termination from the program; and

13 (B) comparability of wages 1 year after
14 termination from the program with wages prior
15 to participation in the program;

16 (2) acquisition of skills pursuant to a skill
17 standards and skill certification system endorsed by
18 the National Skill Standards Board established pur-
19 suant to section 503 of the National Skill Standards
20 Act of 1994 (20 U.S.C. 5933);

21 (3) the satisfaction of participants and employ-
22 ers with services provided and employment out-
23 comes; and

1 (4) the quality of services provided and the level
2 of services provided to hard-to-serve populations,
3 such as low-income individuals and older workers.

4 (c) ADJUSTMENTS.—Each Governor of a State that
5 implements an integrated workforce development system
6 under section 423(b) shall, within parameters established
7 by the National Board, and after consultation with the
8 workforce development boards in the State, prescribe ad-
9 justments to the performance criteria prescribed under
10 subsection (a) for the unified service delivery areas based
11 on—

12 (1) specific economic, geographic, and demo-
13 graphic factors in the State and in regions within
14 the State; and

15 (2) the characteristics of the population to be
16 served, including the demonstrated difficulties in
17 serving special populations.

18 (d) USE OF CRITERIA.—The performance criteria
19 prescribed under this section shall be utilized in lieu of
20 similar criteria for programs receiving Federal funding in-
21 cluded in the integrated system of the State, to the extent
22 determined by the State Council subject to the approval
23 of the National Board.

1 **CHAPTER 3—LOCAL LEVEL ACTIVITIES**

2 **SEC. 441. WORKFORCE DEVELOPMENT BOARDS.**

3 (a) **ESTABLISHMENT.**—In each State receiving an
4 implementation grant under section 423(b), and subject
5 to subsection (b), the local elected officials of each unified
6 service delivery area shall establish a workforce develop-
7 ment board to administer the workforce development as-
8 sistance provided by all the programs in the integrated
9 workforce development system in such area.

10 (b) **EXCEPTION.**—States with a single unified deliv-
11 ery area with contiguous borders shall not be subject to
12 the requirement of subsection (a).

13 (c) **MEMBERSHIP.**—

14 (1) **IN GENERAL.**—Each workforce development
15 board shall be comprised of—

16 (A) representatives of business and indus-
17 try, who shall constitute a majority of the board
18 and who shall be business leaders in the unified
19 service delivery area;

20 (B)(i) representatives of State and local
21 organized labor organizations, who shall be se-
22 lected from among individuals nominated by
23 recognized State labor federations; and

24 (ii) representatives of community-based or-
25 ganizations, who shall be selected from among

1 those individuals nominated by officers of such
2 organizations;

3 (C) representatives of educational institu-
4 tions;

5 (D) community leaders, such as leaders
6 of—

7 (i) economic development agencies;

8 (ii) human service agencies and insti-
9 tutions;

10 (iii) veterans' organizations; and

11 (iv) entities providing job training;

12 (E) representatives of nongovernmental or-
13 ganizations that have a history of successfully
14 protecting the rights of individuals with disabil-
15 ities or older persons; and

16 (F) a local elected official, who shall be a
17 nonvoting member.

18 (2) SPECIAL RULE.—The representatives de-
19 scribed in paragraph (1)(B) shall comprise not less
20 than 33 percent of the membership of the Board.

21 (d) NOMINATIONS.—

22 (1) BUSINESS AND INDUSTRY REPRESENTA-
23 TIVES.—

24 (A) IN GENERAL.—The representatives of
25 business and industry described in subsection

1 (c)(1) shall be selected by local elected officials
2 from among individuals nominated by general
3 purpose business organizations after consulta-
4 tion with, and receiving recommendations from,
5 other business organizations in the unified serv-
6 ice delivery area.

7 (B) DEFINITION.—For purposes of this
8 paragraph, the term “general purpose business
9 organization” means an organization that ad-
10 mits to membership any for-profit business op-
11 erating within the unified service delivery area.

12 (2) LABOR REPRESENTATIVES.—The represent-
13 atives of organized labor described in subsection
14 (c)(1)(B)(i) shall be selected from among individuals
15 recommended by recognized State and local labor
16 federations.

17 (3) OTHER MEMBERS.—The members of the
18 workforce development board described in subpara-
19 graphs (C), (D), and (E) of subsection (c)(1) shall
20 be selected by chief local elected officials in accord-
21 ance with subsection (e) from individuals rec-
22 ommended by interested organizations.

23 (4) EXPERTISE.—The State Council and Gov-
24 ernor of each State shall ensure that the workforce
25 development board and the staff of the State Council

1 have sufficient expertise to effectively carry out the
2 duties and functions of existing local boards de-
3 scribed under the laws relating to the applicable pro-
4 gram.

5 (e) APPOINTMENT PROCESS.—In the case of a uni-
6 fied service delivery area—

7 (1) in which there is 1 unit of general local gov-
8 ernment, the chief elected official of such unit shall
9 determine the number of members to serve on the
10 workforce development board and appoint the mem-
11 bers to such board from the individuals nominated
12 or recommended under subsection (d); and

13 (2) in which there are 2 or more units of gen-
14 eral local government, the chief elected officials of
15 such units shall determine the number of members
16 to serve on the workforce development board and ap-
17 point the members to such board from the individ-
18 uals nominated or recommended under subsection
19 (d), in accordance with an agreement entered into by
20 such units of general local government or, in the ab-
21 sence of such an agreement, by the Governor of the
22 State in which the unified service delivery area is lo-
23 cated.

24 (f) TERMS.—Each workforce development board shall
25 establish, in its bylaws, terms to be served by its members,

1 who may serve until the successors of such members are
2 appointed.

3 (g) VACANCIES.—Any vacancy on a workforce devel-
4 opment board shall be filled in the same manner as the
5 original appointment was made.

6 (h) REMOVAL FOR CAUSE.—Any member of a
7 workforce development board may be removed for cause
8 in accordance with procedures established by the
9 workforce development board.

10 (i) CHAIRPERSON.—Each workforce development
11 board shall select a chairperson, by a majority vote of the
12 members of the board, from among the members of the
13 workforce development board who are from business or in-
14 dustry. The term of the chairperson shall be determined
15 by the board.

16 (j) DUTIES.—Each workforce development board
17 shall—

18 (1) prepare a workforce development board pol-
19 icy blueprint in accordance with section 442;

20 (2) issue an annual unified service delivery area
21 report card in accordance with section 443;

22 (3) review and comment on the local plans for
23 all programs included in the integrated workforce
24 development system of the State and operating with-
25 in the unified service delivery area, prior to the sub-

1 mission of such plans to the appropriate State Coun-
2 cil, or the relevant Federal agency, if no State ap-
3 proval is required;

4 (4) oversee the operations of the one-stop career
5 center established in the unified service delivery area
6 under section 451, including the responsibility to—

7 (A) designate one-stop career center opera-
8 tors within the unified service delivery area con-
9 sistent with selection criteria specified in section
10 434(a)(11);

11 (B) develop and approve the budgets and
12 annual operating plans of the one-stop career
13 centers;

14 (C) establish annual performance stand-
15 ards, customer service quality criteria, and out-
16 come measures for the one-stop career centers,
17 consistent with measures developed pursuant to
18 section 440;

19 (D) assess the results of programs and
20 services;

21 (E) ensure that services and skills provided
22 through the centers are of high quality and are
23 relevant to labor market demands; and

1 (F) determine priorities for client services
2 from Federal funding sources in the system;
3 and

4 (5) develop a strategy to disseminate consumer
5 reports produced under section 435 to workers, job-
6 seekers, and employers, and other individuals in the
7 unified service delivery area.

8 (k) ADMINISTRATION.—

9 (1) IN GENERAL.—Each local workforce devel-
10 opment board shall have the authority to receive and
11 disburse funds made available for carrying out the
12 provisions of this title and shall employ its own
13 staff, independent of local programs and service pro-
14 viders.

15 (2) FUNDING.—Each workforce development
16 board shall receive a portion of its funding from the
17 implementation grant of the State, with additional
18 funds made available from participating programs.

19 (l) CONFLICT OF INTEREST.—No member of a
20 workforce development board shall cast a vote on the pro-
21 vision of services by that member (or any organization
22 which that member directly represents) or vote on any
23 matter that would provide direct financial benefit to such
24 member.

1 **SEC. 442. WORKFORCE DEVELOPMENT BOARD POLICY**
2 **BLUEPRINT.**

3 (a) **IN GENERAL.**—Each workforce development
4 board shall prepare and submit to the State Council a bi-
5 ennial report, to be known as the workforce development
6 board policy blueprint, except that in States with a single
7 unified service delivery area, the additional elements re-
8 quired in the regional blueprint shall be incorporated into
9 the State Blueprint.

10 (b) **REQUIREMENTS.**—The workforce development
11 board policy blueprint shall—

12 (1) include a list of the key industries and in-
13 dustry clusters of small to mid-size firms that are
14 most critical to the current and future economic
15 competitiveness of unified service delivery areas;

16 (2) identify the workforce development needs of
17 the critical industries and industry clusters;

18 (3) summarize the capacity of local education
19 and training providers to respond to the workforce
20 development needs;

21 (4) indicate how the local workforce develop-
22 ment programs intend to strategically deploy re-
23 sources available from implementation grants and
24 existing programs operating in the unified service
25 delivery area to better meet the workforce develop-
26 ment needs of critical industries and industry clus-

1 ters in the unified service delivery area and enhance
2 program performance;

3 (5) include a plan to develop one-stop career
4 centers, as described in section 451, including an es-
5 timate of the costs in personnel and other resources
6 to develop a network adequate to provide universal
7 access to such centers in the local labor market;

8 (6) describe how services will be maintained to
9 all groups served by the participating programs in
10 accordance with their legislative intent, including
11 hard-to-serve populations;

12 (7) identify actions for building the capacity of
13 the workforce development system in the unified
14 service delivery area; and

15 (8) report on the level and recent changes in
16 earned income of workers in the local labor market,
17 in relation to State and national levels, by occupa-
18 tion and industry.

19 (c) USE IN OTHER REPORTS.—The workforce devel-
20 opment board policy blueprint may be utilized in lieu of
21 local planning reports required by any other Federal law
22 for any program included in the integrated workforce de-
23 velopment system, subject to the approval of the State
24 Council.

1 **SEC. 443. REPORT CARD.**

2 (a) IN GENERAL.—Each workforce development
3 board shall annually prepare and submit to the State
4 Council a unified service delivery area report card in ac-
5 cordance with this section. The report card shall describe
6 the performance of all workforce development programs
7 and service providers, including the one-stop career cen-
8 ters, operating in the area that is included in the inte-
9 grated workforce development system. In States with a
10 single unified service delivery area, the State Council shall
11 prepare the report card.

12 (b) REQUIREMENTS.—The report card shall—

13 (1) report on the relationship between services
14 provided and the local labor market needs as de-
15 scribed in the workforce development board policy
16 blueprint;

17 (2) using the quality assurance system informa-
18 tion established pursuant to section 435, include an
19 analysis of employment-related, and other outcomes
20 achieved by the programs and service providers oper-
21 ating in the area;

22 (3) identify the performance of the one-stop ca-
23 reer centers;

24 (4) detail the economic and demographic char-
25 acteristics of individuals served compared to the
26 characteristics of the general population of the uni-

1 unified service delivery area, and the jobseekers, work-
2 ers, and businesses of such area; and

3 (5) assess the level of services to hard-to-serve
4 populations in relation to the number served and the
5 outcomes for those during the preceding 3 years.

6 **SEC. 444. CAPACITY BUILDING.**

7 (a) IN GENERAL.—Each workforce development
8 board shall identify actions to be taken for building the
9 capacity of the workforce development system in such uni-
10 fied service delivery, except that in States with a single
11 unified delivery area, the State Council shall be respon-
12 sible for carrying out the actions under this section.

13 (b) FUNDING.—The State Council shall make funds
14 available to each workforce development board for capacity
15 building activities from funds made available under section
16 423(b) and any other funds within the integrated
17 workforce development budget of the State. For the activi-
18 ties described in subsection (c), the workforce development
19 board may also submit requests to the State Council to
20 redirect a portion of training and technical assistance re-
21 sources available from any of the workforce development
22 programs included in the integrated system within the uni-
23 fied service development area of the workforce develop-
24 ment board.

1 (c) TYPES OF ACTIVITIES.—Capacity building activi-
2 ties may include—

3 (1) training of workforce development board
4 members;

5 (2) staff training;

6 (3) technical assistance regarding managing
7 systemic change;

8 (4) customer service training;

9 (5) organization of a peer-to-peer network for
10 training, technical assistance, and information shar-
11 ing;

12 (6) organizing a best practices database cover-
13 ing the various system activities; and

14 (7) training for local staff on the principles of
15 quality management and decentralized decisionmak-
16 ing.

17 **Subtitle D—One-Stop Career** 18 **Centers**

19 **SEC. 451. CAREER CENTERS.**

20 (a) ESTABLISHMENT.—Each workforce development
21 board receiving funds under an implementation grant
22 awarded under section 423(b) shall develop and implement
23 a network of one-stop career centers in the unified service
24 delivery area of the workforce development board. The
25 one-stop career centers shall provide jobseekers, workers,

1 and businesses universal access to a comprehensive array
2 of quality employment, education, and training services.

3 (b) PROCEDURES.—Each workforce development
4 board shall, in conjunction with a local elected official or
5 officials in the unified service delivery area, and consistent
6 with criteria specified in section 434(a)(11), select a meth-
7 od for establishing one-stop career centers.

8 (c) ELIGIBLE ENTITIES.—Each entity within the uni-
9 fied service delivery area that performs the functions spec-
10 ified in subsections (e) and (f) for any of the programs
11 in the integrated workforce development system shall be
12 eligible to be selected as a one-stop career center.

13 (d) PERIOD OF SELECTION.—Each one-stop career
14 center operator shall be designated for 2-year periods.
15 Every 2 years, one-stop career center designations shall
16 be reevaluated by the workforce development board based
17 on performance indicated in the unified service delivery
18 area report card and other criteria established by the
19 workforce development board and the State Council.

20 (e) BROKERAGE SERVICES TO INDIVIDUALS.—Each
21 one-stop career center shall make available to the public,
22 at no cost—

23 (1) outreach to make individuals aware of, and
24 encourage the use of, services available from

1 workforce development programs operating in the
2 unified service delivery area;

3 (2) intake and orientation to the information
4 and services available through the one-stop career
5 center;

6 (3) preliminary assessments of the skill levels
7 (including appropriate testing) and service needs of
8 individuals, including—

9 (A) basic skills;

10 (B) occupational skills;

11 (C) prior work experience;

12 (D) employability;

13 (E) interests;

14 (F) aptitude; and

15 (G) supportive service needs;

16 (4) job search assistance, including resume and
17 interview preparation and workshops;

18 (5) information relating to the supply, demand,
19 price, and quality of job training services available
20 in each unified service delivery area in the State;
21 and

22 (6) referral to appropriate job training, employ-
23 ment, and employment-related education or support
24 services in the unified service delivery area.

1 (f) BROKERAGE SERVICES TO EMPLOYERS.—Each
2 one-stop career center shall provide to each requesting em-
3 ployer—

4 (1) information relating to supply, demand,
5 price, and quality of job training services available
6 in each unified service delivery area in the State,
7 consistent with the consumer reports described in
8 section 435;

9 (2) customized screening and referral of individ-
10 uals for employment;

11 (3) customized assessment of skills of the cur-
12 rent workers of the employer;

13 (4) an analysis of the skill needs of the em-
14 ployer; and

15 (5) other specialized employment and training
16 services.

17 (g) CONFLICTS.—Any entity that performs one-stop
18 career center functions shall be prohibited from making
19 an education and training referral to itself.

20 (h) FEES.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph (2), each one-stop career center may charge
23 fees for the services described in subsection (f), sub-
24 ject to approval by the workforce development board.

1 (2) LIMITATION.—No fee may be charged for
2 any service that an individual would be eligible to re-
3 ceive at no cost under a participating program.

4 (3) INCOME.—Income received by a one-stop
5 career center from the fees collected shall be used by
6 the workforce development board to expand or en-
7 hance one-stop career centers available within the
8 unified service delivery area.

9 (i) CORE DATA ELEMENTS AND COMMON DEFINI-
10 TIONS.—Each one-stop career center shall adopt the core
11 data elements and common definitions as specified in sec-
12 tion 424(b), and updated by the National Board.

13 (j) OPERATING AGREEMENTS.—

14 (1) IN GENERAL.—Each one-stop career center
15 operator shall enter into a written agreement with
16 the workforce development board concerning the op-
17 eration of the center.

18 (2) APPROVAL.—The agreement shall—

19 (A) be subject to the approval of—

20 (i) the local chief elected official or of-
21 ficials;

22 (ii) the State Council; and

23 (iii) the Governor of the State in
24 which the center is located; and

25 (B) address—

- 1 (i) the services to be provided;
- 2 (ii) the role that local officials of the
3 United States Employment Service will
4 play in the operation of one-stop career
5 centers in the unified service delivery area;
- 6 (iii) the financial and nonfinancial
7 contributions to be made to the centers
8 from funds made available pursuant to sec-
9 tion 423(b) and all participating workforce
10 development programs;
- 11 (iv) methods of administration;
- 12 (v) procedures to be used to ensure
13 compliance with statutory requirements of
14 the programs in the integrated workforce
15 development system; and
- 16 (vi) other elements, as required by the
17 workforce development board or the State
18 Council under section 434(a).

19 **TITLE V—CORPORATE** 20 **ACCOUNTABILITY**

21 **SEC. 501. SHORT TITLE.**

22 This title may be cited as the “Corporate Account-
23 ability Act of 1996”.

24 **SEC. 502. FINDINGS.**

25 The Congress makes the following findings:

1 (1) Every year the United States Government
2 buys more than \$200,000,000,000 in goods and
3 services, ranging from weapons systems to cleaning
4 supplies, making it the largest customer in the
5 American marketplace.

6 (2) Harnessing the immense purchasing power
7 that the United States Government wields through
8 its procurement practices to reward good corporate
9 citizenship and to discourage corporate irresponsibil-
10 ity would serve as a powerful inducement for greater
11 corporate accountability at home and abroad.

12 **SEC. 503. CORPORATE CODE OF CONDUCT.**

13 It is the sense of Congress that any entity entering
14 into a contract with the Federal Government for goods
15 or services should do the following:

16 (1) Provide a safe and healthy workplace.

17 (2) Ensure that the entity applies fair employ-
18 ment practices, including (A) avoidance of use of
19 child and forced labor, (B) avoidance of discrimina-
20 tion based upon race, gender, national origin, or reli-
21 gious beliefs, (C) respect for freedom of association
22 and the right to organize and bargain collectively,
23 and (D) payment of a living wage to all workers.

24 (3) Uphold responsible environmental protection
25 and environmental practices.

1 (4) Comply with United States and local laws
2 (whichever are more stringent) promoting good busi-
3 ness practices, including laws prohibiting illicit pay-
4 ments and ensuring fair competition.

5 (5) Maintain, through leadership at all levels, a
6 corporate culture that (A) respects free expression
7 consistent with legitimate business concerns, and
8 does not condone political coercion in the workplace,
9 (B) encourages good corporate citizenship and
10 makes a positive contribution to the communities in
11 which the contractor operates, and (C) recognizes,
12 values, and exemplifies ethical conduct by all em-
13 ployees.

14 (6) Require similar behavior by partners, sup-
15 pliers, and subcontractors under terms of contracts.

16 **SEC. 504. PREFERENCE FOR ENTITIES ADOPTING AND EN-**
17 **FORCING CORPORATE CODE OF CONDUCT.**

18 For each fiscal year it shall be a goal of the head
19 of each executive agency to award at least 15 percent (in
20 terms of contract price) of the contracts entered into by
21 the head of the executive agency in that fiscal year to enti-
22 ties that have been certified by the head of that executive
23 agency or the head of any other executive agency under
24 section 505 as entities that have adopted and are enforce-
25 ing the corporate code of conduct.

1 **SEC. 505. CERTIFICATION OF COMPLIANCE.**

2 (a) DETERMINATION.—Upon the request of an
3 offeror for a contract to be entered into by the head of
4 an executive agency, the head of the executive agency shall
5 determine whether the offeror is complying with, and
6 agrees to continue to comply with, the corporate code of
7 conduct.

8 (b) CERTIFICATION.—Upon determining that an
9 offeror is complying with, and agrees to continue to com-
10 ply with, the corporate code of conduct, the head of an
11 executive agency shall transmit to the Administrator of
12 General Services a written certification that the head of
13 the executive agency has determined that the offeror has
14 adopted, and is enforcing, the corporate code of conduct.

15 (c) DECERTIFICATION.—The head of any executive
16 agency may revoke a certification of an entity by the head
17 of any executive agency under subsection (b) upon a deter-
18 mination made under section 506 or otherwise that, after
19 the certification, the entity ceased to comply with the cor-
20 porate code of conduct. The head of an agency revoking
21 a certification shall notify the Administrator of General
22 Services of the revocation.

23 (d) DIRECTORY OF CERTIFIED AND DECERTIFIED
24 ENTITIES.—The Administrator of General Services shall
25 maintain a directory of entities that have been certified
26 or decertified under this section. The directory shall indi-

1 cate, for each such entity, whether the entity has a cer-
2 tified status or a decertified status. The Administrator
3 shall make the information in the directory available to
4 the head of an executive agency as necessary for the head
5 of the executive agency to carry out responsibilities under
6 this title.

7 **SEC. 506. ANNUAL COMPLIANCE REVIEW AND PETITION**
8 **PROCESS.**

9 (a) ANNUAL COMPLIANCE REVIEW.—For each entity
10 that receives a preference under section 504 in the award
11 of a contract to the entity by an executive agency, the head
12 of the executive agency shall conduct periodic reviews of
13 the entity, as appropriate, to determine whether the entity
14 is in compliance with the corporate code of conduct.

15 (b) PETITION.—

16 (1) IN GENERAL.—In the case of an entity that
17 is treated as being eligible for a preference under
18 section 504 in the award of a contract by an execu-
19 tive agency, an interested party may petition the
20 head of the executive agency to carry out a review
21 of the compliance of that entity with the corporate
22 code of conduct. The petition shall specify the al-
23 leged violations of the corporate code of conduct to
24 be reviewed and be accompanied by detailed docu-
25 mentation supporting the allegations.

1 (2) RESPONSE BY EXECUTIVE AGENCY.—(A)

2 Upon receipt of a petition, the head of the executive
3 agency shall determine whether to dismiss the peti-
4 tion or to accept the petition for investigation and
5 public hearing.

6 (B) The head of the executive agency may dis-
7 miss a petition if the head of the executive agency
8 determines that the petition is frivolous or reason-
9 ably believes, on the basis of the evidence presented,
10 that the violations alleged in the petition did not
11 occur.

12 (C) Within 180 days after the head of the execu-
13 tive agency determines to accept a petition, the
14 head of the executive agency shall investigate the al-
15 legations set forth in the petition, hold a public
16 hearing, and make a final decision on the petition.

17 (D) If in the final decision on a petition, the
18 head of the executive agency finds that a contractor
19 has violated the corporate code of conduct, the head
20 of the executive agency, shall recommend remedies
21 to the contractor to be implemented within 180
22 days. If such remedies or appropriate alternatives
23 approved by the head of the executive agency are not
24 implemented within that 180-day period, the head of
25 the executive agency may suspend or terminate the

1 contract as the head of the executive agency consid-
2 ers appropriate.

3 (3) INTERESTED PARTY.—For purposes of this
4 subsection, an interested party is any person inter-
5 ested in the implementation of the corporate code of
6 conduct whose direct economic interest may be af-
7 fected by the award of the contract to the contrac-
8 tor.

9 (c) ENFORCEMENT.—The head of an executive agen-
10 cy that awarded a contract to an entity on a preferential
11 basis afforded under section 504 may suspend or termi-
12 nate the contract at any time that the head of executive
13 agency determines, on the basis of information available
14 to that official under subsection (a) or (b), that the con-
15 tractor is not in compliance with the corporate code of con-
16 duct.

17 **SEC. 507. REGULATIONS.**

18 The Federal Acquisition Regulatory Council shall
19 amend the Federal Acquisition Regulation to provide for
20 the implementation of the provisions of this title.

21 **SEC. 508. DEFINITIONS.**

22 In this title:

23 (1) The term “executive agency” has the mean-
24 ing given such term in section 4 of the Office of
25 Federal Procurement Policy Act (41 U.S.C. 403).

1 (2) The term “corporate code of conduct”
2 means the corporate code of conduct set forth in sec-
3 tion 503.

4 **TITLE VI—HEALTH INSURANCE** 5 **REFORM**

6 **SEC. 601. SHORT TITLE.**

7 This title may be cited as the “Health Insurance Re-
8 form Act of 1996”.

9 **SEC. 602. DEFINITIONS.**

10 As used in this title:

11 (1) **BENEFICIARY.**—The term “beneficiary” has
12 the meaning given such term under section 3(8) of
13 the Employee Retirement Income Security Act of
14 1974 (29 U.S.C. 1002(8)).

15 (2) **EMPLOYEE.**—The term “employee” has the
16 meaning given such term under section 3(6) of the
17 Employee Retirement Income Security Act of 1974
18 (29 U.S.C. 1002(6)).

19 (3) **EMPLOYER.**—The term “employer” has the
20 meaning given such term under section 3(5) of the
21 Employee Retirement Income Security Act of 1974
22 (29 U.S.C. 1002(5)), except that such term shall in-
23 clude only employers of two or more employees.

24 (4) **EMPLOYEE HEALTH BENEFIT PLAN.**—

1 (A) IN GENERAL.—The term “employee
2 health benefit plan” means any employee wel-
3 fare benefit plan, governmental plan, or church
4 plan (as defined under paragraphs (1), (32),
5 and (33) of section 3 of the Employee Retire-
6 ment Income Security Act of 1974 (29 U.S.C.
7 1002 (1), (32), and (33))) that provides or pays
8 for health benefits (such as provider and hos-
9 pital benefits) for participants and beneficiaries
10 whether—

11 (i) directly;

12 (ii) through a group health plan of-
13 fered by a health plan issuer as defined in
14 paragraph (8); or

15 (iii) otherwise.

16 (B) RULE OF CONSTRUCTION.—An em-
17 ployee health benefit plan shall not be con-
18 strued to be a group health plan, an individual
19 health plan, or a health plan issuer.

20 (C) ARRANGEMENTS NOT INCLUDED.—
21 Such term does not include the following, or
22 any combination thereof:

23 (i) Coverage only for accident, or dis-
24 ability income insurance, or any combina-
25 tion thereof.

- 1 (ii) Medicare supplemental health in-
2 surance (as defined under section
3 1882(g)(1) of the Social Security Act).
- 4 (iii) Coverage issued as a supplement
5 to liability insurance.
- 6 (iv) Liability insurance, including gen-
7 eral liability insurance and automobile li-
8 ability insurance.
- 9 (v) Workers compensation or similar
10 insurance.
- 11 (vi) Automobile medical payment in-
12 surance.
- 13 (vii) Coverage for a specified disease
14 or illness.
- 15 (viii) Hospital or fixed indemnity in-
16 surance.
- 17 (ix) Short-term limited duration in-
18 surance.
- 19 (x) Credit-only, dental-only, or vision-
20 only insurance.
- 21 (xi) A health insurance policy provid-
22 ing benefits only for long-term care, nurs-
23 ing home care, home health care, commu-
24 nity-based care, or any combination there-
25 of.

1 (5) FAMILY.—

2 (A) IN GENERAL.—The term “family”
3 means an individual, the individual’s spouse,
4 and the child of the individual (if any).

5 (B) CHILD.—For purposes of subpara-
6 graph (A), the term “child” means any individ-
7 ual who is a child within the meaning of section
8 151(c)(3) of the Internal Revenue Code of
9 1986.

10 (6) GROUP HEALTH PLAN.—

11 (A) IN GENERAL.—The term “group
12 health plan” means any contract, policy, certifi-
13 cate or other arrangement offered by a health
14 plan issuer to a group purchaser that provides
15 or pays for health benefits (such as provider
16 and hospital benefits) in connection with an em-
17 ployee health benefit plan.

18 (B) ARRANGEMENTS NOT INCLUDED.—
19 Such term does not include the following, or
20 any combination thereof:

21 (i) Coverage only for accident, or dis-
22 ability income insurance, or any combina-
23 tion thereof.

- 1 (ii) Medicare supplemental health in-
2 surance (as defined under section
3 1882(g)(1) of the Social Security Act).
- 4 (iii) Coverage issued as a supplement
5 to liability insurance.
- 6 (iv) Liability insurance, including gen-
7 eral liability insurance and automobile li-
8 ability insurance.
- 9 (v) Workers compensation or similar
10 insurance.
- 11 (vi) Automobile medical payment in-
12 surance.
- 13 (vii) Coverage for a specified disease
14 or illness.
- 15 (viii) Hospital or fixed indemnity in-
16 surance.
- 17 (ix) Short-term limited duration in-
18 surance.
- 19 (x) Credit-only, dental-only, or vision-
20 only insurance.
- 21 (xi) A health insurance policy provid-
22 ing benefits only for long-term care, nurs-
23 ing home care, home health care, commu-
24 nity-based care, or any combination there-
25 of.

1 (7) GROUP PURCHASER.—The term “group
2 purchaser” means any person (as defined under
3 paragraph (9) of section 3 of the Employee Retirement
4 Income Security Act of 1974 (29 U.S.C.
5 1002(9)) or entity that purchases or pays for health
6 benefits (such as provider or hospital benefits) on
7 behalf of two or more participants or beneficiaries in
8 connection with an employee health benefit plan. A
9 health plan purchasing cooperative established under
10 section 641 shall not be considered to be a group
11 purchaser.

12 (8) HEALTH PLAN ISSUER.—The term “health
13 plan issuer” means any entity that is licensed (prior
14 to or after the date of enactment of this Act) by a
15 State to offer a group health plan or an individual
16 health plan.

17 (9) PARTICIPANT.—The term “participant” has
18 the meaning given such term under section 3(7) of
19 the Employee Retirement Income Security Act of
20 1974 (29 U.S.C. 1002(7)).

21 (10) PLAN SPONSOR.—The term “plan spon-
22 sor” has the meaning given such term under section
23 3(16)(B) of the Employee Retirement Income Secu-
24 rity Act of 1974 (29 U.S.C. 1002(16)(B)).

1 (11) SECRETARY.—The term “Secretary”, un-
 2 less specifically provided otherwise, means the Sec-
 3 retary of Labor.

4 (12) STATE.—The term “State” means each of
 5 the several States, the District of Columbia, Puerto
 6 Rico, the United States Virgin Islands, Guam,
 7 American Samoa, and the Commonwealth of the
 8 Northern Mariana Islands.

9 **Subtitle A—Health Care Access,**
 10 **Portability, and Renewability**
 11 **CHAPTER 1—GROUP MARKET RULES**

12 **SEC. 611. GUARANTEED AVAILABILITY OF HEALTH COV-**
 13 **ERAGE.**

14 (a) IN GENERAL.—

15 (1) NONDISCRIMINATION.—Except as provided
 16 in subsection (b), section 612 and section 613—

17 (A) a health plan issuer offering a group
 18 health plan may not decline to offer whole
 19 group coverage to a group purchaser desiring to
 20 purchase such coverage; and

21 (B) an employee health benefit plan or a
 22 health plan issuer offering a group health plan
 23 may establish eligibility, continuation of eligi-
 24 bility, enrollment, or premium contribution re-
 25 quirements under the terms of such plan, ex-

1 cept that such requirements shall not be based
2 on health status, medical condition, claims ex-
3 perience, receipt of health care, medical history,
4 evidence of insurability (including conditions
5 arising out of acts of domestic violence), genetic
6 information, or disability.

7 (2) HEALTH PROMOTION AND DISEASE PRE-
8 VENTION.—Nothing in this subsection shall prevent
9 an employee health benefit plan or a health plan is-
10 suer from establishing premium discounts or modify-
11 ing otherwise applicable copayments or deductibles
12 in return for adherence to programs of health pro-
13 motion and disease prevention.

14 (b) APPLICATION OF CAPACITY LIMITS.—

15 (1) IN GENERAL.—Subject to paragraph (2), a
16 health plan issuer offering a group health plan may
17 cease offering coverage to group purchasers under
18 the plan if—

19 (A) the health plan issuer ceases to offer
20 coverage to any additional group purchasers;
21 and

22 (B) the health plan issuer can demonstrate
23 to the applicable certifying authority (as defined
24 in section 652(d)), if required, that its financial
25 or provider capacity to serve previously covered

1 participants and beneficiaries (and additional
2 participants and beneficiaries who will be ex-
3 pected to enroll because of their affiliation with
4 a group purchaser or such previously covered
5 participants or beneficiaries) will be impaired if
6 the health plan issuer is required to offer cov-
7 erage to additional group purchasers.

8 Such health plan issuer shall be prohibited from of-
9 fering coverage after a cessation in offering coverage
10 under this paragraph for a 6-month period or until
11 the health plan issuer can demonstrate to the appli-
12 cable certifying authority (as defined in section
13 652(d)) that the health plan issuer has adequate ca-
14 pacity, whichever is later.

15 (2) FIRST-COME-FIRST-SERVED.—A health plan
16 issuer offering a group health plan is only eligible to
17 exercise the limitations provided for in paragraph
18 (1) if the health plan issuer offers coverage to group
19 purchasers under such plan on a first-come-first-
20 served basis or other basis established by a State to
21 ensure a fair opportunity to enroll in the plan and
22 avoid risk selection.

23 (c) CONSTRUCTION.—

24 (1) MARKETING OF GROUP HEALTH PLANS.—

25 Nothing in this section shall be construed to prevent

1 a State from requiring health plan issuers offering
 2 group health plans to actively market such plans.

3 (2) INVOLUNTARY OFFERING OF GROUP
 4 HEALTH PLANS.—Nothing in this section shall be
 5 construed to require a health plan issuer to involun-
 6 tarily offer group health plans in a particular mar-
 7 ket. For the purposes of this paragraph, the term
 8 “market” means either the large employer market or
 9 the small employer market (as defined under appli-
 10 cable State law, or if not so defined, an employer
 11 with not more than 50 employees).

12 **SEC. 612. GUARANTEED RENEWABILITY OF HEALTH COV-**
 13 **ERAGE.**

14 (a) IN GENERAL.—

15 (1) GROUP PURCHASER.—Subject to sub-
 16 sections (b) and (c), a group health plan shall be re-
 17 newed or continued in force by a health plan issuer
 18 at the option of the group purchaser, except that the
 19 requirement of this subparagraph shall not apply in
 20 the case of—

21 (A) the nonpayment of premiums or con-
 22 tributions by the group purchaser in accordance
 23 with the terms of the group health plan or
 24 where the health plan issuer has not received
 25 timely premium payments;

1 (B) fraud or misrepresentation of material
2 fact on the part of the group purchaser;

3 (C) the termination of the group health
4 plan in accordance with subsection (b); or

5 (D) the failure of the group purchaser to
6 meet contribution or participation requirements
7 in accordance with paragraph (3).

8 (2) PARTICIPANT.—Subject to subsections (b)
9 and (c), coverage under an employee health benefit
10 plan or group health plan shall be renewed or con-
11 tinued in force, if the group purchaser elects to con-
12 tinue to provide coverage under such plan, at the op-
13 tion of the participant (or beneficiary where such
14 right exists under the terms of the plan or under ap-
15 plicable law), except that the requirement of this
16 paragraph shall not apply in the case of—

17 (A) the nonpayment of premiums or con-
18 tributions by the participant or beneficiary in
19 accordance with the terms of the employee
20 health benefit plan or group health plan or
21 where such plan has not received timely pre-
22 mium payments;

23 (B) fraud or misrepresentation of material
24 fact on the part of the participant or bene-

1 beneficiary relating to an application for coverage or
2 claim for benefits;

3 (C) the termination of the employee health
4 benefit plan or group health plan;

5 (D) loss of eligibility for continuation cov-
6 erage as described in part 6 of subtitle B of
7 title I of the Employee Retirement Income Se-
8 curity Act of 1974 (29 U.S.C. 1161 et seq.); or

9 (E) failure of a participant or beneficiary
10 to meet requirements for eligibility for coverage
11 under an employee health benefit plan or group
12 health plan that are not prohibited by this title.

13 (3) RULES OF CONSTRUCTION.—Nothing in
14 this subsection, nor in section 611(a), shall be con-
15 strued to—

16 (A) preclude a health plan issuer from es-
17 tablishing employer contribution rules or group
18 participation rules for group health plans as al-
19 lowed under applicable State law;

20 (B) preclude a plan defined in section
21 3(37) of the Employee Retirement Income Se-
22 curity Act of 1974 (29 U.S.C. 1102(37)) from
23 establishing employer contribution rules or
24 group participation rules; or

1 (C) permit individuals to decline coverage
2 under an employee health benefit plan if such
3 right is not otherwise available under such plan.

4 (b) TERMINATION OF GROUP HEALTH PLANS.—

5 (1) PARTICULAR TYPE OF GROUP HEALTH
6 PLAN NOT OFFERED.—In any case in which a health
7 plan issuer decides to discontinue offering a particu-
8 lar type of group health plan, a group health plan
9 of such type may be discontinued by the health plan
10 issuer only if—

11 (A) the health plan issuer provides notice
12 to each group purchaser covered under a group
13 health plan of this type (and participants and
14 beneficiaries covered under such group health
15 plan) of such discontinuation at least 90 days
16 prior to the date of the discontinuation of such
17 plan;

18 (B) the health plan issuer offers to each
19 group purchaser covered under a group health
20 plan of this type, the option to purchase any
21 other group health plan currently being offered
22 by the health plan issuer; and

23 (C) in exercising the option to discontinue
24 a group health plan of this type and in offering
25 one or more replacement plans, the health plan

1 issuer acts uniformly without regard to the
2 health status or insurability of participants or
3 beneficiaries covered under the group health
4 plan, or new participants or beneficiaries who
5 may become eligible for coverage under the
6 group health plan.

7 (2) DISCONTINUANCE OF ALL GROUP HEALTH
8 PLANS.—

9 (A) IN GENERAL.—In any case in which a
10 health plan issuer elects to discontinue offering
11 all group health plans in a State, a group
12 health plan may be discontinued by the health
13 plan issuer only if—

14 (i) the health plan issuer provides no-
15 tice to the applicable certifying authority
16 (as defined in section 652(d)) and to each
17 group purchaser (and participants and
18 beneficiaries covered under such group
19 health plan) of such discontinuation at
20 least 180 days prior to the date of the ex-
21 piration of such plan; and

22 (ii) all group health plans issued or
23 delivered for issuance in the State are dis-
24 continued and coverage under such plans is
25 not renewed.

1 (B) APPLICATION OF PROVISIONS.—The
2 provisions of this paragraph and paragraph (3)
3 may be applied separately by a health plan is-
4 suer—

5 (i) to all group health plans offered to
6 small employers (as defined under applica-
7 ble State law, or if not so defined, an em-
8 ployer with not more than 50 employees);
9 or

10 (ii) to all other group health plans of-
11 fered by the health plan issuer in the
12 State.

13 (3) PROHIBITION ON MARKET REENTRY.—In
14 the case of a discontinuation under paragraph (2),
15 the health plan issuer may not provide for the issu-
16 ance of any group health plan in the market sector
17 (as described in paragraph (2)(B)) in which issuance
18 of such group health plan was discontinued in the
19 State involved during the 5-year period beginning on
20 the date of the discontinuation of the last group
21 health plan not so renewed.

22 (c) TREATMENT OF NETWORK PLANS.—

23 (1) GEOGRAPHIC LIMITATIONS.—A network
24 plan (as defined in paragraph (2)) may deny contin-
25 ued participation under such plan to participants or

1 beneficiaries who neither live, reside, nor work in an
2 area in which such network plan is offered, but only
3 if such denial is applied uniformly, without regard to
4 health status or the insurability of particular partici-
5 pants or beneficiaries.

6 (2) NETWORK PLAN.—As used in paragraph
7 (1), the term “network plan” means an employee
8 health benefit plan or a group health plan that ar-
9 ranges for the financing and delivery of health care
10 services to participants or beneficiaries covered
11 under such plan, in whole or in part, through ar-
12 rangements with providers.

13 (d) COBRA COVERAGE.—Nothing in subsection
14 (a)(2)(E) or subsection (c) shall be construed to affect any
15 right to COBRA continuation coverage as described in
16 part 6 of subtitle B of title I of the Employee Retirement
17 Income Security Act of 1974 (29 U.S.C. 1161 et seq.).

18 **SEC. 613. PORTABILITY OF HEALTH COVERAGE AND LIM-**
19 **TATION ON PREEXISTING CONDITION EXCLU-**
20 **SIONS.**

21 (a) IN GENERAL.—An employee health benefit plan
22 or a health plan issuer offering a group health plan may
23 impose a limitation or exclusion of benefits relating to
24 treatment of a preexisting condition based on the fact that

1 the condition existed prior to the coverage of the partici-
2 pant or beneficiary under the plan only if—

3 (1) the limitation or exclusion extends for a pe-
4 riod of not more than 12 months after the date of
5 enrollment in the plan;

6 (2) the limitation or exclusion does not apply to
7 an individual who, within 30 days of the date of
8 birth or placement for adoption (as determined
9 under section 609(c)(3)(B) of the Employee Retire-
10 ment Income Security Act of 1974 (29 U.S.C.
11 1169(c)(3)(B)), was covered under the plan; and

12 (3) the limitation or exclusion does not apply to
13 a pregnancy.

14 (b) CREDITING OF PREVIOUS QUALIFYING COV-
15 ERAGE.—

16 (1) IN GENERAL.—Subject to paragraph (4), an
17 employee health benefit plan or a health plan issuer
18 offering a group health plan shall provide that if a
19 participant or beneficiary is in a period of previous
20 qualifying coverage as of the date of enrollment
21 under such plan, any period of exclusion or limita-
22 tion of coverage with respect to a preexisting condi-
23 tion shall be reduced by 1 month for each month in
24 which the participant or beneficiary was in the pe-
25 riod of previous qualifying coverage. With respect to

1 an individual described in subsection (a)(2) who
2 maintains continuous coverage, no limitation or ex-
3 clusion of benefits relating to treatment of a pre-
4 existing condition may be applied to a child within
5 the child's first 12 months of life or within 12
6 months after the placement of a child for adoption.

7 (2) DISCHARGE OF DUTY.—An employee health
8 benefit plan shall provide documentation of coverage
9 to participants and beneficiaries whose coverage is
10 terminated under the plan. Pursuant to regulations
11 promulgated by the Secretary, the duty of an em-
12 ployee health benefit plan to verify previous qualify-
13 ing coverage with respect to a participant or bene-
14 ficiary is effectively discharged when such employee
15 health benefit plan provides documentation to a par-
16 ticipant or beneficiary that includes the following in-
17 formation:

18 (A) the dates that the participant or bene-
19 ficiary was covered under the plan; and

20 (B) the benefits and cost-sharing arrange-
21 ment available to the participant or beneficiary
22 under such plan.

23 An employee health benefit plan shall retain the doc-
24 umentation provided to a participant or beneficiary
25 under subparagraphs (A) and (B) for at least the

1 12-month period following the date on which the
2 participant or beneficiary ceases to be covered under
3 the plan. Upon request, an employee health benefit
4 plan shall provide a second copy of such documenta-
5 tion to such participant or beneficiary within the 12-
6 month period following the date of such ineligibility.

7 (3) DEFINITIONS.—As used in this section:

8 (A) PREVIOUS QUALIFYING COVERAGE.—

9 The term “previous qualifying coverage” means
10 the period beginning on the date—

11 (i) a participant or beneficiary is en-
12 rolled under an employee health benefit
13 plan or a group health plan, and ending on
14 the date the participant or beneficiary is
15 not so enrolled; or

16 (ii) an individual is enrolled under an
17 individual health plan (as defined in sec-
18 tion 623) or under a public or private
19 health plan established under Federal or
20 State law, and ending on the date the indi-
21 vidual is not so enrolled;

22 for a continuous period of more than 30 days
23 (without regard to any waiting period).

24 (B) LIMITATION OR EXCLUSION OF BENE-
25 FITS RELATING TO TREATMENT OF A PRE-

1 EXISTING CONDITION.—The term “limitation or
2 exclusion of benefits relating to treatment of a
3 preexisting condition” means a limitation or ex-
4 clusion of benefits imposed on an individual
5 based on a preexisting condition of such individ-
6 ual.

7 (4) EFFECT OF PREVIOUS COVERAGE.—An em-
8 ployee health benefit plan or a health plan issuer of-
9 fering a group health plan may impose a limitation
10 or exclusion of benefits relating to the treatment of
11 a preexisting condition, subject to the limits in sub-
12 section (a)(1), only to the extent that such service
13 or benefit was not previously covered under the
14 group health plan, employee health benefit plan, or
15 individual health plan in which the participant or
16 beneficiary was enrolled immediately prior to enroll-
17 ment in the plan involved.

18 (c) LATE ENROLLEES.—Except as provided in sec-
19 tion 614, with respect to a participant or beneficiary en-
20 rolling in an employee health benefit plan or a group
21 health plan during a time that is other than the first op-
22 portunity to enroll during an enrollment period of at least
23 30 days, coverage with respect to benefits or services relat-
24 ing to the treatment of a preexisting condition in accord-
25 ance with subsections (a) and (b) may be excluded, except

1 the period of such exclusion may not exceed 18 months
2 beginning on the date of coverage under the plan.

3 (d) AFFILIATION PERIODS.—With respect to a par-
4 ticipant or beneficiary who would otherwise be eligible to
5 receive benefits under an employee health benefit plan or
6 a group health plan but for the operation of a preexisting
7 condition limitation or exclusion, if such plan does not uti-
8 lize a limitation or exclusion of benefits relating to the
9 treatment of a preexisting condition, such plan may im-
10 pose an affiliation period on such participant or bene-
11 ficiary not to exceed 60 days (or in the case of a late par-
12 ticipant or beneficiary described in subsection (c), 90
13 days) from the date on which the participant or bene-
14 ficiary would otherwise be eligible to receive benefits under
15 the plan. An employee health benefit plan or a health plan
16 issuer offering a group health plan may also use alter-
17 native methods to address adverse selection as approved
18 by the applicable certifying authority (as defined in section
19 652(d)). During such an affiliation period, the plan may
20 not be required to provide health care services or benefits
21 and no premium shall be charged to the participant or
22 beneficiary.

23 (e) PREEXISTING CONDITION.—For purposes of this
24 section, the term “preexisting condition” means a condi-
25 tion, regardless of the cause of the condition, for which

1 medical advice, diagnosis, care, or treatment was rec-
2 ommended or received within the 6-month period ending
3 on the day before the effective date of the coverage (with-
4 out regard to any waiting period).

5 (f) STATE FLEXIBILITY.—Nothing in this section
6 shall be construed to preempt State laws that —

7 (1) require health plan issuers to impose a limi-
8 tation or exclusion of benefits relating to the treat-
9 ment of a preexisting condition for periods that are
10 shorter than those provided for under this section;
11 or

12 (2) allow individuals, participants, and bene-
13 ficiaries to be considered to be in a period of pre-
14 vious qualifying coverage if such individual, partici-
15 pant, or beneficiary experiences a lapse in coverage
16 that is greater than the 30-day period provided for
17 under subsection (b)(3);

18 unless such laws are preempted by section 514 of the Em-
19 ployee Retirement Income Security Act of 1974 (29
20 U.S.C. 1144).

21 **SEC. 614. SPECIAL ENROLLMENT PERIODS.**

22 In the case of a participant, beneficiary or family
23 member who—

24 (1) through marriage, separation, divorce,
25 death, birth or placement of a child for adoption, ex-

1 experiences a change in family composition affecting
2 eligibility under a group health plan, individual
3 health plan, or employee health benefit plan;

4 (2) experiences a change in employment status,
5 as described in section 603(2) of the Employee Re-
6 tirement Income Security Act of 1974 (29 U.S.C.
7 1163(2)), that causes the loss of eligibility for cov-
8 erage, other than COBRA continuation coverage
9 under a group health plan, individual health plan, or
10 employee health benefit plan; or

11 (3) experiences a loss of eligibility under a
12 group health plan, individual health plan, or em-
13 ployee health benefit plan because of a change in the
14 employment status of a family member;

15 each employee health benefit plan and each group health
16 plan shall provide for a special enrollment period extend-
17 ing for a reasonable time after such event that would per-
18 mit the participant to change the individual or family basis
19 of coverage or to enroll in the plan if coverage would have
20 been available to such individual, participant, or bene-
21 ficiary but for failure to enroll during a previous enroll-
22 ment period. Such a special enrollment period shall ensure
23 that a child born or placed for adoption shall be deemed
24 to be covered under the plan as of the date of such birth
25 or placement for adoption if such child is enrolled within

1 30 days of the date of such birth or placement for adop-
2 tion.

3 **SEC. 615. DISCLOSURE OF INFORMATION.**

4 (a) DISCLOSURE OF INFORMATION BY HEALTH PLAN
5 ISSUERS.—

6 (1) IN GENERAL.—In connection with the offer-
7 ing of any group health plan to a small employer (as
8 defined under applicable State law, or if not so de-
9 fined, an employer with not more than 50 employ-
10 ees), a health plan issuer shall make a reasonable
11 disclosure to such employer, as part of its sollicita-
12 tion and sales materials, of—

13 (A) the provisions of such group health
14 plan concerning the health plan issuer's right to
15 change premium rates and the factors that may
16 affect changes in premium rates;

17 (B) the provisions of such group health
18 plan relating to renewability of coverage;

19 (C) the provisions of such group health
20 plan relating to any preexisting condition provi-
21 sion; and

22 (D) descriptive information about the ben-
23 efits and premiums available under all group
24 health plans for which the employer is qualified.

1 Information shall be provided to small employers
2 under this paragraph in a manner determined to be
3 understandable by the average small employer, and
4 shall be sufficiently accurate and comprehensive to
5 reasonably inform small employers, participants and
6 beneficiaries of their rights and obligations under
7 the group health plan.

8 (2) EXCEPTION.—With respect to the require-
9 ment of paragraph (1), any information that is pro-
10 prietary and trade secret information under applica-
11 ble law shall not be subject to the disclosure require-
12 ments of such paragraph.

13 (3) CONSTRUCTION.—Nothing in this sub-
14 section shall be construed to preempt State report-
15 ing and disclosure requirements to the extent that
16 such requirements are not preempted under section
17 514 of the Employee Retirement Income Security
18 Act of 1974 (29 U.S.C. 1144).

19 (b) DISCLOSURE OF INFORMATION TO PARTICIPANTS
20 AND BENEFICIARIES.—

21 (1) IN GENERAL.—Section 104(b)(1) of the
22 Employee Retirement Income Security Act of 1974
23 (29 U.S.C. 1024(b)(1)) is amended in the matter
24 following subparagraph (B)—

1 (A) by striking “102(a)(1),” and inserting
2 “102(a)(1) that is not a material reduction in
3 covered services or benefits provided,”; and

4 (B) by adding at the end thereof the fol-
5 lowing new sentences: “If there is a modifica-
6 tion or change described in section 102(a)(1)
7 that is a material reduction in covered services
8 or benefits provided, a summary description of
9 such modification or change shall be furnished
10 to participants not later than 60 days after the
11 date of the adoption of the modification or
12 change. In the alternative, the plan sponsors
13 may provide such description at regular inter-
14 vals of not more than 90 days. The Secretary
15 shall issue regulations within 180 days after the
16 date of enactment of the Health Insurance Re-
17 form Act of 1996, providing alternative mecha-
18 nisms to delivery by mail through which em-
19 ployee health benefit plans may notify partici-
20 pants of material reductions in covered services
21 or benefits.”.

22 (2) PLAN DESCRIPTION AND SUMMARY.—Sec-
23 tion 102(b) of the Employee Retirement Income Se-
24 curity Act of 1974 (29 U.S.C. 1022(b)) is amend-
25 ed—

1 (A) by inserting “including the office or
 2 title of the individual who is responsible for ap-
 3 proving or denying claims for coverage of bene-
 4 fits” after “type of administration of the plan”;

5 (B) by inserting “including the name of
 6 the organization responsible for financing
 7 claims” after “source of financing of the plan”;
 8 and

9 (C) by inserting “including the office, con-
 10 tact, or title of the individual at the Depart-
 11 ment of Labor through which participants may
 12 seek assistance or information regarding their
 13 rights under this Act and the Health Insurance
 14 Reform Act of 1996 with respect to health ben-
 15 efits that are not offered through a group
 16 health plan.” after “benefits under the plan”.

17 **CHAPTER 2—INDIVIDUAL MARKET RULES**

18 **SEC. 620. INDIVIDUAL HEALTH PLAN PORTABILITY.**

19 (a) **LIMITATION ON REQUIREMENTS.—**

20 (1) **IN GENERAL.—**With respect to an individ-
 21 ual desiring to enroll in an individual health plan, if
 22 such individual is in a period of previous qualifying
 23 coverage (as defined in section 613(b)(3)(A)(i))
 24 under one or more group health plans or employee
 25 health benefit plans that commenced 18 or more

1 months prior to the date on which such individual
2 desires to enroll in the individual plan, a health plan
3 issuer described in paragraph (3) may not decline
4 to offer coverage to such individual, impose a new
5 period of exclusion or limitation of coverage with re-
6 spect to a preexisting condition (as defined in sec-
7 tion 613(e)), or deny enrollment to such individual
8 based on the health status, medical condition, claims
9 experience, receipt of health care, medical history,
10 evidence of insurability, or disability of the individ-
11 ual, except as described in subsections (b) and (c).

12 (2) HEALTH PROMOTION AND DISEASE PRE-
13 VENTION.—Nothing in this subsection shall be con-
14 strued to prevent a health plan issuer offering an in-
15 dividual health plan from establishing premium dis-
16 counts or modifying otherwise applicable copayments
17 or deductibles in return for adherence to programs
18 of health promotion or disease prevention.

19 (3) HEALTH PLAN ISSUER.—A health plan is-
20 suer described in this paragraph is a health plan is-
21 suer that issues or renews individual health plans.

22 (4) PREMIUMS.—Nothing in this subsection
23 shall be construed to affect the determination of a
24 health plan issuer as to the amount of the premium

1 payable under an individual health plan under appli-
2 cable State law.

3 (b) ELIGIBILITY FOR OTHER GROUP COVERAGE.—

4 The provisions of subsection (a) shall not apply to an indi-
5 vidual who is eligible for coverage under a group health
6 plan or an employee health benefit plan, or who has had
7 coverage terminated under a group health plan or em-
8 ployee health benefit plan for failure to make required pre-
9 mium payments or contributions, or for fraud or misrepre-
10 sentation of material fact, or who is otherwise eligible for
11 continuation coverage as described in part 6 of subtitle
12 B of title I of the Employee Retirement Income Security
13 Act of 1974 (29 U.S.C. 1161 et seq.) or under an equiva-
14 lent State program.

15 (c) APPLICATION OF CAPACITY LIMITS.—

16 (1) IN GENERAL.—Subject to paragraph (2), a
17 health plan issuer offering coverage to individuals
18 under an individual health plan may cease enrolling
19 individuals under the plan if—

20 (A) the health plan issuer ceases to enroll
21 any new individuals; and

22 (B) the health plan issuer can demonstrate
23 to the applicable certifying authority (as defined
24 in section 652(d)), if required, that its financial
25 or provider capacity to serve previously covered

1 individuals will be impaired if the health plan
2 issuer is required to enroll additional individ-
3 uals.

4 Such a health plan issuer shall be prohibited from
5 offering coverage after a cessation in offering cov-
6 erage under this paragraph for a 6-month period or
7 until the health plan issuer can demonstrate to the
8 applicable certifying authority (as defined in section
9 652(d)) that the health plan issuer has adequate ca-
10 pacity, whichever is later.

11 (2) FIRST-COME-FIRST-SERVED.—A health plan
12 issuer offering coverage to individuals under an indi-
13 vidual health plan is only eligible to exercise the lim-
14 itations provided for in paragraph (1) if the health
15 plan issuer provides for enrollment of individuals
16 under such plan on a first-come-first-served basis or
17 other basis established by a State to ensure a fair
18 opportunity to enroll in the plan and avoid risk se-
19 lection.

20 (d) MARKET REQUIREMENTS.—

21 (1) IN GENERAL.—The provisions of subsection
22 (a) shall not be construed to require that a health
23 plan issuer offering group health plans to group pur-
24 chasers offer individual health plans to individuals.

1 (2) CONVERSION POLICIES.—A health plan is-
2 suer offering group health plans to group purchasers
3 under this title shall not be deemed to be a health
4 plan issuer offering an individual health plan solely
5 because such health plan issuer offers a conversion
6 policy.

7 (3) MARKETING OF PLANS.—Nothing in this
8 section shall be construed to prevent a State from
9 requiring health plan issuers offering coverage to in-
10 dividuals under an individual health plan to actively
11 market such plan.

12 **SEC. 621. GUARANTEED RENEWABILITY OF INDIVIDUAL**
13 **HEALTH COVERAGE.**

14 (a) IN GENERAL.—Subject to subsections (b) and (c),
15 coverage for individuals under an individual health plan
16 shall be renewed or continued in force by a health plan
17 issuer at the option of the individual, except that the re-
18 quirement of this subsection shall not apply in the case
19 of—

20 (1) the nonpayment of premiums or contribu-
21 tions by the individual in accordance with the terms
22 of the individual health plan or where the health
23 plan issuer has not received timely premium pay-
24 ments;

1 (2) fraud or misrepresentation of material fact
2 on the part of the individual; or

3 (3) the termination of the individual health plan
4 in accordance with subsection (b).

5 (b) TERMINATION OF INDIVIDUAL HEALTH
6 PLANS.—

7 (1) PARTICULAR TYPE OF INDIVIDUAL HEALTH
8 PLAN NOT OFFERED.—In any case in which a health
9 plan issuer decides to discontinue offering a particu-
10 lar type of individual health plan to individuals, an
11 individual health plan may be discontinued by the
12 health plan issuer only if—

13 (A) the health plan issuer provides notice
14 to each individual covered under the plan of
15 such discontinuation at least 90 days prior to
16 the date of the expiration of the plan;

17 (B) the health plan issuer offers to each
18 individual covered under the plan the option to
19 purchase any other individual health plan cur-
20 rently being offered by the health plan issuer to
21 individuals; and

22 (C) in exercising the option to discontinue
23 the individual health plan and in offering one or
24 more replacement plans, the health plan issuer

1 acts uniformly without regard to the health sta-
2 tus or insurability of particular individuals.

3 (2) DISCONTINUANCE OF ALL INDIVIDUAL
4 HEALTH PLANS.—In any case in which a health plan
5 issuer elects to discontinue all individual health
6 plans in a State, an individual health plan may be
7 discontinued by the health plan issuer only if—

8 (A) the health plan issuer provides notice
9 to the applicable certifying authority (as defined
10 in section 652(d)) and to each individual cov-
11 ered under the plan of such discontinuation at
12 least 180 days prior to the date of the dis-
13 continuation of the plan; and

14 (B) all individual health plans issued or
15 delivered for issuance in the State are discon-
16 tinued and coverage under such plans is not re-
17 newed.

18 (3) PROHIBITION ON MARKET REENTRY.—In
19 the case of a discontinuation under paragraph (2),
20 the health plan issuer may not provide for the issu-
21 ance of any individual health plan in the State in-
22 volved during the 5-year period beginning on the
23 date of the discontinuation of the last plan not so
24 renewed.

25 (c) TREATMENT OF NETWORK PLANS.—

1 (1) GEOGRAPHIC LIMITATIONS.—A health plan
2 issuer which offers a network plan (as defined in
3 paragraph (2)) may deny continued participation
4 under the plan to individuals who neither live, re-
5 side, nor work in an area in which the individual
6 health plan is offered, but only if such denial is ap-
7 plied uniformly, without regard to health status or
8 the insurability of particular individuals.

9 (2) NETWORK PLAN.—As used in paragraph
10 (1), the term “network plan” means an individual
11 health plan that arranges for the financing and de-
12 livery of health care services to individuals covered
13 under such health plan, in whole or in part, through
14 arrangements with providers.

15 **SEC. 622. STATE FLEXIBILITY IN INDIVIDUAL MARKET RE-**
16 **FORMS.**

17 (a) IN GENERAL.—With respect to any State law
18 with respect to which the Governor of the State notifies
19 the Secretary of Health and Human Services that such
20 State law will achieve the goals of sections 620 and 621,
21 and that is in effect on, or enacted after, the date of enact-
22 ment of this Act (such as laws providing for guaranteed
23 issue, open enrollment by one or more health plan issuers,
24 high-risk pools, or mandatory conversion policies), such
25 State law shall apply in lieu of the standards described

1 in sections 620 and 621 unless the Secretary of Health
2 and Human Services determines, after considering the cri-
3 teria described in subsection (b)(1), in consultation with
4 the Governor and Insurance Commissioner or chief insur-
5 ance regulatory official of the State, that such State law
6 does not achieve the goals of providing access to affordable
7 health care coverage for those individuals described in sec-
8 tions 620 and 621.

9 (b) DETERMINATION.—

10 (1) IN GENERAL.—In making a determination
11 under subsection (a), the Secretary of Health and
12 Human Services shall only—

13 (A) evaluate whether the State law or pro-
14 gram provides guaranteed access to affordable
15 coverage to individuals described in sections
16 620 and 621;

17 (B) evaluate whether the State law or pro-
18 gram provides coverage for preexisting condi-
19 tions (as defined in section 613(e)) that were
20 covered under the individuals' previous group
21 health plan or employee health benefit plan for
22 individuals described in sections 620 and 621;

23 (C) evaluate whether the State law or pro-
24 gram provides individuals described in sections
25 620 and 621 with a choice of health plans or

1 a health plan providing comprehensive coverage;
2 and

3 (D) evaluate whether the application of the
4 standards described in sections 620 and 621
5 will have an adverse impact on the number of
6 individuals in such State having access to af-
7 fordable coverage.

8 (2) NOTICE OF INTENT.—If, within 6 months
9 after the date of enactment of this Act, the Governor
10 of a State notifies the Secretary of Health and
11 Human Services that the State intends to enact a
12 law, or modify an existing law, described in sub-
13 section (a), the Secretary of Health and Human
14 Services may not make a determination under such
15 subsection until the expiration of the 12-month pe-
16 riod beginning on the date on which such notifica-
17 tion is made, or until January 1, 1997, whichever is
18 later. With respect to a State that provides notice
19 under this paragraph and that has a legislature that
20 does not meet within the 12-month period beginning
21 on the date of enactment of this Act, the Secretary
22 shall not make a determination under subsection (a)
23 prior to January 1, 1998.

24 (3) NOTICE TO STATE.—If the Secretary of
25 Health and Human Services determines that a State

1 law or program does not achieve the goals described
2 in subsection (a), the Secretary of Health and
3 Human Services shall provide the State with ade-
4 quate notice and reasonable opportunity to modify
5 such law or program to achieve such goals prior to
6 making a final determination under subsection (a).

7 (c) ADOPTION OF NAIC MODEL.—If, not later than
8 9 months after the date of enactment of this Act—

9 (1) the National Association of Insurance Com-
10 missioners (hereafter referred to as the “NAIC”),
11 through a process which the Secretary of Health and
12 Human Services determines has included consulta-
13 tion with representatives of the insurance industry
14 and consumer groups, adopts a model standard or
15 standards for reform of the individual health insur-
16 ance market; and

17 (2) the Secretary of Health and Human Serv-
18 ices determines, within 30 days of the adoption of
19 such NAIC standard or standards, that such stand-
20 ards comply with the goals of sections 620 and 621;
21 a State that elects to adopt such model standards or sub-
22 stantially adopt such model standards shall be deemed to
23 have met the requirements of sections 620 and 621 and
24 shall not be subject to a determination under subsection
25 (a).

1 **SEC. 623. DEFINITION.**

2 (a) IN GENERAL.—As used in this subtitle, the term
3 “individual health plan” means any contract, policy, cer-
4 tificate or other arrangement offered to individuals by a
5 health plan issuer that provides or pays for health benefits
6 (such as provider and hospital benefits) and that is not
7 a group health plan under section 602(6).

8 (b) ARRANGEMENTS NOT INCLUDED.—Such term
9 does not include the following, or any combination thereof:

10 (1) Coverage only for accident, or disability in-
11 come insurance, or any combination thereof.

12 (2) Medicare supplemental health insurance (as
13 defined under section 1882(g)(1) of the Social Secu-
14 rity Act).

15 (3) Coverage issued as a supplement to liability
16 insurance.

17 (4) Liability insurance, including general liabil-
18 ity insurance and automobile liability insurance.

19 (5) Workers’ compensation or similar insurance.

20 (6) Automobile medical payment insurance.

21 (7) Coverage for a specified disease or illness.

22 (8) Hospital or fixed indemnity insurance.

23 (9) Short-term limited duration insurance.

24 (10) Credit-only, dental-only, or vision-only in-
25 surance.

1 (11) A health insurance policy providing bene-
 2 fits only for long-term care, nursing home care,
 3 home health care, community-based care, or any
 4 combination thereof.

5 **CHAPTER 3—COBRA CLARIFICATIONS**

6 **SEC. 631. COBRA CLARIFICATIONS.**

7 (a) PUBLIC HEALTH SERVICE ACT.—

8 (1) PERIOD OF COVERAGE.—Section 2202(2) of
 9 the Public Health Service Act (42 U.S.C. 300bb-
 10 2(2)) is amended—

11 (A) in subparagraph (A)—

12 (i) by transferring the sentence imme-
 13 diately preceding clause (iv) so as to ap-
 14 pear immediately following such clause
 15 (iv); and

16 (ii) in the last sentence (as so trans-
 17 ferred)—

18 (I) by inserting “, or a bene-
 19 ficiary-family member of the individ-
 20 ual,” after “an individual”; and

21 (II) by striking “at the time of a
 22 qualifying event described in section
 23 2203(2)” and inserting “at any time
 24 during the initial 18-month period of
 25 continuing coverage under this title”;

1 (B) in subparagraph (D)(i), by inserting
2 before “, or” the following: “, except that the
3 exclusion or limitation contained in this clause
4 shall not be considered to apply to a plan under
5 which a preexisting condition or exclusion does
6 not apply to an individual otherwise eligible for
7 continuation coverage under this section be-
8 cause of the provision of the Health Insurance
9 Reform Act of 1996”; and

10 (C) in subparagraph (E), by striking “at
11 the time of a qualifying event described in sec-
12 tion 2203(2)” and inserting “at any time dur-
13 ing the initial 18-month period of continuing
14 coverage under this title”.

15 (2) ELECTION.—Section 2205(1)(C) of the
16 Public Health Service Act (42 U.S.C. 300bb-
17 5(1)(C)) is amended—

18 (A) in clause (i), by striking “or” at the
19 end thereof;

20 (B) in clause (ii), by striking the period
21 and inserting “, or”; and

22 (C) by adding at the end thereof the fol-
23 lowing new clause:

24 “(iii) in the case of an individual de-
25 scribed in the last sentence of section

1 2202(2)(A), or a beneficiary-family mem-
 2 ber of the individual, the date such individ-
 3 ual is determined to have been disabled.”.

4 (3) NOTICES.—Section 2206(3) of the Public
 5 Health Service Act (42 U.S.C. 300bb-6(3)) is
 6 amended by striking “at the time of a qualifying
 7 event described in section 2203(2)” and inserting
 8 “at any time during the initial 18-month period of
 9 continuing coverage under this title”.

10 (4) BIRTH OR ADOPTION OF A CHILD.—Section
 11 2208(3)(A) of the Public Health Service Act (42
 12 U.S.C. 300bb-8(3)(A)) is amended by adding at the
 13 end thereof the following new flush sentence:

14 “Such term shall also include a child who is born to
 15 or placed for adoption with the covered employee
 16 during the period of continued coverage under this
 17 title.”.

18 (b) EMPLOYEE RETIREMENT INCOME SECURITY ACT
 19 OF 1974.—

20 (1) PERIOD OF COVERAGE.—Section 602(2) of
 21 the Employee Retirement Income Security Act of
 22 1974 (29 U.S.C. 1162(2)) is amended—

23 (A) in the last sentence of subparagraph

24 (A)—

1 (i) by inserting “, or a beneficiary-
2 family member of the individual,” after
3 “an individual”; and

4 (ii) by striking “at the time of a
5 qualifying event described in section
6 603(2)” and inserting “at any time during
7 the initial 18-month period of continuing
8 coverage under this part”;

9 (B) in subparagraph (D)(i), by inserting
10 before “, or” the following: “, except that the
11 exclusion or limitation contained in this clause
12 shall not be considered to apply to a plan under
13 which a preexisting condition or exclusion does
14 not apply to an individual otherwise eligible for
15 continuation coverage under this section be-
16 cause of the provision of the Health Insurance
17 Reform Act of 1996”; and

18 (C) in subparagraph (E), by striking “at
19 the time of a qualifying event described in sec-
20 tion 603(2)” and inserting “at any time during
21 the initial 18-month period of continuing cov-
22 erage under this part”.

23 (2) ELECTION.—Section 605(1)(C) of the Em-
24 ployee Retirement Income Security Act of 1974 (29
25 U.S.C. 1165(1)(C)) is amended—

1 (A) in clause (i), by striking “or” at the
2 end thereof;

3 (B) in clause (ii), by striking the period
4 and inserting “, or”; and

5 (C) by adding at the end thereof the fol-
6 lowing new clause:

7 “(iii) in the case of an individual de-
8 scribed in the last sentence of section
9 602(2)(A), or a beneficiary-family member
10 of the individual, the date such individual
11 is determined to have been disabled.”.

12 (3) NOTICES.—Section 606(3) of the Employee
13 Retirement Income Security Act of 1974 (29 U.S.C.
14 1166(3)) is amended by striking “at the time of a
15 qualifying event described in section 603(2)” and in-
16 sserting “at any time during the initial 18-month pe-
17 riod of continuing coverage under this part”.

18 (4) BIRTH OR ADOPTION OF A CHILD.—Section
19 607(3)(A) of the Employee Retirement Income Secu-
20 rity Act of 1974 (29 U.S.C. 1167(3)) is amended by
21 adding at the end thereof the following new flush
22 sentence:

23 “Such term shall also include a child who is born to
24 or placed for adoption with the covered employee

1 during the period of continued coverage under this
2 part.”.

3 (c) INTERNAL REVENUE CODE OF 1986.—

4 (1) PERIOD OF COVERAGE.—Section
5 4980B(f)(2)(B) of the Internal Revenue Code of
6 1986 is amended—

7 (A) in the last sentence of clause (i) by
8 striking “at the time of a qualifying event de-
9 scribed in paragraph (3)(B)” and inserting “at
10 any time during the initial 18-month period of
11 continuing coverage under this section”;

12 (B) in clause (iv)(I), by inserting before “,
13 or” the following: “, except that the exclusion
14 or limitation contained in this subclause shall
15 not be considered to apply to a plan under
16 which a preexisting condition or exclusion does
17 not apply to an individual otherwise eligible for
18 continuation coverage under this subsection be-
19 cause of the provision of the Health Insurance
20 Reform Act of 1996”; and

21 (C) in clause (v), by striking “at the time
22 of a qualifying event described in paragraph
23 (3)(B)” and inserting “at any time during the
24 initial 18-month period of continuing coverage
25 under this section”.

1 (2) ELECTION.—Section 4980B(f)(5)(A)(iii) of
2 the Internal Revenue Code of 1986 is amended—

3 (A) in subclause (I), by striking “or” at
4 the end thereof;

5 (B) in subclause (II), by striking the pe-
6 riod and inserting “, or”; and

7 (C) by adding at the end thereof the fol-
8 lowing new subclause:

9 “(III) in the case of an qualified
10 beneficiary described in the last sen-
11 tence of paragraph (2)(B)(i), the date
12 such individual is determined to have
13 been disabled.”.

14 (3) NOTICES.—Section 4980B(f)(6)(C) of the
15 Internal Revenue Code of 1986 is amended by strik-
16 ing “at the time of a qualifying event described in
17 paragraph (3)(B)” and inserting “at any time dur-
18 ing the initial 18-month period of continuing cov-
19 erage under this section”.

20 (4) BIRTH OR ADOPTION OF A CHILD.—Section
21 4980B(g)(1)(A) of the Internal Revenue Code of
22 1986 is amended by adding at the end thereof the
23 following new flush sentence:

24 “Such term shall also include a child who is
25 born to or placed for adoption with the covered

1 employee during the period of continued cov-
2 erage under this section.”.

3 (d) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to qualifying events occurring on
5 or after the date of the enactment of this Act for plan
6 years beginning after December 31, 1996.

7 (e) **NOTIFICATION OF CHANGES.**—Not later than 60
8 days prior to the date on which this section becomes effec-
9 tive, each group health plan (covered under title XXII of
10 the Public Health Service Act, part 6 of subtitle B of title
11 I of the Employee Retirement Income Security Act of
12 1974, and section 4980B(f) of the Internal Revenue Code
13 of 1986) shall notify each qualified beneficiary who has
14 elected continuation coverage under such title, part or sec-
15 tion of the amendments made by this section.

16 **CHAPTER 4—PRIVATE HEALTH PLAN**

17 **PURCHASING COOPERATIVES**

18 **SEC. 641. PRIVATE HEALTH PLAN PURCHASING COOPERA-** 19 **TIVES.**

20 (a) **DEFINITION.**—As used in this title, the term
21 “health plan purchasing cooperative” means a group of
22 individuals or employers that, on a voluntary basis and
23 in accordance with this section, form a cooperative for the
24 purpose of purchasing individual health plans or group
25 health plans offered by health plan issuers. A health plan

1 issuer, agent, broker or any other individual or entity en-
2 gaged in the sale of insurance may not underwrite a coop-
3 erative.

4 (b) CERTIFICATION.—

5 (1) IN GENERAL.—If a group described in sub-
6 section (a), desires to form a health plan purchasing
7 cooperative in accordance with this section and such
8 group appropriately notifies the State and the Sec-
9 retary of such desire, the State, upon a determina-
10 tion that such group meets the requirements of this
11 section, shall certify the group as a health plan pur-
12 chasing cooperative. The State shall make a deter-
13 mination of whether such group meets the require-
14 ments of this section in a timely fashion. Each such
15 cooperative shall also be registered with the Sec-
16 retary.

17 (2) STATE REFUSAL TO CERTIFY.—If a State
18 fails to implement a program for certifying health
19 plan purchasing cooperatives in accordance with the
20 standards under this title, the Secretary shall certify
21 and oversee the operations of such cooperatives in
22 such State.

23 (3) INTERSTATE COOPERATIVES.—For purposes
24 of this section, a health plan purchasing cooperative
25 operating in more than one State shall be certified

1 by the State in which the cooperative is domiciled.
2 States may enter into cooperative agreements for the
3 purpose of certifying and overseeing the operation
4 of such cooperatives. For purposes of this sub-
5 section, a cooperative shall be considered to be domi-
6 ciled in the State in which most of the members of
7 the cooperative reside.

8 (c) BOARD OF DIRECTORS.—

9 (1) IN GENERAL.—Each health plan purchasing
10 cooperative shall be governed by a Board of Direc-
11 tors that shall be responsible for ensuring the per-
12 formance of the duties of the cooperative under this
13 section. The Board shall be composed of a broad
14 cross-section of representatives of employers, em-
15 ployees, and individuals participating in the coopera-
16 tive. A health plan issuer, agent, broker or any other
17 individual or entity engaged in the sale of individual
18 health plans or group health plans may not hold or
19 control any right to vote with respect to a coopera-
20 tive.

21 (2) LIMITATION ON COMPENSATION.—A health
22 plan purchasing cooperative may not provide com-
23 pensation to members of the Board of Directors.
24 The cooperative may provide reimbursements to
25 such members for the reasonable and necessary ex-

1 penses incurred by the members in the performance
2 of their duties as members of the Board.

3 (3) CONFLICT OF INTEREST.—No member of
4 the Board of Directors (or family members of such
5 members) nor any management personnel of the co-
6 operative may be employed by, be a consultant for,
7 be a member of the board of directors of, be affili-
8 ated with an agent of, or otherwise be a representa-
9 tive of any health plan issuer, health care provider,
10 or agent or broker. Nothing in the preceding sen-
11 tence shall limit a member of the Board from pur-
12 chasing coverage offered through the cooperative.
13 This paragraph shall not apply to any management
14 personnel who is not employed by, or getting any re-
15 muneration from, a health plan issuer offering a
16 group health or individual health plan, but who, as
17 a result of performing marketing functions as re-
18 quired under subsection (e)(1)(E), is mandated by
19 State law to be licensed as an agent or broker.

20 (d) MEMBERSHIP AND MARKETING AREA.—

21 (1) MEMBERSHIP.—A health plan purchasing
22 cooperative may establish limits on the maximum
23 size of employers who may become members of the
24 cooperative, and may determine whether to permit
25 individuals to become members. Upon the establish-

1 ment of such membership requirements, the coopera-
2 tive shall, except as provided in subparagraph (B),
3 accept all employers (or individuals) residing within
4 the area served by the cooperative who meet such re-
5 quirements as members on a first come, first-served
6 basis, or on another basis established by the State
7 to ensure equitable access to the cooperative.

8 (2) **MARKETING AREA.**—A State may establish
9 rules regarding the geographic area that must be
10 served by a health plan purchasing cooperative. With
11 respect to a State that has not established such
12 rules, a health plan purchasing cooperative operating
13 in the State shall define the boundaries of the area
14 to be served by the cooperative, except that such
15 boundaries may not be established on the basis of
16 health status or insurability of the populations that
17 reside in the area.

18 (e) **DUTIES AND RESPONSIBILITIES.**—

19 (1) **IN GENERAL.**—A health plan purchasing co-
20 operative shall—

21 (A) enter into agreements with multiple,
22 unaffiliated health plan issuers, except that the
23 requirement of this subparagraph shall not
24 apply in regions (such as remote or frontier

1 areas) in which compliance with such require-
2 ment is not possible;

3 (B) enter into agreements with employers
4 and individuals who become members of the co-
5 operative;

6 (C) participate in any program of risk-ad-
7 justment or reinsurance, or any similar pro-
8 gram, that is established by the State;

9 (D) prepare and disseminate comparative
10 health plan materials (including information
11 about cost, quality, benefits, and other informa-
12 tion concerning group health plans and individ-
13 ual health plans offered through the coopera-
14 tive);

15 (E) actively market to all eligible employ-
16 ers and individuals residing within the service
17 area; and

18 (F) act as an ombudsman for group health
19 plan or individual health plan enrollees.

20 (2) PERMISSIBLE ACTIVITIES.—A health plan
21 purchasing cooperative may perform such other
22 functions as necessary to further the purposes of
23 this title, including—

24 (A) collecting and distributing premiums
25 and performing other administrative functions;

1 (B) collecting and analyzing surveys of en-
2 rollee satisfaction;

3 (C) charging membership fee to enrollees
4 (such fees may not be based on health status)
5 and charging participation fees to health plan
6 issuers;

7 (D) cooperating with (or accepting as
8 members) employers who provide health bene-
9 fits directly to participants and beneficiaries
10 only for the purpose of negotiating with provid-
11 ers; and

12 (E) negotiating with health care providers
13 and health plan issuers.

14 (f) LIMITATIONS ON COOPERATIVE ACTIVITIES.—A
15 health plan purchasing cooperative shall not—

16 (1) perform any activity relating to the licens-
17 ing of health plan issuers;

18 (2) assume financial risk directly or indirectly
19 on behalf of members of a health plan purchasing
20 cooperative relating to any group health plan or in-
21 dividual health plan;

22 (3) establish eligibility, continuation of eligi-
23 bility, enrollment, or premium contribution require-
24 ments for participants, beneficiaries, or individuals
25 based on health status, medical condition, claims ex-

1 perience, receipt of health care, medical history, evi-
2 dence of insurability, genetic information, or disabil-
3 ity;

4 (4) operate on a for-profit or other basis where
5 the legal structure of the cooperative permits profits
6 to be made and not returned to the members of the
7 cooperative, except that a for-profit health plan pur-
8 chasing cooperative may be formed by a nonprofit
9 organization or organizations—

10 (A) in which membership in such organiza-
11 tion is not based on health status, medical con-
12 dition, claims experience, receipt of health care,
13 medical history, evidence of insurability, genetic
14 information, or disability; and

15 (B) that accepts as members all employers
16 or individuals on a first-come, first-served basis,
17 subject to any established limit on the maxi-
18 mum size of and employer that may become a
19 member; or

20 (5) perform any other activities that conflict or
21 are inconsistent with the performance of its duties
22 under this title.

23 (g) LIMITED PREEMPTION OF CERTAIN STATE
24 LAWS.—

1 (1) IN GENERAL.—With respect to a health
2 plan purchasing cooperative that meets the require-
3 ments of this section, State fictitious group laws
4 shall be preempted.

5 (2) HEALTH PLAN ISSUERS.—

6 (A) RATING.—With respect to a health
7 plan issuer offering a group health plan or indi-
8 vidual health plan through a health plan pur-
9 chasing cooperative that meets the requirements
10 of this section, State premium rating require-
11 ment laws, except to the extent provided under
12 subparagraph (B), shall be preempted unless
13 such laws permit premium rates negotiated by
14 the cooperative to be less than rates that would
15 otherwise be permitted under State law, if such
16 rating differential is not based on differences in
17 health status or demographic factors.

18 (B) EXCEPTION.—State laws referred to in
19 subparagraph (A) shall not be preempted if
20 such laws—

21 (i) prohibit the variance of premium
22 rates among employers, plan sponsors, or
23 individuals that are members of a health
24 plan purchasing cooperative in excess of
25 the amount of such variations that would

1 be permitted under such State rating laws
2 among employers, plan sponsors, and indi-
3 viduals that are not members of the coop-
4 erative; and

5 (ii) prohibit a percentage increase in
6 premium rates for a new rating period that
7 is in excess of that which would be per-
8 mitted under State rating laws.

9 (C) BENEFITS.—Except as provided in
10 subparagraph (D), a health plan issuer offering
11 a group health plan or individual health plan
12 through a health plan purchasing cooperative
13 shall comply with all State mandated benefit
14 laws that require the offering of any services,
15 category or care, or services of any class or type
16 of provider.

17 (D) EXCEPTION.—In those States that
18 have enacted laws authorizing the issuance of
19 alternative benefit plans to small employers,
20 health plan issuers may offer such alternative
21 benefit plans through a health plan purchasing
22 cooperative that meets the requirements of this
23 section.

24 (h) RULES OF CONSTRUCTION.—Nothing in this sec-
25 tion shall be construed to—

1 (1) require that a State organize, operate, or
2 otherwise create health plan purchasing cooperatives;

3 (2) otherwise require the establishment of
4 health plan purchasing cooperatives;

5 (3) require individuals, plan sponsors, or em-
6 ployers to purchase group health plans or individual
7 health plans through a health plan purchasing coop-
8 erative;

9 (4) require that a health plan purchasing coop-
10 erative be the only type of purchasing arrangement
11 permitted to operate in a State;

12 (5) confer authority upon a State that the State
13 would not otherwise have to regulate health plan is-
14 suers or employee health benefits plans; or

15 (6) confer authority upon a State (or the Fed-
16 eral Government) that the State (or Federal Govern-
17 ment) would not otherwise have to regulate group
18 purchasing arrangements, coalitions, association
19 plans, or other similar entities that do not desire to
20 become a health plan purchasing cooperative in ac-
21 cordance with this section.

22 (i) APPLICATION OF ERISA.—For purposes of en-
23 forcement only, the requirements of parts 4 and 5 of sub-
24 title B of title I of the Employee Retirement Income Secu-
25 rity Act of 1974 (29 U.S.C. 1101) shall apply to a health

1 plan purchasing cooperative as if such plan were an em-
2 ployee welfare benefit plan.

3 **Subtitle B—Application and**
4 **Enforcement of Standards**

5 **SEC. 651. APPLICABILITY.**

6 (a) CONSTRUCTION.—

7 (1) ENFORCEMENT.—

8 (A) IN GENERAL.—A requirement or
9 standard imposed under this title on a group
10 health plan or individual health plan offered by
11 a health plan issuer shall be deemed to be a re-
12 quirement or standard imposed on the health
13 plan issuer. Such requirements or standards
14 shall be enforced by the State insurance com-
15 missioner for the State involved or the official
16 or officials designated by the State to enforce
17 the requirements of this title. In the case of a
18 group health plan offered by a health plan is-
19 suer in connection with an employee health ben-
20 efit plan, the requirements or standards im-
21 posed under this title shall be enforced with re-
22 spect to the health plan issuer by the State in-
23 surance commissioner for the State involved or
24 the official or officials designated by the State
25 to enforce the requirements of this title.

1 (B) LIMITATION.—Except as provided in
2 subsection (c), the Secretary shall not enforce
3 the requirements or standards of this title as
4 they relate to health plan issuers, group health
5 plans, or individual health plans. In no case
6 shall a State enforce the requirements or stand-
7 ards of this title as they relate to employee
8 health benefit plans.

9 (2) PREEMPTION OF STATE LAW.—Nothing in
10 this title shall be construed to prevent a State from
11 establishing, implementing, or continuing in effect
12 standards and requirements—

13 (A) not prescribed in this title; or

14 (B) related to the issuance, renewal, or
15 portability of health insurance or the establish-
16 ment or operation of group purchasing arrange-
17 ments, that are consistent with, and are not in
18 direct conflict with, this title and provide great-
19 er protection or benefit to participants, bene-
20 ficiaries or individuals.

21 (b) RULE OF CONSTRUCTION.—Nothing in this title
22 shall be construed to affect or modify the provisions of
23 section 514 of the Employee Retirement Income Security
24 Act of 1974 (29 U.S.C. 1144).

1 (c) CONTINUATION.—Nothing in this title shall be
2 construed as requiring a group health plan or an employee
3 health benefit plan to provide benefits to a particular par-
4 ticipant or beneficiary in excess of those provided under
5 the terms of such plan.

6 **SEC. 652. ENFORCEMENT OF STANDARDS.**

7 (a) HEALTH PLAN ISSUERS.—Each State shall re-
8 quire that each group health plan and individual health
9 plan issued, sold, renewed, offered for sale or operated in
10 such State by a health plan issuer meet the standards es-
11 tablished under this title pursuant to an enforcement plan
12 filed by the State with the Secretary. A State shall submit
13 such information as required by the Secretary demonstrat-
14 ing effective implementation of the State enforcement
15 plan.

16 (b) EMPLOYEE HEALTH BENEFIT PLANS.—With re-
17 spect to employee health benefit plans, the Secretary shall
18 enforce the reform standards established under this title
19 in the same manner as provided for under sections 502,
20 504, 506, and 510 of the Employee Retirement Income
21 Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and
22 1140). The civil penalties contained in paragraphs (1) and
23 (2) of section 502(c) of such Act (29 U.S.C. 1132(c)(1)
24 and (2)) shall apply to any information required by the
25 Secretary to be disclosed and reported under this section.

1 (c) FAILURE TO IMPLEMENT PLAN.—In the case of
2 the failure of a State to substantially enforce the stand-
3 ards and requirements set forth in this title with respect
4 to group health plans and individual health plans as pro-
5 vided for under the State enforcement plan filed under
6 subsection (a), the Secretary, in consultation with the Sec-
7 retary of Health and Human Services, shall implement an
8 enforcement plan meeting the standards of this title in
9 such State. In the case of a State that fails to substan-
10 tially enforce the standards and requirements set forth in
11 this title, each health plan issuer operating in such State
12 shall be subject to civil enforcement as provided for under
13 sections 502, 504, 506, and 510 of the Employee Retire-
14 ment Income Security Act of 1974 (29 U.S.C. 1132, 1134,
15 1136, and 1140). The civil penalties contained in para-
16 graphs (1) and (2) of section 502(c) of such Act (29
17 U.S.C. 1132(c)(1) and (2)) shall apply to any information
18 required by the Secretary to be disclosed and reported
19 under this section.

20 (d) APPLICABLE CERTIFYING AUTHORITY.—As used
21 in this subtitle, the term “applicable certifying authority”
22 means, with respect to—

23 (1) health plan issuers, the State insurance
24 commissioner or official or officials designated by

1 the State to enforce the requirements of this title for
 2 the State involved; and

3 (2) an employee health benefit plan, the Sec-
 4 retary.

5 (e) REGULATIONS.—The Secretary may promulgate
 6 such regulations as may be necessary or appropriate to
 7 carry out this title.

8 (f) TECHNICAL AMENDMENT.—Section 508 of the
 9 Employee Retirement Income Security Act of 1974 (29
 10 U.S.C. 1138) is amended by inserting “and under the
 11 Health Insurance Reform Act of 1996” before the period.

12 **Subtitle C—Miscellaneous** 13 **Provisions**

14 **SEC. 661. HMOS ALLOWED TO OFFER PLANS WITH** 15 **DEDUCTIBLES TO INDIVIDUALS WITH MEDI-** 16 **CAL SAVINGS ACCOUNTS.**

17 (a) IN GENERAL.—Section 1301(b) of the Public
 18 Health Service Act (42 U.S.C. 300e(b)) is amended by
 19 adding at the end the following new paragraph:

20 “(6)(A) If a member certifies that a medical
 21 savings account has been established for the benefit
 22 of such member, a health maintenance organization
 23 may, at the request of such member reduce the basic
 24 health services payment otherwise determined under

1 paragraph (1) by requiring the payment of a deduct-
2 ible by the member for basic health services.

3 “(B) For purposes of this paragraph, the term
4 ‘medical savings account’ means an account which,
5 by its terms, allows the deposit of funds and the use
6 of such funds and income derived from the invest-
7 ment of such funds for the payment of the deduct-
8 ible described in subparagraph (A).”.

9 (b) MEDICAL SAVINGS ACCOUNTS.—It is the sense
10 of the Committee on Labor and Human Resources of the
11 Senate that the establishment of medical savings accounts,
12 including those defined in section 1301(b)(6)(B) of the
13 Public Health Service Act (42 U.S.C. 300e(b)(6)(B)),
14 should be encouraged as part of any health insurance re-
15 form legislation passed by the Senate through the use of
16 tax incentives relating to contributions to, the income
17 growth of, and the qualified use of, such accounts.

18 (c) SENSE OF THE SENATE.—It is the sense of the
19 Senate that the Congress should take measures to further
20 the purposes of this title, including any necessary changes
21 to the Internal Revenue Code of 1986 to encourage groups
22 and individuals to obtain health coverage, and to promote
23 access, equity, portability, affordability, and security of
24 health benefits.

1 **SEC. 662. RULES GOVERNING LITIGATION INVOLVING RE-**
2 **TIREE HEALTH BENEFITS.**

3 (a) IN GENERAL.—Part 5 of subtitle B of title I of
4 the Employee Retirement Income Security Act of 1974
5 (29 U.S.C. 1131 et seq.) is amended by adding at the end
6 the following new section:

7 **“SEC. 516. RULES GOVERNING LITIGATION INVOLVING RE-**
8 **TIREE HEALTH BENEFITS.**

9 “(a) MAINTENANCE OF BENEFITS.—

10 “(1) IN GENERAL.—If—

11 “(A) retiree health benefits or plan or plan
12 sponsor payments in connection with such bene-
13 fits are to be or have been terminated or re-
14 duced under an employee welfare benefit plan;
15 and

16 “(B) an action is brought by any partici-
17 pant or beneficiary to enjoin or otherwise mod-
18 ify such termination or reduction,

19 the court without requirement of any additional
20 showing shall promptly order the plan and plan
21 sponsor to maintain the retiree health benefits and
22 payments at the level in effect immediately before
23 the termination or reduction while the action is
24 pending in any court. No security or other undertak-
25 ing shall be required of any participant or bene-
26 ficiary as a condition for issuance of such relief. An

1 order requiring such maintenance of benefits may be
2 refused or dissolved only upon determination by the
3 court, on the basis of clear and convincing evidence,
4 that the action is clearly without merit.

5 “(2) EXCEPTIONS.—Paragraph (1) shall not
6 apply to any action if—

7 “(A) the termination or reduction of re-
8 tiree health benefits is substantially similar to
9 a termination or reduction in health benefits (if
10 any) provided to current employees which oc-
11 curs either before, or at or about the same time
12 as, the termination or reduction of retiree
13 health benefits, or

14 “(B) the changes in benefits are in connec-
15 tion with the addition, expansion, or clarifica-
16 tion of the delivery system, including utilization
17 review requirements and restrictions, require-
18 ments that goods or services be obtained
19 through managed care entities or specified pro-
20 viders or categories of providers, or other spe-
21 cial major case management restrictions.

22 “(3) MODIFICATIONS.—Nothing in this section
23 shall preclude a court from modifying the obligation
24 of a plan or plan sponsor to the extent retiree bene-
25 fits are otherwise being paid by the plan sponsor.

1 “(b) BURDEN OF PROOF.—In addition to the relief
2 authorized in subsection (a) or otherwise available, if, in
3 any action to which subsection (a)(1) applies, the terms
4 of the employee welfare benefit plan summary plan de-
5 scription or, in the absence of such description, other ma-
6 terials distributed to employees at the time of a partici-
7 pant’s retirement or disability, are silent or are ambigu-
8 ous, either on their face or after consideration of extrinsic
9 evidence, as to whether retiree health benefits and pay-
10 ments may be terminated or reduced for a participant and
11 his or her beneficiaries after the participant’s retirement
12 or disability, then the benefits and payments shall not be
13 terminated or reduced for the participant and his or her
14 beneficiaries unless the plan or plan sponsor establishes
15 by a preponderance of the evidence that the summary plan
16 description or other materials about retiree benefits—

17 “(1) were distributed to the participant at least
18 90 days in advance of retirement or disability;

19 “(2) did not promise retiree health benefits for
20 the lifetime of the participant and his or her spouse;
21 and

22 “(3) clearly and specifically disclosed that the
23 plan allowed such termination or reduction as to the
24 participant after the time of his or her retirement or
25 disability.

1 The disclosure described in paragraph (3) must have been
 2 made prominently and in language which can be under-
 3 stood by the average plan participant.

4 “(c) REPRESENTATION.—Notwithstanding any other
 5 provision of law, an employee representative of any retired
 6 employee or the employee’s spouse or dependents may—

7 “(1) bring an action described in this section on
 8 behalf of such employee, spouse, or dependents; or

9 “(2) appear in such an action on behalf of such
 10 employee, spouse or dependents.

11 “(d) RETIREE HEALTH BENEFITS.—For the pur-
 12 poses of this section, the term ‘retiree health benefits’
 13 means health benefits (including coverage) which are pro-
 14 vided to—

15 “(1) retired or disabled employees who, imme-
 16 diately before the termination or reduction, have a
 17 reasonable expectation to receive such benefits upon
 18 retirement or becoming disabled; and

19 “(2) their spouses or dependents.”

20 (b) CONFORMING AMENDMENT.—The table of con-
 21 tents in section 1 of such Act is amended by inserting
 22 after the item relating to section 515 the following new
 23 item:

“Sec. 516. Rules governing litigation involving retiree health benefits.”

24 (c) EFFECTIVE DATE.—The amendments made by
 25 this section shall apply to actions relating to terminations

1 or reductions of retiree health benefits which are pending
2 or brought, on or after March 23, 1995.

3 **SEC. 663. HEALTH COVERAGE AVAILABILITY STUDY.**

4 (a) IN GENERAL.—The Secretary of Health and
5 Human Services, in consultation with the Secretary, rep-
6 resentatives of State officials, consumers, and other rep-
7 resentatives of individuals and entities that have expertise
8 in health insurance and employee benefits, shall conduct
9 a two-part study, and prepare and submit reports, in ac-
10 cordance with this section.

11 (b) EVALUATION OF AVAILABILITY.—Not later than
12 January 1, 1997, the Secretary of Health and Human
13 Services shall prepare and submit to the appropriate com-
14 mittees of Congress a report, concerning—

15 (1) an evaluation, based on the experience of
16 States, expert opinions, and such additional data as
17 may be available, of the various mechanisms used to
18 ensure the availability of reasonably priced health
19 coverage to employers purchasing group coverage
20 and to individuals purchasing coverage on a non-
21 group basis; and

22 (2) whether standards that limit the variation
23 in premiums will further the purposes of this title.

24 (c) EVALUATION OF EFFECTIVENESS.—Not later
25 than January 1, 1998, the Secretary of Health and

1 Human Services shall prepare and submit to the appro-
2 priate committees of Congress a report, concerning the ef-
3 fectiveness of the provisions of this title and the various
4 State laws, in ensuring the availability of reasonably
5 priced health coverage to employers purchasing group cov-
6 erage and individuals purchasing coverage on a non-group
7 basis.

8 **SEC. 664. SENSE OF THE COMMITTEE CONCERNING MEDI-**
9 **CARE.**

10 (a) FINDINGS.—The Committee on Labor and
11 Human Resources of the Senate finds that the Public
12 Trustees of Medicare concluded in their 1995 Annual Re-
13 port that—

14 (1) the Medicare program is clearly
15 unsustainable in its present form;

16 (2) “the Hospital Insurance Trust Fund, which
17 pays inpatient hospital expenses, will be able to pay
18 benefits for only about 7 years and is severely out
19 of financial balance in the long range”; and

20 (3) the Public Trustees “strongly recommend
21 that the crisis presented by the financial condition of
22 the Medicare trust fund be urgently addressed on a
23 comprehensive basis, including a review of the
24 programs’s financing methods, benefit provisions,
25 and delivery mechanisms”.

1 (b) SENSE OF THE COMMITTEE.—It is the Sense of
2 the Committee on Labor and Human Resources of the
3 Senate that the Senate should take measures necessary
4 to reform the Medicare program, to provide increased
5 choice for seniors, and to respond to the findings of the
6 Public Trustees by protecting the short-term solvency and
7 long-term sustainability of the Medicare program.

8 **SEC. 665. PARITY FOR MENTAL HEALTH SERVICES.**

9 (a) PROHIBITION.—An employee health benefit plan,
10 or a health plan issuer offering a group health plan or
11 an individual health plan, shall not impose treatment limi-
12 tations or financial requirements on the coverage of men-
13 tal health services if similar limitations or requirements
14 are not imposed on coverage for services for other condi-
15 tions.

16 (b) RULE OF CONSTRUCTION.—Nothing in sub-
17 section (a) shall be construed as prohibiting an employee
18 health benefit plan, or a health plan issuer offering a
19 group health plan or an individual health plan, from re-
20 quiring preadmission screening prior to the authorization
21 of services covered under the plan or from applying other
22 limitations that restrict coverage for mental health serv-
23 ices to those services that are medically necessary.

1 **SEC. 666. EFFECTIVE DATE.**

2 Except as otherwise provided for in this title, the pro-
3 visions of this title shall apply as follows:

4 (1) With respect to group health plans and in-
5 dividual health plans, such provisions shall apply to
6 plans offered, sold, issued, renewed, in effect, or op-
7 erated on or after January 1, 1997.

8 (2) With respect to employee health benefit
9 plans, on the first day of the first plan year begin-
10 ning on or after January 1, 1997.

11 **SEC. 667. SEVERABILITY.**

12 If any provision of this title or the application of such
13 provision to any person or circumstance is held to be un-
14 constitutional, the remainder of this title and the applica-
15 tion of the provisions of such to any person or cir-
16 cumstance shall not be affected thereby.

17 **TITLE VII—PENSIONS**

18 **SEC. 701. SENSE OF THE SENATE.**

19 It is the sense of the Senate that—

20 (1) the tax on reversion of qualified pension
21 plan assets to employers should not be repealed or
22 modified; and

23 (2) the provisions allowing transfer of excess
24 pension assets to retiree health accounts should not
25 be expanded.

1 **TITLE VIII—NORTH AMERICAN**
2 **TRADE FAIRNESS ACT**

3 **SEC. 801. SHORT TITLE.**

4 This title may be cited as the “North American Trade
5 Fairness Act”.

6 **SEC. 802. CONDITIONS FOR CONTINUED PARTICIPATION IN**
7 **THE NAFTA.**

8 (a) IN GENERAL.—

9 (1) WITHDRAWAL OF APPROVAL.—Notwith-
10 standing any other provision of law, unless each of
11 the conditions described in paragraph (2) is met—

12 (A) the approval of the NAFTA by the
13 Congress provided for in section 101(a) of the
14 North American Free Trade Agreement Imple-
15 mentation Act shall cease to be effective on Oc-
16 tober 1, 1998, and

17 (B) not later than March 31, 1998, the
18 President shall provide written notice of with-
19 drawal to the Governments of Canada and Mex-
20 ico in accordance with Article 2205 of the
21 NAFTA.

22 (2) CONDITIONS FOR CONTINUING PARTICIPA-
23 TION IN NAFTA.—The conditions described in this
24 paragraph are that before December 31, 1997—

25 (A) the President—

1 (i) renegotiate the terms of the
2 NAFTA in accordance with paragraphs
3 (1), (2), (3), and (4) of subsection (b), and

4 (ii) provide the certification to the
5 Congress described in subsection (b)(9),

6 (B) the Secretary of Labor provide the cer-
7 tification described in subsection (b)(5),

8 (C) the Secretary of Commerce provide the
9 certification described in subsection (b)(6),

10 (D) the Secretary of Agriculture and the
11 Administrator of the Food and Drug Adminis-
12 tration provide the certification described in
13 paragraphs (7)(A) and (8) of subsection (b),
14 and

15 (E) the Administrator of the Environ-
16 mental Protection Agency submit the certifi-
17 cation and report described in subsection
18 (b)(7)(B).

19 (b) AREAS OF RENEGOTIATION AND CERTIFI-
20 CATION.—The areas of renegotiation and certification de-
21 scribed in this subsection are as follows:

22 (1) RENEGOTIATE THE NAFTA TO CORRECT
23 TRADE DEFICITS.—The President is authorized and
24 directed to confer with the Governments of Canada
25 and Mexico and to renegotiate the terms of the

1 NAFTA to achieve a trade balance among the
2 NAFTA Parties when the United States experiences
3 a significant trade deficit with another Party.

4 (2) RENEGOTIATE THE NAFTA TO CORRECT
5 CURRENCY DISTORTIONS.—The President is author-
6 ized and directed to confer with the Governments of
7 Canada and Mexico and to renegotiate the terms of
8 the NAFTA to mitigate the adverse effects of rapid
9 or substantial changes in exchange rates between the
10 United States dollar and the currency of another
11 NAFTA Party.

12 (3) RENEGOTIATE THE NAFTA TO CORRECT AG-
13 RICULTURAL DISTORTIONS.—The President is au-
14 thORIZED and directed to confer with the Govern-
15 ments of Canada and Mexico and to renegotiate the
16 terms of the NAFTA to prevent imports of agricul-
17 tural commodities from any NAFTA Party from un-
18 fairly displacing production from small- and mod-
19 erate-sized farm operations in the United States or
20 from significantly and negatively affecting the secu-
21 rity of the food supply in the United States.

22 (4) RENEGOTIATE THE NAFTA TO RAISE
23 LABOR, HEALTH, AND ENVIRONMENTAL STAND-
24 ARDS.—The President is authorized and directed to
25 renegotiate the NAFTA to ensure that improve-

1 ments are made in labor, health, and environmental
2 standards in all the NAFTA Parties and to require,
3 as a condition for continuing the trade privileges of
4 the NAFTA, that each NAFTA Party effectively en-
5 force its domestic labor, health, and environmental
6 laws and regulations.

7 (5) CERTIFICATION OF GAINS IN JOBS AND LIV-
8 ING STANDARDS.—If the Secretary of Labor, after
9 consultation with appropriate government agencies
10 and citizen organizations, determines that—

11 (A) the number of jobs lost because of im-
12 ports of manufactured goods from other
13 NAFTA Parties does not significantly exceed
14 the number of jobs resulting from increased ex-
15 ports of United States manufactured goods to
16 other NAFTA Parties since January 1, 1994,

17 (B) the purchasing power of wage-earners
18 in the United States, measured by real hourly
19 wage levels, has not been significantly and neg-
20 atively affected by the NAFTA since January
21 1, 1994, and

22 (C) enforcement of the labor standards de-
23 scribed in paragraph (4) has led to new employ-
24 ment opportunities, improved working condi-
25 tions and living standards, and enhanced and

1 protected workers' rights in the territories of
2 the NAFTA Parties,
3 the Secretary shall so certify to the Congress.

4 (6) CERTIFICATION OF INCREASED DOMESTIC
5 MANUFACTURING.—If the Secretary of Commerce,
6 after consultation with the appropriate government
7 agencies and citizen organizations, determines that
8 the balance between the export of United States
9 manufactured goods to NAFTA Parties and the im-
10 ports of manufactured goods from NAFTA Parties
11 is not significantly affected in a negative manner,
12 the Secretary shall so certify to the Congress. In
13 making the determination, the Secretary shall not
14 include any goods originating outside the United
15 States that are exported to another NAFTA Party,
16 nor imports from another NAFTA Party that are
17 destined for other countries.

18 (7) CERTIFICATION RELATING TO HEALTH AND
19 ENVIRONMENTAL STANDARDS.—

20 (A) IN GENERAL.—If the Secretary of Ag-
21 riculture and the Administrator of the Food
22 and Drug Administration, after consultation
23 with appropriate government agencies and citi-
24 zen organizations, determine, with respect to
25 imports from NAFTA Parties, that since Janu-

1 ary 1, 1994, there has not been an increased
2 amount of contaminated and adulterated food,
3 food containing additives or pesticide residues
4 exceeding United States standards, or food con-
5 taining additives or pesticide residues which
6 cannot be legally used in the United States, the
7 Secretary and Administrator shall so certify to
8 the Congress. In making this determination, all
9 foods and food products, including fruits, vege-
10 tables, grains, oilseeds, and meats, both fresh
11 and processed, shall be reviewed. Special atten-
12 tion shall be given to foods which have had a
13 history of violations.

14 (B) BORDER AREA POLLUTION.—If the
15 Administrator of the Environmental Protection
16 Agency determines that conditions affecting
17 public health in the United States-Mexico bor-
18 der zone have not worsened since January 1,
19 1994, the Administrator shall so certify to the
20 Congress. In addition, the Administrator, in
21 consultation with the Secretariat for the
22 NAFTA Commission on Environmental Co-
23 operation, shall report to the Congress on the
24 outcomes of the Administration's investigations
25 on pollution and health hazards in and around

1 the United States-Mexico border zone since the
2 implementation of the NAFTA. The report
3 shall include, but not be limited to—

4 (i) a description and status report of
5 all industrial site cleanup and environ-
6 mental improvement projects begun in the
7 border zone since January 1, 1994;

8 (ii) information available from local,
9 State, and Federal health agencies reflect-
10 ing the incidence since January 1, 1990, in
11 and around the border zone of hepatitis,
12 neural stem birth defects, lupus, chronic
13 adolescent diarrhea, tuberculosis, nonneu-
14 ral birth defects, cholera, botulism, and
15 other disorders commonly related to indus-
16 trial pollution, inadequate infrastructures,
17 and hazardous waste; and

18 (iii) information on the incidence of
19 air and water pollution, including data re-
20 ported under the Clean Air Act, the Clean
21 Water Act, and related legislation since
22 January 1, 1990, and the causes, levels,
23 and types of pollution which have occurred.

24 (C) ENVIRONMENTAL STANDARDS.—If the
25 Administrator of the Environmental Protection

1 Agency determines that enforcement of the
2 health and environmental standards described
3 in paragraph (4) has enhanced the protection of
4 health and the environment in the countries of
5 the NAFTA Parties, the Administrator shall so
6 certify to the Congress.

7 (8) CERTIFICATION RELATING TO FAMILY
8 FARMS AND FOOD SECURITY.—If the Secretary of
9 Agriculture determines that production from small-
10 and moderate-sized farm operations in the United
11 States has not been unfairly displaced by imports
12 from NAFTA partners and that the security of the
13 food supply of the United States has not been sig-
14 nificantly and negatively affected by those imports,
15 the Secretary shall so certify to the Congress.

16 (9) CERTIFICATION RELATING TO DEMOCRACY
17 AND HUMAN FREEDOMS.—If the President, after
18 consultation with appropriate government agencies,
19 international organizations, and citizen organiza-
20 tions, determines that the Governments of the
21 NAFTA Parties protect the basic, internationally
22 recognized human, democratic, and labor rights of
23 their countries' inhabitants, the President shall so
24 certify to the Congress.

1 **SEC. 803. CONSULTATION WITH CONGRESS.**

2 The President shall consult regularly with the Con-
3 gress regarding the negotiations described in section
4 802(b) (1), (2), (3), and (4). The United States Trade
5 Representative shall consult with the appropriate commit-
6 tees of Congress in the development of any technical and
7 conforming amendments that may be required to carry out
8 the provisions of this title.

9 **SEC. 804. NO EXPANSION OF NAFTA.**

10 Until such time as the conditions described in section
11 802(b) are met, it is the sense of the Congress that the
12 President should not engage in negotiations to expand the
13 NAFTA to include other countries and that fast-track au-
14 thority should not be renewed with respect to the approval
15 of any such expansion of the NAFTA.

16 **SEC. 805. DEFINITIONS.**

17 As used in this title:

18 (1) NAFTA.—The term “NAFTA” means the
19 North American Free Trade Agreement entered into
20 between the United States, Canada, and Mexico on
21 December 17, 1992.

22 (2) NAFTA PARTY.—The term “NAFTA
23 Party” means the United States, Canada, or Mexico.

24 (3) UNITED STATES-MEXICO BORDER ZONE.—
25 The term “United States-Mexico border zone”
26 means the area that comprises the 12-mile zone on

1 the Mexican side of the United States-Mexico border
2 and the counties within any State of the United
3 States that are contiguous with Mexico.

4 **TITLE IX—COMMISSION ON**
5 **RETIREMENT INCOME POLICY**

6 **SEC. 901. ESTABLISHMENT.**

7 There is established a commission to be known as the
8 Commission on Retirement Income Policy (in this title re-
9 ferred to as the “Commission”).

10 **SEC. 902. DUTIES.**

11 (a) IN GENERAL.—The Commission shall conduct a
12 full and complete review and study of—

13 (1) trends in retirement savings in the United
14 States;

15 (2) existing Federal incentives and programs
16 that are established to encourage and protect such
17 savings; and

18 (3) new Federal incentives and programs that
19 are needed to encourage and protect such savings.

20 (b) SPECIFIC ISSUES.—In fulfilling the duty de-
21 scribed in subsection (a), the Commission shall address—

22 (1) the amount and sources of Federal and pri-
23 vate funds, including tax expenditures (as defined in
24 section 3 of the Congressional Budget Act of 1974
25 (2 U.S.C. 622)), needed to finance the incentives

1 and programs referred to in subsection (a)(2) and
2 any new Federal incentive or program that the Com-
3 mission recommends be established;

4 (2) the most efficient and effective manner,
5 considering the needs of retirement plan sponsors
6 for simplicity, reasonable cost, and appropriate in-
7 centives, of ensuring that individuals in the United
8 States will have adequate retirement savings;

9 (3) the amounts of retirement income that fu-
10 ture retirees will need to replace various levels of
11 preretirement income, including amounts necessary
12 to pay for medical and long-term care;

13 (4) the workforce and demographic trends that
14 affect the pensions of future retirees;

15 (5) the role of retirement savings in the econ-
16 omy of the United States;

17 (6) sources of retirement income other than pri-
18 vate pensions that are available to individuals in the
19 United States; and

20 (7) the shift away from insured and qualified
21 pension benefits in the United States.

22 (c) RECOMMENDATIONS.—

23 (1) IN GENERAL.—The Commission shall for-
24 mulate recommendations based on the review and
25 study conducted under subsection (a). The rec-

1 ommendations shall include measures that address
2 the needs of future retirees for—

3 (A) appropriate pension plan coverage and
4 other mechanisms for saving for retirement;

5 (B) an adequate retirement income;

6 (C) preservation of benefits they accumu-
7 late by participating in pension plans;

8 (D) information concerning pension plan
9 benefits; and

10 (E) procedures to resolve disputes involv-
11 ing such benefits.

12 (2) EFFECT ON FEDERAL BUDGET DEFICIT.—

13 A recommendation of the Commission for a new
14 Federal incentive or program that would result in an
15 increase in the Federal budget deficit shall not ap-
16 pear in the report required under section 906 unless
17 it is accompanied by a recommendation for offset-
18 ting the increase.

19 **SEC. 903. MEMBERSHIP.**

20 (a) NUMBER AND APPOINTMENT.—

21 (1) IN GENERAL.—The Commission shall be
22 composed of 16 members appointed not later than
23 90 days after the date of the enactment of this Act.

24 The Commission shall consist of the following mem-
25 bers:

1 (A) 4 individuals appointed by the Presi-
2 dent.

3 (B) 3 individuals appointed by the Speaker
4 of the House of Representatives.

5 (C) 3 individuals appointed by the minority
6 leader of the House of Representatives.

7 (D) 3 individuals appointed by the major-
8 ity leader of the Senate.

9 (E) 3 individuals appointed by the minor-
10 ity leader of the Senate.

11 (2) QUALIFICATIONS.—The individuals referred
12 to in paragraph (1) shall be Members of the Con-
13 gress, leaders of business or labor, distinguished aca-
14 demics, or other individuals with distinctive quali-
15 fications or experience.

16 (b) TERMS.—Each member shall be appointed for the
17 life of the Commission.

18 (c) VACANCIES.—A vacancy in the Commission shall
19 be filled not later than 90 days after the date of the cre-
20 ation of the vacancy in the manner in which the original
21 appointment was made.

22 (d) COMPENSATION.—

23 (1) RATES OF PAY.—Except as provided in
24 paragraph (2), members of the Commission shall
25 serve without pay.

1 (2) TRAVEL EXPENSES.—Each member of the
2 Commission shall receive travel expenses, including
3 per diem in lieu of subsistence, in accordance with
4 sections 5702 and 5703 of title 5, United States
5 Code.

6 (e) QUORUM.—10 members of the Commission shall
7 constitute a quorum, but 6 members may hold hearings,
8 take testimony, or receive evidence.

9 (f) CHAIRPERSON.—The chairperson of the Commis-
10 sion shall be elected by a majority vote of the members
11 of the Commission.

12 (g) MEETINGS.—The Commission shall meet at the
13 call of the chairperson of the Commission.

14 (h) DECISIONS.—Decisions of the Commission shall
15 be made according to the vote of not less than a majority
16 of the members who are present and voting at a meeting
17 called pursuant to subsection (g).

18 **SEC. 904. STAFF AND SUPPORT SERVICES.**

19 (a) EXECUTIVE DIRECTOR.—The Commission shall
20 have an executive director appointed by the Commission.
21 The Commission shall fix the pay of the executive director.

22 (b) STAFF.—The Commission may appoint and fix
23 the pay of additional personnel as it considers appropriate.

24 (c) APPLICABILITY OF CERTAIN CIVIL SERVICE
25 LAWS.—The executive director and staff of the Commis-

1 sion may be appointed without regard to the provisions
2 of title 5, United States Code, governing appointments in
3 the competitive service, and may be paid without regard
4 to the provisions of chapter 51 and subchapter III of chap-
5 ter 53 of that title relating to classification and General
6 Schedule pay rates.

7 (d) EXPERTS AND CONSULTANTS.—The Commission
8 may procure temporary and intermittent services under
9 section 3109(b) of title 5, United States Code, at rates
10 the Commission determines to be appropriate.

11 (e) STAFF OF FEDERAL AGENCIES.—Upon request
12 of the Commission, the head of any Federal agency may
13 detail, on a reimbursable basis, any of the personnel of
14 the agency to the Commission to assist it in carrying out
15 its duties under this title.

16 (f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the
17 request of the Commission, the Administrator of General
18 Services shall provide to the Commission, on a reimburs-
19 able basis, the administrative support services necessary
20 for the Commission to carry out its responsibilities under
21 this title.

22 **SEC. 905. POWERS.**

23 (a) HEARINGS AND SESSIONS.—

24 (1) IN GENERAL.—The Commission may, for
25 the purpose of carrying out this title, hold hearings,

1 sit and act at times and places, take testimony, and
2 receive evidence as the Commission considers appro-
3 priate. The Commission may administer oaths or af-
4 firmations to witnesses appearing before it.

5 (2) PUBLIC HEARINGS.—The Commission shall,
6 to the extent practicable, hold public hearings to re-
7 ceive the views of a broad spectrum of the public on
8 the status of the private retirement system of the
9 United States.

10 (b) DELEGATION OF AUTHORITY.—Any member,
11 committee, or agent of the Commission may, if authorized
12 by the Commission, take any action which the Commission
13 is authorized to take by this section.

14 (c) INFORMATION.—

15 (1) INFORMATION FROM FEDERAL AGENCIES.—

16 (A) IN GENERAL.—The Commission may
17 secure directly from any Federal agency infor-
18 mation necessary to enable it to carry out this
19 title. Upon request of the Commission, the head
20 of the Federal agency shall furnish the informa-
21 tion to the Commission.

22 (B) EXCEPTION.—Subparagraph (A) shall
23 not apply to any information that the Commis-
24 sion is prohibited to secure or request by an-
25 other law.

1 (2) PUBLIC SURVEYS.—The Commission may
2 conduct the public surveys necessary to enable it to
3 carry out this title. In conducting such surveys, the
4 Commission shall not be considered an agency for
5 purposes of chapter 35 of title 44, United States
6 Code.

7 (d) MAILS.—The Commission may use the United
8 States mails in the same manner and under the same con-
9 ditions as other Federal agencies.

10 (e) CONTRACT AND PROCUREMENT AUTHORITY.—
11 The Commission may make purchases, and may contract
12 with and compensate government and private agencies or
13 persons for property or services, without regard to—

14 (1) section 3709 of the Revised Statutes (41
15 U.S.C. 5); and

16 (2) title III of the Federal Property and Ad-
17 ministrative Services Act of 1949 (41 U.S.C. 251 et
18 seq.).

19 (f) GIFTS.—The Commission may accept, use, and
20 dispose of gifts of services or property, both real and per-
21 sonal, for the purpose of assisting the work of the Com-
22 mission. Gifts of money and proceeds from sales of prop-
23 erty received as gifts shall be deposited in the Treasury
24 and shall be available for disbursement upon order of the
25 Commission. For purposes of Federal income, estate, and

1 gift taxes, property accepted under this subsection shall
2 be considered as a gift to the United States.

3 (g) VOLUNTEER SERVICES.—Notwithstanding sec-
4 tion 1342 of title 31, United States Code, the Commission
5 may accept and use voluntary and uncompensated services
6 as the Commission determines necessary.

7 **SEC. 906. REPORT.**

8 Not later than December 31, 1997, the Commission
9 shall submit a report to the President, the majority and
10 minority leaders of the Senate, and the majority and mi-
11 nority leaders of the House of Representatives. The report
12 shall review the matters that the Commission is required
13 to study under section 902 and shall set forth the rec-
14 ommendations of the Commission.

15 **SEC. 907. TERMINATION.**

16 The Commission shall terminate not later than the
17 expiration of the 90-day period beginning on the date on
18 which the Commission submits its report under section
19 906.

○