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BUDGET RECONCILIATION RECOMMENDATIONS OF THE COMMITTEE ON FINANCE

AS SUBMITTED TO THE COMMITTEE ON THE BUDGET PURSUANT TO H. CON. RES. 178

COMMITTEE ON FINANCE
UNITED STATES SENATE

WILLIAM V. ROTH, JR., *Chairman*

JULY 1996

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PREFACE

H. Con. Res. 178 sets forth the congressional budget for the United States Government for fiscal years 1997, 1998, 1999, 2000, 2001, and 2002. The resolution also instructs Senate and House committees to develop legislation that achieves the levels of deficit reduction established by the resolution. These "budget reconciliation" recommendations of the various committees are submitted to the Committees on the Budget and assembled into a bill which is considered by each House.

H. Con. Res. 178 instructs the Committee on Finance to report their first reconciliation recommendations which produce changes in laws within its jurisdiction sufficient to reduce outlays from direct spending programs by $260,000,000 in fiscal year 1997; $98,321,000,000 for the period of fiscal years 1997 through 2002; and $36,578,000,000 in fiscal year 2002.

On June 26, 1996, the Committee on Finance approved its budget reconciliation recommendations by a vote of 11–9. These recommendations reduce direct spending by $770,000,000 in fiscal year 1997; by $98,578,000,000 for the period of fiscal years 1997 through 2002; and by $35,697,000,000 in fiscal year 2002.

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INTRODUCTION

Purpose and Summary

The purpose of this legislation is to reform the largest Federal welfare programs under the Social Security Act, the Aid to Families with Dependent Children (AFDC) program, Medicaid, and the Supplemental Security Income (SSI).

Federal, State, and local expenditures for the major welfare programs (including nutrition programs) under current law will total an estimated $2.4 trillion in the years 1996–2002. This legislation will slow the rate of increase in the cost of these programs and provide the States with expanded authority and responsibility to administer these programs more effectively.

Background and need for legislation

AFDC

The number of individuals receiving benefits under the Aid to Families with Dependent Children (AFDC) program has more than tripled since 1965. AFDC caseloads exceeded 14 million persons ever in 1993, and were higher yet in 1994. More than two-thirds of these recipients are children. Estimates of the number of children on AFDC for 1995 are 20 percent higher than for 1990.

In 1965, 3.3 million children received AFDC benefits. In 1990, more than 7.7 million children received AFDC. This growth occurred even though the total number of children in the United States had declined by nearly 5 million between 1965 and 1990. In 1994, nearly 9.6 million children received AFDC. Last year, the U.S. Department of Health and Human Services estimated that 12 million children would receive AFDC benefits within ten years under the current welfare system.

The Committee is concerned not only about the growth in the AFDC caseload, but the reasons why more children are dependent on public assistance and about the length of time families spend on AFDC. Nearly 90 percent of children receiving AFDC benefits live in homes in which no father is present. In response, this legislation includes both incentives and sanctions on the States and individuals to recover additional resources, including medical insurance, from absent parents. It contains sweeping changes to the child support enforcement system to make the parents rather than the taxpayer pay for the support of their children.

Most children begin receiving AFDC benefits because of a family crisis. The Committee is concerned however, that once on AFDC, many families do not move into the workforce. About 65 percent of the families now on welfare will be on the rolls for eight years or longer. Reliance on public assistance should be a temporary situation for the vast majority of families.

SSI

In response to the substantial growth in the SSI program, the Committee has recommended several reforms to protect the integrity of the program. Last year, the General Accounting Office (GAO) reported that before 1990, the number of disabled children receiving SSI was moderate, averaging three percent annually since 1984. From the beginning of 1990 through 1994, the growth rate averaged 25 percent annually and the number of children receiving SSI tripled.

The Committee is also concerned about the growth in the number of noncitizens receiving SSI. In 1982, noncitizens constituted three percent of all SSI recipients; by 1993, they constituted nearly 12 percent. GAO reports that had it not been for the growth in noncitizens, the elderly SSI population would have decreased 10 percent from 1986 through 1993. About 46 percent of noncitizen recipients applied for SSI within four years of entering the United States.

Medicaid

Medicaid is the largest welfare program, spending more than AFDC, Food Stamps, and SSI combined. Under current law, combined Federal and State Medicaid spending would total $292 billion in 2002. The Committee is concerned about the double-digit growth in Medicaid spending and the lack of flexibility in the management of the program. With greater state flexibility, savings could be used to expand coverage to more low income families.

Spending

In FY 1996, Federal expenditures for the welfare programs under the jurisdiction of the Finance Committee included in this legislation will total $145 billion. If spending for these welfare programs continues as under current law, they would total $238 billion in FY 2002.

Under the legislation, spending for these programs will continue to increase, but at a slower rate. Total Federal spending for these programs in 2002 would reach $202 billion, 39 percent higher than in 1996.

Committee Hearings

The Committee on Finance has conducted a series of hearings on Welfare and Medicaid reform. Following is a list of committee hearings on Welfare and Medicaid reform from the 104th Congress:

On March 8, 1995, the Committee on Finance held a hearing on the States' perspective on welfare reform. Witnesses testifying were: The Honorable Howard Dean, M.D., Governor of the State of Vermont; and the Honorable Tommy G. Thompson, Governor of the State of Wisconsin.

On March 9, 1995, the Committee on Finance held a hearing regarding the broad policy goals of welfare reform. Witnesses were: Robert M. Greenstein, Executive Director, Center on Budget and Policy Priorities, from Washington D.C.; Lawrence M. Mead, Ph.D., Visiting Professor of Public Policy, Woodrow Wilson School of Public and International Affairs, Princeton University, from Princeton,

New Jersey; Robert Rector, Senior Welfare and Family Issues Policy Analyst, The Heritage Foundation, from Washington D.C.; and Michael D. Tanner, Director of Health and Welfare Studies, Cato Institute, also from Washington D.C.

On March 10, 1995, the Committee on Finance held a hearing on the Administration's views on welfare reform. The witness was the Honorable Donna E. Shalala, Ph.D., Secretary of Health and Human Services, Washington, D.C.

On March 14, 1995, the Committee on Finance held a hearing on teen parents and welfare reform. The witnesses were Douglas J. Besharov, J.D., Resident Scholar, American Enterprise Institute for Public Policy Research, Washington D.C.; Robert C. Granger, Ed.D., Senior Vice President, Manpower Demonstration Research Corporation, New York, New York; Rebecca A. Maynard, Ph.D., Trustee Professor of Education and Social Policy, University of Pennsylvania, Philadelphia, Pennsylvania; and Kristin A. Moore, Ph.D., Executive Director and Director of Research, Child Trends, Washington D.C.

On March 20, 1995, the Committee on Finance held a hearing on welfare to work. The witnesses were: The Honorable Hank Brown, United States Senator from the State of Colorado; Judith M. Gueron, Ph.D., President, Manpower Demonstration Research Corporation, New York, New York; Stephen D. Minnich, Administrator, Adult and Family Services Division, Oregon Department of Human Resources, Salem, Oregon; Lawrence E. Townsend, Jr., Director, Department of Public Social Services, Riverside, California; Robert E. Friedman, Director and Chairman of the Board, The Corporation for Enterprise Development, San Francisco, California; Jeffrey H. Joseph, Vice President for Domestic Policy, U.S. Chamber of Commerce, Washington D.C.; William Marshall III, President, Progressive Policy Institute, Washington, D.C.; and Gerald M. Shea, Executive Assistant to the Secretary-Treasurer, AFL–CIO, Washington, D.C.

On March 23, 1995, the Committee on Finance, Subcommittee on Medicaid and Health Care conducted a hearing on Medicaid 1115 Waivers. The witnesses were: Sally K. Richardson, Director, Medicaid Bureau, Health Care Financing Administration, Baltimore, Maryland; William Scanlon, Ph.D., Associate Director, Health Financing Issues, U.S. General Accounting Office, Washington, D.C.; Mabel Chen, M.D., Director, Arizona Health Care Cost Containment System, Phoenix, Arizona; and Manuel Martins, Assistant Commissioner, Bureau of TennCare, Tennessee Department of Finance and Administration, Nashville, Tennessee.

On March 29, 1995, the Committee on Finance conducted a hearing to receive the views of interested organizations on welfare reform. The witnesses were: Robert B. Carleson, Senior Fellow, Free Congress Research and Education Foundation, San Diego, California; Kate Michelman, President, National Abortion and Reproductive Rights Action League, Washington, D.C.; Sister Mary Rose McGeady, D.C., President and Chief Executive Officer, Covenant House, New York, New York; the Reverend Donald L. Roberts, President and Chief Executive Officer, Goodwill Industries-Manasota, Inc., Sarasota, Florida; Penny L. Young, Director of Legislation and Public Policy, Concerned Women for America, Wash-

ington, D.C.; Bishop Merrill J. Bateman, Ph.D., Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints, Salt Lake City, Utah; John L. Carr, Secretary, Department of Social Development and World Peace, United States Catholic Conference, Washington, D.C.; Terry L. Cross, Executive Director, National Indian Child Welfare Association, Portland, Oregon; Peter J. Ferrara, J.D. Senior Fellow, National Center for Policy Analysis, Washington, D.C.; David S. Liederman, Chief Executive Officer, Child Welfare League of America, Washington, D.C.; and Gwenevere Daye Richardson, Co-Founder, Minority Mainstream, Houston, Texas.

On April 26, 1995, the Committee on Finance held a hearing on child welfare programs. The witnesses were: Peter M. Dibari, President and Chief Executive Officer, Child and Family Services of Newport County, Newport, Rhode Island; G. Peter Digre, Director, Department of Children and Family Services County of Los Angeles, Los Angeles, California; Wade F. Horn, Ph.D., Director, National Fatherhood Initiative, Gaithersburg, Maryland; and Ernestine Moore, Managing Director, Skillman Center for Children, Wayne State University, Detroit, Michigan.

On April 27, 1995, the Committee on Finance conducted a hearing on welfare reform wrap-up. The witnesses were: The Honorable Hank Brown, a Senator from the State of Colorado; the Honorable Kent Conrad, a Senator from the State of North Dakota; the Honorable Lauch Faircloth, a Senator from the State of North Carolina; the Honorable Tom Harkin, a Senator from the State of Iowa; the Honorable Nancy Landon Kassebaum, a Senator from the State of Kansas; the Honorable Rick Santorum, a Senator from the State of Pennsylvania; Charles A. Murray, Ph.D., Bradley Fellow, American Enterprise Institute for Public Policy Research, Washington, D.C.; and Richard P. Nathan, Ph.D., Director, The Nelson A. Rockefeller Institute of Government, State University of New York, Albany, New York.

On June 28, 1995, the Committee on Finance held a hearing on the Governors' perspectives on Medicaid. The witnesses were: The Honorable Howard Dean, Governor of the State of Vermont; the Honorable Jim Edgar, Governor of the State of Illinois; and the Honorable Michael O. Leavitt, Governor of the State of Utah.

On June 29, 1995, the Committee on Finance conducted a hearing on the historical perspectives of Medicaid. The witnesses were: June E. O'Neill, Ph.D., Director, Congressional Budget Office, Washington, D.C.; Diane Rowland, Sc.D., Executive Director, Kaiser Commission on the Future of Medicaid, Washington, D.C.; and the Honorable Gail R. Wilensky, Ph.D. Senior Fellow, Project HOPE, Bethesda, Maryland.

On July 12, 1995, the Committee conducted a hearing on State flexibility regarding Medicaid. The witnesses were: Bruce C. Vladeck, Ph.D., Administrator, Health Care Finance Administration, Department of Health and Human Services, Washington, D.C.; Donna Checkett, Director, Missouri Division of Medical Services, and Chair, National Association of State Medicaid Directors, Jefferson City, Missouri; Robert E. Hurley, Ph.D., Associate Professor, Department of health Administration, Medical College of Virginia, Richmond, Virginia; Richard C. Ladd, President, Ladd and Associates, Austin, Texas; Nelda McCall, President, Laguna Re-

search Associates, San Francisco, California; and William J. Scanlon, Ph.D., Associate Director for Health Financing, U.S. General Accounting Office, Washington, D.C.

On July 13, 1995, the Committee on Finance received testimony from interested parties on Medicaid reform. The witnesses were: Sheldon L. Goldberg, President, American Association of Homes and Services for the Aging, Washington, D.C.; Gregg Haifley, Senior Health Associate, Children's Defense Fund, Washington, D.C., on behalf of the Maternal and Child Health Coalition; Stephen McConnell, Ph.D., Senior Vice President for Public Policy, The Alzheimer's Association, Washington, D.C.; Kathleen H. McGinley, Ph.D., Assistant Director, Governmental Affairs Office, The Arc, Washington, D.C., on behalf of the Consortium for Citizens with Disabilities; the Reverend Dr. Clyde W. Oden, S.J., M.D., President and Chief Executive Officer, Watts Health Foundation, Inc., Inglewood, California, on behalf of the Group Health Association of America; and Bruce Siegel, M.D., President, New York City Health and Hospitals Corporation, New York, New York.

On July 27, 1995, the Committee on Finance conducted a hearing on the Medicaid distribution formula. The witnesses were: Sarah F. Jaggar, Director of Health Financing and Policy Issues, Health, Education and Human Services Division, U.S. General Accounting Office, Washington, D.C., accompanied by Jerry C. Fastrup, Assistant Director, Health, Education and Human Services Division, U.S. General Accounting Office; Jerry Cromwell, Ph.D., President, Health Economics Research, Waltham, Massachusetts; Richard P. Nathan, Ph.D., Director, The Nelson A. Rockefeller Institute of Government, State University of New York, Albany, New York; Paul E. Peterson, Ph.D., Henry Lee Shattuck Professor of Government, Harvard University, Cambridge, Massachusetts; and Robert P. Strauss, Ph.D., Professor of Economics and Public Policy, The Heinz School, Carnegie-Mellon University, Pittsburgh, Pennsylvania.

On February 22, 1996, the Committee on Finance conducted a hearing on the resolution of the National Governors' Association (NGA) regarding welfare and Medicaid reform. The witnesses were: The Honorable Tommy G. Thompson, Governor of the State of Wisconsin, and Co-Chair, National Governors' Association; the Honorable Bob Miller, Governor of the State of Nevada, and Co-Chair, National Governors' Association; the Honorable Tom Carper, Governor of the State of Delaware; the Honorable Lawton Chiles, Governor of the State of Florida; the Honorable John Engler, Governor of the State of Michigan; and the Honorable Roy Romer, Governor of the State of Colorado.

On February 28, 1996, the Committee on Finance conducted a hearing on the Administration's views on the bipartisan NGA proposal on welfare and Medicaid. The witness was the Honorable Donna E. Shalala, Ph.D., Secretary of Health and Human Services, Washington, D.C.

On February 29, 1996, the Committee on Finance conducted a hearing on the bipartisan NGA proposals on welfare and Medicaid. The witnesses were: Robert P. Carleson, Consultant in Public Policy, Arlington, Virginia; Sheldon Danziger, Ph.D., Professor of Social Work and Public Policy, the University of Michigan, Ann

Arbor, Michigan; the Reverend Alfred C. Kammer, S.J., President, Catholic Charities USA, Alexandria, Virginia; Heidi H. Stirrup, Director of Government Relations, The Christian Coalition, Washington, D.C.; John C. Goodman, Ph.D., President, National Center for Policy Analysis, Dallas, Texas; Robert D. Reischauer, Ph.D., Senior Fellow, The Brookings Institution, Washington D.C.; Louis F. Rossiter, Ph.D., Professor of Health Economics, and Director of the Office of Health Care Policy and Research, Virginia Commonwealth University, Richmond, Virginia; and James R. Tallon, Jr., President, United Hospital Fund, and Chair, Kaiser Commission on the Future of Medicaid, New York, New York.

On June 13, 1996, the Committee conducted a hearing on S. 1795, the "Personal Responsibility and Work Opportunity Act of 1996" and the Administration's welfare proposal. The witness was the Honorable Donna E. Shalala, Ph.D., Secretary of Health and Human Services, Washington, D.C.

On June 19, 1996, the Committee conducted a second hearing on S. 1795. The witnesses were: The Honorable David T. Ellwood, Academic Dean and Malcolm Weiner Professor of Public Policy, John F. Kennedy School of Government, Harvard University, Cambridge, Massachusetts; Charles D. Hobbs, Senior Fellow, American Institute for Full Employment, Washington, D.C.; Arnold R. Tompkins, Director, Ohio Department of Human Services, Columbus, Ohio; Charles D. Baker, Secretary of Administration and Finance for the State of Massachusetts, Boston, Massachusetts; Karen Davis, Ph.D., President, The Commonwealth Fund, New York, New York; and the Honorable Stephen H. Martin, Virginia State Senator for the 11th District, Richmond, Virginia.

Subtitle A—Welfare Reform

CHAPTER 1—BLOCK GRANTS FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

1. Findings

Present Law

No provision.

Explanation of Provision

Congress finds that marriage is the foundation of a successful society and an essential institution that promotes the interests of children. Promotion of responsible fatherhood and motherhood is integral to successful child-rearing and the well-being of children. It is the sense of Congress that prevention of out-of-wedlock pregnancy and reduction in out-of-wedlock birth are very important government interests and that the policy outlined in the provisions of this title is intended to address the crisis.

Reason for Change

These findings underscore the need for policy changes, referred to below, that reinforce marriage and family for a successful society.

Effective Date

Does not apply.

2. Reference to the Social Security Act

Present Law

No provision.

Explanation of Provision

Unless otherwise specified, any reference in this title to an amendment to or repeal of a section or other provision is to the Social Security Act.

Reason for Change

This is a technical provision for clarification purposes only.

Effective Date

July 1, 1997.

3. Block grant to States; Purpose

Present Law

Title IV–A of the Social Security Act, which provides grants to States for aid and services to needy families with children (AFDC), is designed to encourage care of dependent children in their own homes by enabling States to provide cash aid and services, maintain and strengthen family life, and help parents attain maximum self-support consistent with maintaining parental care and protection.

Explanation of Provision

Block grants for temporary assistance for needy families (TANF), which replace Title IV–A of the Social Security Act, are established to increase the flexibility of States in operating a program designed to provide assistance to needy families; end dependence on government benefits by promoting job preparation, work and marriage; prevent and reduce the incidence of out-of-wedlock pregnancies; and encourage the formation and maintenance of two-parent families.

This part shall not be interpreted to entitle any individual or family to assistance under any State program funded under this part.

Reason for Change

Converting the Aid to Families with Dependent Children (AFDC) program and associated programs into a block grant provides States with great flexibility in the use of Federal funds to help needy children and their families. In addition, a major problem with current welfare programs is that millions of families remain on welfare for many years. About 65 percent of the families now on welfare will be on the rolls for 8 years or more. Removing the individual entitlement to cash benefits, which is a critical aspect of the block grant approach to social policy, sends a clear message to recipients that benefits are temporary and are not intended to keep families dependent on public benefits year after year.

Effective Date

July 1, 1997 (or earlier at State option).

4. Eligible States—State plan requirements

Present Law

A State must have an approved State plan for aid and services to needy families containing 43 provisions, ranging from single-agency administration to overpayment recovery rules. State plans explain the aid and services that are offered by the State. Aid is defined as money payments. For most parents without a child under age 3, States must provide education, work, or training under the JOBS program to help needy families with children avoid long-term welfare dependence. Note: work and education requirements of JOBS are subject to two conditions—State resources

must permit them and the program must be available in the recipient's political subdivision. To receive Federal funds, States must share in program costs. The Federal share of costs (matching rate) varies among States and is inversely related to the square of State per capita income. For AFDC benefits and child care, the Medicaid matching rate is used. This rate now ranges from 50 percent to 78 percent among States and averages about 55 percent. For JOBS activities, the rate averages 60 percent; for administrative costs, 50 percent. The general JOBS participation rate, which expired September 30, 1995, required 20 percent of employable (nonexempt) adult recipients to participate in education, work, or training under JOBS, in fiscal year 1995. In fiscal year 1996, at least one parent in 60 percent of unemployed-parent families must participate at least 16 hours weekly in an unpaid work experience or other work program. States must restrict disclosure of information to purposes directly connected to administration of the program and to any connected investigation, prosecution, legal proceeding or audit. Each State must offer family planning services to all "appropriate" cases, including minors considered sexually active. States may not require acceptance of these services.

Explanation of Provision

An "eligible State" is a State that, during the two-year period immediately preceding the fiscal year, has submitted a plan to the Secretary of HHS that the Secretary has found includes a written document describing how the State will:

1. conduct a program, designed to serve all political subdivisions in the State (not necessarily in a uniform manner), that provides cash assistance to needy families with (or expecting) children, and that provides parents with work and support services to enable them to become self-sufficient;
2. require a parent or a caretaker receiving assistance to engage in work as defined by the State once she or he has received assistance for 24 months (whether or not consecutive) or, if earlier, whenever the State finds the person ready for work;
3. ensure that parents and caretakers engage in work activities as described below;
4. take reasonable steps that the State deems necessary to restrict the use and disclosure of information about recipients of assistance attributable to funds provided by the Federal government;
5. establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies, with special emphasis on teenage pregnancies, and establish numerical goals for reducing the proportion of babies born out of wedlock;
6. determine, on an objective and equitable basis, the needs of and the amount of aid to be provided to needy families, and to treat families of similar needs and circumstances similarly, with two exceptions allowed (see 8 and 9 below); and
7. grant opportunity for a fair hearing to a person to whom aid is denied, reduced, or ended, or whose request is not acted on with reasonable promptness.

Further, the document must:

8. indicate whether the State intends to treat families moving from another State differently from other families; and, if so, describe how it plans to treat them; and
9. indicate whether the State intends to aid noncitizens, and, if so, provide an overview of that aid.

Reason for Change

Under current law, State plans suffer from two major flaws. First, they are too detailed and cumbersome. States wind up wasting time reporting minute details of their programs to the Secretary. Second, and more important, the elaborate State plan is based on the philosophy that the Federal government knows best what States should do. The leaner requirements for State plans in the Committee proposal reflect a balance between the need of Federal policymakers to ensure that funds are being appropriately spent and States' need to invest their resources in delivering services and in responding to needs in a flexible manner. The Committee, while granting new flexibility to States to operate block grant programs, is determined that the delivery of benefits for needy families be provided in a fair and equitable manner. Consequently, States must establish as part of their State plan that determinations of eligibility, and the provision of benefits, will be conducted according to these standards.

Effective Date

July 1, 1997 (or earlier at State option).

5. Eligible States—Certifications

Present Law

States must have in effect an approved child support program. States must also have an approved plan for foster care and adoption assistance. States must have an income and verification system covering AFDC, Medicaid, unemployment compensation, food stamps, and—in outlying areas—adult cash aid.

Explanation of Provision

State plans must include the following certifications by the Governor:

1. Child support—certification that the State will operate a child support enforcement program under the State plan approved under Part D;
2. Foster care and adoption assistance (with medical aid)—certification that the State will operate a foster care and adoption assistance program under the State plan approved under Part E and that the State will take actions needed to ensure that recipient children are eligible for medical aid under Title XIX (or XV, if applicable);
3. Program administration—certification specifying which State agency or agencies will administer and supervise the State plan, and providing assurances that local governments and private sector organizations have been consulted and have

had at least 45 days to submit comments on the plan and design of services;

4. Indians—certification that the State will provide Indians who belong to tribes without a tribal family assistance plan with equitable access to aid from the block grant plan; and

5. Fraud and abuse—certification that the State has established and is enforcing standards and procedures to ensure against program fraud and abuse, including nepotism and conflicts of interest among persons responsible for administering and supervising the program, kickbacks, and the use of political patronage.

Reason for Change

As described above, a major objective of the block grant approach followed by the Committee is to reduce Federal rules and regulations. However, the Committee felt that several provisions of Title IV–A should be retained. Thus, the Committee proposal continues the current law requirements ensuring that States operate a child support enforcement program and a foster care and adoption assistance program. In addition, States must specify which agency will administer the State plan, and must certify that the State will provide Indians with equitable access to assistance.

Effective Date

July 1, 1997 (or earlier at State option).

6. Eligible States—Public availability of State plan summary

Present Law

Federal regulations require that State program manuals and other policy issuances, which reflect the State plan, be maintained in the State office and in each local and district office for examination on regular workdays.

Explanation of Provision

The State shall make available to the public a summary of the State plan.

Reason for Change

In keeping with the Committee goal of restoring control over welfare programs to States, communities, and individuals, the Committee proposal requires the public availability of information about States' block grant programs.

Effective Date

July 1, 1997 (or earlier at State option).

7. Grants to States—Family assistance grant

Present Law

AFDC entitles States to Federal matching funds. Current law provides permanent authority for appropriations without limit for

grants to States for AFDC benefits, administration, and AFDC-related child care. Over the years, because of court rulings, AFDC has evolved into an entitlement for qualified individuals to receive cash benefits. In general, States must give AFDC to all persons whose income and resources are below State-set limits if they are in a class or category eligible under Federal rules.

Explanation of Provision

Each eligible State and Territory is entitled to receive a grant from the Secretary for each of six fiscal years (1996 through 2001) in an amount equal to the State family assistance grant for the fiscal year.

A State's family assistance grant is equal to the highest of former Federal payments to the State for AFDC benefits, AFDC Administration, Emergency Assistance (EA), and JOBS during (1) fiscal years 1992 through 1994, on average; (2) for fiscal year 1994, plus 85 percent of the amount by which EA payments for fiscal year 1995 exceeded those for fiscal year 1994 if the Secretary during fiscal year 1994 or 1995 approved a plan amendment to allow provision of emergency assistance "in the context of family preservation," or (3) for fiscal year 1995.

If a State fails to make qualified State expenditures for eligible families under all State programs equal to at least 80 percent of its fiscal year 1994 spending level for AFDC benefits, AFDC Administration, Emergency Assistance, JOBS, AFDC-related child care, and at-risk child care, its family assistance grant is reduced by the shortfall (see the discussion of penalties below).

Reason for Change

States are given guaranteed funding for six years so they can make long-term plans without concern that Federal funds will be reduced. Fixed State funding also provides States with an incentive to help recipients leave welfare because, unlike current law, States do not get more money for having more recipients on the welfare rolls.

States are guaranteed a high level of Federal support (equal to recent levels), and States that have been successful at moving families off welfare in recent years are not disadvantaged by having their grant based on recently reduced spending levels. Instead, States are allowed to receive a Federal grant based on average funding in 1992 through 1994, in 1994, or in 1995. As a result, States that have already reduced welfare caseloads will have sufficient funding to continue and expand reforms.

States are required to maintain at least 80 percent of recent State spending on welfare programs in order to receive full Federal block grant funds. States that are successful in achieving program goals are eligible for a reduction in required State spending, to as low as 72 percent of base period levels. See item No. 47 below.

Effective Date

States may begin their block grant program as late as July 1, 1997. States that begin the new program earlier would receive

block grant payments in proportion to the number of days remaining in the fiscal year.

8. Grants to States—Grant to reward States that reduce out-of-wedlock births

Present Law

No provision.

Explanation of Provision

For each fiscal year beginning with 1998, a State's grant amount is increased by five or ten percent if the State's "illegitimacy ratio" is one or two percentage points, respectively, lower than in fiscal year 1995 and its abortion rate is lower than in fiscal year 1995.

The term "illegitimacy ratio" means, during a fiscal year, the number of out-of-wedlock births that occurred in the State divided by the number of births. In calculating grants, the Secretary must disregard any difference in illegitimacy ratios or abortion rates attributable to a change in State methods of reporting data.

Reason for Change

Given that one of the major goals of the block grant is to reduce out-of-wedlock births that are directly related to long-term welfare dependence, the Committee proposal establishes a fund to reward States that are successful in achieving this policy goal. Because of concern about the impact this provision might have on State policy regarding abortion, the Committee proposal disqualifies States whose rate of abortion does not fall, even if the State would otherwise qualify under the above criteria.

Effective Date

States become eligible for additional funds based on these criteria beginning in fiscal year 1998.

9. Grants to States—Supplemental grant for population increases (and low Federal spending per poor person) in certain States

Present Law

There is no adjustment for population growth. Instead, current law provides unlimited matching funds. When AFDC enrollment climbs, Federal funding automatically rises. Federal reimbursement (matching) rates are higher in States with relatively low per capita income.

Explanation of Provision

Subject to the eligibility criteria below, each qualifying State (for purposes of this section, the term "State" is limited to the 50 States and the District of Columbia) is entitled to receive from the Secretary supplemental grants for each of four fiscal years, 1998–2001. For fiscal year 1998 the supplemental grant equals 2.5 percent of Federal payments to the qualifying State during fiscal year 1994

for AFDC benefits, AFDC Administration, Emergency Assistance, JOBS and AFDC-related child care. For fiscal years 1999 through 2001, each qualifying State is entitled to receive an amount equal to the supplemental grant for the immediately preceding year plus, if it continues to meet the eligibility criteria below, an annual increase. States that no longer meet the qualification criteria are entitled to receive the prior year's grant without increase. A State is a qualifying State for a fiscal year if average Federal welfare spending per poor person is less than the fiscal year 1994 national average and State population growth for the most recent fiscal year with data exceeds the average for all States. States must qualify during fiscal year 1998 in order to qualify during later years. Certain States (i.e. those in which Federal welfare spending per poor person for fiscal year 1994 is less than 35 percent of the fiscal year 1994 national average or in which population has increased by 10 percent or more) are deemed to qualify for supplemental grants in each year between fiscal year 1998 and 2001. A total of $800 million is appropriated for this purpose. If this sum is insufficient for full supplemental grants for all qualifying States, pro rata reductions will be made.

Reason for Change

In response to concerns that States with growing populations would experience hardship under fixed block grant funding, the Committee establishes a special $800 million fund for certain States. Also qualifying would be States with historically low benefit levels, because these States would generally receive below-average per capita amounts in Federal funds from the block grant, which reflects previous AFDC benefit levels and caseloads. This fund is another of several specific proposals the Committee has adopted to respond to concerns about special State circumstances under the block grant program.

Effective Date

These supplemental grants become available beginning in fiscal year 1998.

10. Grants to States—Bonus to reward high performance states

Present Law

No provision.

Explanation of Provision

Certain "high performing" States (i.e. those most successful in achieving the purposes of the block grant program) are entitled to receive additional payments of up to five percent of their State family assistance grant. The formula for measuring State performance shall be developed by the Secretary in consultation with the National Governors' Association and the American Public Welfare Association. A total of $1 billion is appropriated for high performance bonuses to States during five fiscal years, 1999 through 2003.

Note: In addition, required maintenance-of-effort spending is to be reduced for States that achieve performance scores above a threshold set by the Secretary.

Reason for Change

One of the major problems with the current welfare system is its perverse incentive structure: because of the open-ended entitlement nature of the current system, States that operate welfare programs that result in large numbers of families being dependent for long periods of time receive the greatest Federal funding. The Committee proposal overturns this misguided policy in several ways, starting with the provision of fixed block grant funding to all States. In addition, the Committee proposal offers added cash "bonuses" totaling up to $1 billion for States that are the most successful in achieving national welfare goals, such as moving families into work, encouraging marriage, and ending long-term dependence.

Effective Date

The bonuses for high performance become available beginning in fiscal year 1999.

11. Grants to States—Contingency fund for State welfare programs

Present Law

No provision. Current law provides unlimited matching funds.

Explanation of Provision

To assist States (for purposes of this section, the term "State" is limited to the 50 States and the District of Columbia) with increased welfare needs, the Committee proposal establishes a contingency fund and appropriates up to $2 billion over a total of five fiscal years (1998 through 2002) for the fund. Eligible States may receive contingency fund payments totaling up to 20 percent of their annual family assistance grant in any single year (in any single month, States cannot receive more than 1/12 of 20 percent of the annual family assistance grant). States are to submit requests for payment of contingency funds, and the Secretary of the Treasury must make payments to eligible States in the order in which requests are received.

States are eligible to receive payments if State unemployment is high (at or above 6.5 percent in the most recent three-month period) and rising relative to previous years (at least 10 percent above the comparable level in either or both of two preceding years). States also are eligible to receive payments if food stamp participation in the State in the most recent three-month period has risen at least 10 percent from the average monthly number of recipients who would have participated in the comparable quarter of fiscal year 1994 or fiscal year 1995, as determined by the Secretary of Agriculture, if amendments made by the Personal Responsibility and Work Opportunity Act of 1996 affecting eligibility of noncitizens for food stamps and reforming the food stamp program had been in effect throughout fiscal year 1994 and 1995. States

must maintain 100 percent of historic State welfare spending (generally, the amount of State funds spent in fiscal year 1994 for AFDC benefits and administration, AFDC-related child care, at-risk child care, Emergency Assistance, and JOBS) during years in which contingency fund payments are made, or repay an amount reflecting the shortfall. To smooth their transition to economic recovery, States that have been receiving contingency fund payments will be eligible to receive payments for one month after they no longer meet the criteria described above.

Reason for Change

The Committee proposal provides up to $2 billion in new funding for States that experience economic downturns, and includes flexible "triggers" allowing these States to access this fund if unemployment or food stamp recipiency rise significantly.

Effective Date

Contingency funds are available to States beginning in fiscal year 1998.

12. Use of grants—In general

Present Law

AFDC and JOBS funds are to be used in conformity with State plans. A State may replace a caretaker relative with a protective payee or a guardian or legal representative.

Explanation of Provision

Grants may be used in any manner reasonably calculated to accomplish the purposes of this title, including activities now authorized under Titles IV–A and IV–F of the Social Security Act, or to provide low-income households with assistance in meeting home heating and cooling costs.

Reason for Change

States are permitted to use Federal dollars only in a manner consistent with the purpose of the Federal legislation and not in ways that are specifically proscribed by the proposal. The Committee proposal places some restrictions on how States use Federal dollars but clarifies that it is generally not Federal policy to dictate how States will spend their own money.

Effective Date

July 1, 1997 (or earlier at State option).

13. Use of grants—Limitation on administrative spending

Present Law

No provision.

Explanation of Provision

States may not use more than 15 percent of the family assistance grant for administrative purposes. However, this cap does not apply to spending for information technology and computerization needed to implement the tracking and monitoring required by this title.

Reason for Change

In order to ensure that the maximum amount of Federal funding is used to provide assistance to families, the Committee proposal limits the amount of block grant funding that may be used for administering the program.

Effective Date

July 1, 1997 (or earlier at State option).

14. Use of grants—Recipients moving into the State from another State

Present Law

The Social Security Act forbids the Secretary to approve a plan that denies AFDC eligibility to a child unless he has resided in the State for one year. The U.S. Supreme Court has invalidated some State laws that withheld aid from persons who had not resided there for at least one year. It has not ruled on the question of paying lower amounts of aid for incoming residents.

Explanation of Provision

States may impose program rules and benefit levels of the State from which a family moved if the family has lived in the State for fewer than 12 months.

Reason for Change

States are allowed to pay families who have moved from another State in the previous 12 months the cash benefit they would have received in the State from which they moved because research shows that some families move across State lines to maximize welfare benefits. Furthermore, States that want to pay higher benefits should not be deterred from doing so by the fear that they will attract large numbers of recipients from bordering States.

Effective Date

July 1, 1997 (or earlier at State option).

15. Use of grants—Transfer of funds

Present Law

No provision.

Explanation of Provision

States may transfer up to 30 percent of funds paid under this section to carry out activities under the child care and development block grant.

Reason for Change

Given that a major purpose of the proposal is to allow States maximum flexibility in the use of Federal funds, the proposal includes a provision that would allow States to transfer up to 30 percent of the funds from the cash welfare block grant into the child care block grant. This policy recognizes the importance of providing child care in assisting families to move from welfare to work.

Effective Date

July 1, 1997 (or earlier at State option).

16. Use of grants—Reservation of funds

Present Law

No provision.

Explanation of Provision

A State may reserve amounts paid to the State for any fiscal year for the purpose of providing assistance under this part. Reserve funds can be used in any fiscal year.

Reason for Change

This provision is another way the Committee proposal allows States to redesign welfare as a transitional program for use in times of economic distress, changing it from a program offering families a lifetime of guaranteed benefits and dependence on taxpayer support.

Effective Date

July 1, 1997 (or earlier at State option).

17. Use of grants—Authority to operate an employment placement program

Present Law

Required JOBS services include job development and job placement. The State agency may provide services directly or through arrangements or under contracts with public agencies or private organizations.

Explanation of Provision

States may use a portion of the family assistance grant to make payments (or provide job placement vouchers) to State-approved agencies that provide employment services to recipients of cash aid.

Reason for Change

In keeping with the overall goal of stressing work and providing for State flexibility, States may use block grant funds to operate employment services or provide job placement vouchers.

Effective Date

July 1, 1997 (or earlier at State option).

18. Use of grants—Implementation of electronic benefit transfer system

Present Law

Regulations permit States to receive Federal reimbursement funds (50 percent administrative cost-sharing rate) for operation of electronic benefit systems. To do so, States must receive advance approval from HHS and must comply with automatic data processing rules.

Explanation of Provision

States are encouraged to implement an electronic benefit transfer system for providing assistance under the State program funded under this part, and may use the grant for such purpose. In general, the proposal exempts State and local government electronic transfers of need-based benefits from certain rules issued by the Federal Reserve Board regarding electronic fund transfers, including Regulation E, which limits liability of cardholders.

Reason for Change

In keeping with the goal of providing major flexibility to States, States may use block grant funds to operate electronic benefit transfer (EBT) systems. An increasing number of States have turned to EBT systems as a means of increasing efficiency, achieving savings, and preventing fraud. The Committee encourages States to employ such innovations, and strips away regulatory obstacles that might prevent States from operating effective EBT systems.

Effective Date

July 1, 1997 (or earlier at State option).

19. Administrative provisions

Present Law

The Secretary pays AFDC funds to the State on a quarterly basis.

Explanation of Provision

The Secretary shall make each grant payable to a State in quarterly installments. The Secretary must notify States not later than three months in advance of any quarterly payment that will be reduced to reflect payments made to Indian tribes in the State. The

Secretary is to estimate each State's payment on the basis of a report about expected expenditures from the State and to certify to the Secretary of the Treasury the amount estimated, adjusted if needed for overpayments or overpayments for any past quarter. The Secretary of the Treasury is to pay the State, at the time or times fixed by the Secretary of Health and Human Services, the certified amount. Under certain circumstances, overpayments to individuals no longer receiving temporary family assistance will be collected from Federal income tax refunds and repaid to affected States.

Reason for Change

Quarterly payments to States continue, but the Committee takes account of the fact that Indian tribes within States may receive separate funding, and that overpayments may be collected from tax refunds and repaid to States directly.

Effective Date

July 1, 1997 (or earlier at State option).

20. Federal loans for State welfare programs

Present Law

No provision. Instead, current law provides unlimited matching funds.

Explanation of Provision

The proposal establishes a $1.7 billion revolving loan fund from which eligible States may borrow funds to meet the purposes of this title. States that have been penalized for misspending block grant funds as determined by an audit are ineligible for loans. Loans are to mature in three years, at the latest, and the maximum amount loaned to a State during fiscal years 1997 through 2001 cannot exceed 10 percent of its basic block grant. The interest rate shall equal the current average market yield on outstanding U.S. securities with a comparable remaining maturity length. States face penalties for failing to make timely payments on their loan.

Reason for Change

During recessions and other fiscal emergencies, States may have difficulty making payments and conducting programs for needy children and their families. To help States meet these contingencies, in addition to the authority to save State funds, transfer some block grant funds to child care activities, and reserve Federal funds for a later year, as outlined above, the proposal also includes a Federal loan fund of $1.7 billion from which States can borrow on roughly the same terms as they now borrow from the Federal Unemployment Account that is part of the Unemployment Compensation program.

Effective Date

July 1, 1997 (or earlier at State option).

21. Mandatory work requirements—Participation rate requirements

Present Law

The following minimum percentage of non-exempt AFDC families must participate in JOBS:

Fiscal year:	*Minimum percentage*
1995	20
1996 and thereafter	[1] 0

[1] No requirement.

The following minimum percentages of two-parent families receiving cash assistance must participate in specified work activities:

Fiscal year:	*Minimum percentage*
1995	50
1996	60
1997	75
1998 (last year)	75
1999 and thereafter	[1] 0

[1] No requirement.

Explanation of Provision

The following minimum percentages of **all** families receiving assistance funded by the family assistance grant (except single-parent families with a child under 1, if State exercises option to exempt them for a maximum period of one year per family) must participate in work activities:

Fiscal year:	*Minimum percentage*
1996	15
1997	25
1998	30
1999	35
2000	40
2001	45
2002 or thereafter	50

Note: If a State exempts a single parent with a child below age one, it may disregard the parent in calculating participation rates.

The following minimum percentages of two-parent families receiving cash assistance must participate in specified work activities:

Fiscal year:	Minimum percentage
1996	50
1997	75
1998	75
1999 and thereafter	90

If the two-parent family receives Federally funded child care, the second spouse also must engage in a work activity (see item No. 23).

Reason for Change

In addition to requirements that individuals work after receiving at most two years of welfare benefits, States are required to place a rising number of welfare recipients in work activities, reaching half of the overall State welfare caseload in fiscal year 2002. In contrast to the current system of guaranteed benefits in the absence of work, the revised standards hold States accountable for achieving the national goal of converting welfare into a program emphasizing work and personal responsibility. Higher standards apply to families with both parents present, in keeping with the understanding that in almost every case one parent should work if another parent is available to provide child care.

Effective Date

July 1, 1997 (or earlier at State option).

22. Mandatory work requirements—calculation of participation rates

Present Law

Participation rates for all families are calculated for each month. A State's rate, expressed as a percentage, equals the number of actual JOBS participants divided by the number of AFDC recipients required to participate (non-exempt from JOBS). In calculating a State's overall JOBS participation rate, a standard of 20 hours per week is used. The welfare agency is to count as participants the largest number of persons whose combined and averaged hours in JOBS activities during the month equal 20 per week.

Participation rates for two-parent families for a month equal the number of parents who participate divided by the number of principal earners in AFDC-UP families (but excluding families who received aid for two months or less, if one parent engaged in intensive job search).

Explanation of Provision

The participation rate (for all families and for two-parent families) for a State for the fiscal year is the average of the participation rates for each month in the fiscal year. The monthly participation rate for a State is a percentage obtained by dividing the number of families receiving assistance that include an adult who is engaged in work by the number of families receiving assistance (not counting those subject to a recent sanction for refusal to work).

The required participation rate for a year is to be adjusted down one percentage point for each percentage point that the average monthly caseload is below fiscal year 1995 levels, unless the Secretary finds that the decrease was required by Federal law or results from changes in State eligibility criteria (which must be proved by the Secretary). The Secretary is to prescribe regulations for this adjustment.

States have the option of counting individuals receiving assistance under a tribal family assistance plan toward the State work participation requirement.

As stated above, States have the option of not requiring parents of children under age one to engage in work (for a maximum period of one year per family) and may disregard these parents in determining work participation rates. Although States may not penalize a single parent of a child under age 11 who is unable to work because child care is not available for specified reasons, they may not disregard these families in calculating work participation rates.

Reason for Change

In contrast to the current system, characterized by broad exemptions from work requirements, the proposal calculates State participation rates, which increase annually, on the basis of the State's entire welfare caseload (with the single general exception of the small number of families experiencing a State sanction for their refusal to work). The Committee proposal rewards States that achieve caseload reductions for reasons including work, marriage, or diversion, allowing required participation rates to be lowered in keeping with caseload reduction. Some welfare reform proposals credit States with families who have left welfare for work (counting so-called "leavers") as still on welfare and working in meeting required participation rates. The Committee specifically rejects this approach, which would allow States to count as working and on welfare those who currently leave welfare for work (approximately 20 percent of welfare caseloads), most in the absence of dedicated State programs designed to move families into work.

Effective Date

July 1, 1997 (or earlier at State option).

23. Mandatory work requirements—Engaged in work

Present Law

Not relevant. (As discussed below, required activities in State JOBS programs are education, jobs skills training, job readiness, job development and job placement and two of these four: job search, on-the-job training, work supplementation, and community work experience, or other approved work experience. In general, to be counted as a JOBS participant, a person must be engaged in a JOBS activity for an average of 20 hours weekly.)

Explanation of Provision

To be counted as engaged in work for a month, an adult must be participating for at least the minimum average number of hours

per week shown in the table below in one or more of these activities: unsubsidized employment, subsidized (private or public) employment, work experience, on-the-job training, job search and job readiness assistance, community service programs, and vocational educational training (12 months maximum). (Also defined as work activities, but not generally creditable toward the minimum weekly hour requirement, are job skills training related to employment and, under limited circumstances, education directly related to employment and satisfactory attendance at secondary school. See below.)

Fiscal year:	*Minimum average hours weekly*
1996	20
1997	20
1998	20
1999	25
2000	30
2001	30
2002 and thereafter	35

Exceptions to the above table: (1) in a two-parent family, an adult must work at least 35 hours per week, with not fewer than 30 hours attributable to the work activities cited above; (2) in a two-parent family that receives Federally funded child care, the second spouse must make progress for at least 20 hours weekly in unsubsidized employment, subsidized (private or public) employment, work experience, on-the job training, or community service; (3) an individual in job search may be counted as engaged in work for up to 4 weeks only (12 weeks if the State unemployment rate is above the national average); (4) not more than 20 percent of adults in all families and in two-parent families determined to be engaged in work in the State for a month may meet the work requirement through participation in vocational educational training; (5) a single parent of a child under 6 years old is deemed to be engaged in work for a month if the parent works an average of 20 hours weekly in all years (the hourly requirement does not rise for these parents); (6) teen parents who are single household heads are considered to be engaged in work if they maintain satisfactory attendance at secondary school during the month or if they participate in education directly related to work for at least the minimum hours weekly specified in the above table.

Reason for Change

In carrying out their program, States must ensure that adults participate in qualified work activities, allowing reasonable exceptions for teens and families with young children and placing certain restrictions on States' ability to count certain activities (such as job search) for extended periods.

Effective Date

July 1, 1997 (or earlier at State option).

24. Mandatory work requirements—work activities defined

Present Law

JOBS programs must include specified educational activities (high school or equivalent education, basic and remedial education, and education for those with limited English proficiency); job skills training, job readiness activities, and job development and placement. In addition, States must offer at least two of these four items: group and individual job search; on-the-job training; work supplementation or community work experience program (or another work experience program approved by the HHS Secretary). The State also may offer postsecondary education in "appropriate" cases.

Explanation of Provision

"Work activities" are defined as unsubsidized employment, subsidized private sector employment, subsidized public sector employment, work experience if sufficient private sector employment is not available, on-the-job training, job search and job readiness assistance, community service programs, vocational educational training (one year maximum), jobs skills training directly related to employment, education directly related to employment in the case of a recipient under age 20 who lacks a high school diploma or equivalency, and satisfactory attendance at secondary school for a dependent child or household head under 20 who has not completed high school.

Reason for Change

In operating their work programs, States are given broad flexibility in determining work activities in which parents must engage.

Effective Date

July 1, 1997 (or earlier at State option).

25. Mandatory work requirements—Penalties against individuals

Present Law

For failure to meet JOBS requirements without good cause, AFDC benefits are denied to the offending parent and payments for the children are made to a third party. In a two-parent family, failure of one parent to meet JOBS requirements without good cause results in denial of benefits for both parents (unless the other parent participates) and third-party payment on behalf of the children. Repeated failures to comply bring potentially longer penalty periods.

Explanation of Provision

If an adult recipient refuses to engage in required work, the State shall reduce the amount of assistance to the family pro rata (or more, at State option) with respect to the period of work refusal, or shall discontinue aid, subject to good cause and other exceptions that the State may establish. A State may not penalize a single parent caring for a child under age eleven for refusal to work if the parent proves that there is a demonstrated inability to obtain needed child care for specified reasons: unavailability of care within a reasonable distance from home or work; unavailability or unsuitability of informal child care; unavailability of appropriate and affordable formal care. (However, as noted earlier, the parent must be counted in calculating the State's work participation rate.)

Reason for Change

One of the major goals of the Committee proposal is that families on welfare must work for benefits just as other families must work for their paychecks. In keeping with this principle, families that refuse to engage in work are subject to penalties reducing their benefits accordingly, with the exception of single parents with young children, at State option.

Effective Date

July 1, 1997 (or earlier at State option).

26. Mandatory work requirements—Nondisplacement in work activities

Present Law

Under JOBS law, no work assignment may displace any currently employed worker or position (including partial displacement such as a reduction in hours of non-overtime work, wages, or employment benefits). Nor may a JOBS participant fill a position vacant because of layoff or because the employer has reduced the workforce with the effect of creating a position to be subsidized.

Explanation of Provision

In general, an adult in a Title IV–A program may fill a vacant employment position to fulfill a IV–A work activity. No work assignment may displace a currently employed worker (including any partial displacement such as a reduction in hours of overtime work, wages, or employment benefits), impair an existing contract or collective bargaining agreement, or result in termination of a regular worker's employment or any other involuntary reduction of an employer's workforce. States must establish and maintain a grievance procedure, including opportunity for a hearing, for resolving complaints and for providing remedies for violations. This section does not preempt or supersede any State or local law providing greater protection from displacement.

Reason for Change

This provision is intended to continue Federal protections that bar States or employers from replacing current workers with individuals required to work under the revised welfare program.

Effective Date

July 1, 1997 (or earlier at State option).

27. Mandatory work requirements—Sense of the Congress that State should place a priority on placing certain parents in work

Present Law

As a condition of receiving full matching funds, a State must use 55 percent of its JOBS spending for these target groups: persons who have received aid for any 36 of the 60 preceding months, parents under age 24 who failed to complete high school, and parents whose youngest child is within 2 years of becoming ineligible for aid (i.e., whose youngest child is, usually, at least 16).

Explanation of Provision

It is the sense of Congress that States should give highest priority to requiring adults in two-parent families and adults in single-parent families with children that are older than preschool age to engage in work activities.

Reason for Change

Because families with older children who are in school and families with a second parent present do not require large day care expenses to permit a parent to work, States are encouraged to place a priority on placing these families in work in operating their revised welfare programs.

Effective Date

July 1, 1997 (or earlier at State option).

28. Mandatory work requirements—Sense of the Congress that States should impose certain requirements on noncustodial, nonsupporting minor parents

Present Law

No provision.

Explanation of Provision

It is the sense of the Congress that States should require noncustodial, nonsupporting parents who have not attained 18 years of age to fulfill community work obligations and attend appropriate parenting or money management classes after school.

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Reason for Change

The Committee stresses that young fathers must also be held responsible for their actions. Accordingly, the Committee encourages States to require community work and attendance in parenting classes in addition to continued school attendance for such minor parents.

Effective Date

July 1, 1997 (or earlier at State option).

29. Prohibitions; requirements—Families with no minor children

Present Law

Only families with dependent children (under age 18, or 19 at State option if the child is still in secondary school or in the equivalent level of vocational or technical training) can participate in the program.

Explanation of Provision

Only families with a minor child (who resides with a custodial parent or other adult caretaker relative of the child) or a pregnant individual may receive assistance under this part.

Reason for Change

Although the major purpose of the block grant approach taken in this proposal is to maximize State flexibility, there are specific issues over which the Federal government should maintain a major interest either because the Federal government is responsible for deciding in a general way how Federal dollars should be spent or because there are overriding policy concerns to which all States should respond. For example, it is the intent of the Committee to ensure that only families with or expecting children receive benefits under this block grant; any money spent on other purposes must be repaid to the Federal Government.

Effective Date

July 1, 1997 (or earlier at State option).

30. Prohibitions; Requirements—No additional cash assistance for children born to families receiving assistance

Present Law

No provision.

Explanation of Provision

Block grant funds may not be used to provide cash benefits for a child born to a recipient of cash welfare benefits or an individual who received cash benefits at any time during the 10-month period ending with the birth of the child. This prohibition does not apply to children born as a result of rape or incest, or to a baby born into

a family with no other children. States that pass a law specifically exempting their own programs from this national rule may use Federal funds to increase cash benefits for families that have additional children while on welfare.

States may continue terms of family caps adopted under Section 1115 waivers in effect on the date of enactment or under State law passed within two years before enactment.

Reason for Change

The Committee believes the nation has an overriding interest in reducing out-of-wedlock pregnancy rates and preventing families on welfare from becoming even more dependent on taxpayer support. Thus, the proposal establishes a national policy proscribing the use of Federal funds to pay additional cash benefits to families already on welfare who choose to have additional children. (See below for prohibitions affecting certain minors and families not cooperating on child support.)

Effective Date

July 1, 1997 (or earlier at State option).

31. Prohibitions; Requirements—noncooperation in child support

Present Law

As a condition of eligibility, applicants or recipients must cooperate in establishing paternity of a child born out-of-wedlock, in obtaining support payments, and in identifying any third party who may be liable to pay for medical care and services for the child.

Explanation of Provision

If, without good cause, the parent fails to cooperate in establishing, modifying or enforcing a child support order, the State must reduce the family benefit by at least 25 percent and it may deny the family any benefit.

Reason for Change

In thousands of cases, if child support were collected as ordered, families would not have to depend on taxpayer-funded welfare benefits. The Committee believes that it is the responsibility of the custodial parent to fully cooperate in obtaining proper child support.

Effective Date

July 1, 1997 (or earlier at State option).

32. Prohibitions; Requirements—failure to assign certain support rights to the State

Present Law

As a condition of AFDC eligibility, applicants must assign child support and spousal support rights to the State.

Explanation of Provision

Block grant funds may not be used to provide cash benefits to a family with an adult who has not assigned to the State rights to child support or spousal support. (A State may not require a family to assign to it support rights that accrue after the date the family leaves the program.)

Reason for Change

The Committee proposal continues this current law requirement in the context of the new block grant program.

Effective Date

July 1, 1997 (or earlier at State option).

33. Prohibitions; Requirements—teenage parent not attending high school or not living with an adult

Present Law

States may require unwed parents under age 18 to live with an adult in order to receive AFDC. They must require a custodial parent who is under 20 years old and who has not completed high school to participate in an educational activity under the JOBS program.

Explanation of Provision

States have the option of using Federal funds to provide cash welfare payments to unmarried teens only under specified conditions. States may not use Federal family assistance grant funds to provide assistance to parents under age 18 who have a child at least 12 weeks of age unless they attend high school or an alternative educational or training program. States may not use Federal funds to provide assistance to unmarried parents under age 18 unless they live with a parent or in another adult-supervised setting; States may, under certain circumstances, use Federal funds to assist teen parents in locating and providing payment for a second chance home or other adult-supervised living arrangement.

Reason for Change

One of the major goals of the Committee proposal is to combat out-of-wedlock pregnancies, which is one of the key causes of poverty and long-term welfare dependence. The consequences are especially severe for teens who give birth outside marriage, so the Committee provides States the flexibility to end the inducement of guaranteed cash welfare benefits for teens who have children outside marriage they are not equipped to support by themselves. In order to receive benefits in any State, teens must stay in school and live with an adult.

Effective Date

July 1, 1997 (or earlier at State option).

34. Prohibitions; Requirements—Medical services

Present Law

States must assure that family planning services are offered to all AFDC recipients who request them. (The Secretary is to reduce AFDC payments by 1 percent for failure to offer and provide family planning services to those requesting them.)

Explanation of Provision

Federal family assistance grants may not be used to provide medical services; Federal funds may, however, be used to provide family planning services.

Reason for Change

The Committee proposal makes clear that Federal funds are for the cash welfare, not medical, needs of poor families. However, States may use Federal funds to provide family planning services so that families can prevent their falling deeper into government dependence.

Effective Date

July 1, 1997 (or earlier at State option).

35. Prohibitions; Requirements—Time-limited benefits

Present Law

No provision.

Explanation of Provision

Federal family assistance grants may not be used to provide assistance for the family of a person who (as an adult, household head, or spouse of household head) has received TANF for 60 months, or fewer, at State option, whether or not consecutive. States may give hardship exemptions in a fiscal year to up to 20 percent of their average monthly caseload, including individuals who have been battered or subjected to sexual abuse (but States are not required to exempt these persons). When considering an individual's length of stay on welfare, States are to count only time during which the individual received assistance as the head of household. Any State funds spent to aid persons no longer eligible for temporary family assistance after 5 years of benefits may be counted toward the maintenance-of-effort requirement.

Reason for Change

Because breaking long-term dependency is a central objective of the legislation, the proposal disallows expenditure of Federal dollars on families that have been on welfare for more than five years. The Committee notes that, of families now on welfare, almost two-thirds will be dependent for a total of eight years or more, counting repeat spells. States are permitted to make some exemptions from the time limit for hardship, but it is the clear intent of the Commit-

tee that welfare benefits under the reformed system are to be temporary for families, not guaranteed lifetime benefits in lieu of work.

Effective Date

July 1, 1997 (or earlier at State option).

36. Prohibitions; Requirements—Fraudulent misrepresentation of residence in two States

Present Law

No provision.

Explanation of Provision

Any person convicted in Federal court or State court of having fraudulently misrepresented residence in order to obtain benefits or services in two or more States from the family assistance grant, Medicaid, Food Stamps, or Supplemental Security Income programs is ineligible for TANF for 10 years.

Reason for Change

The Committee is intent on eradicating welfare fraud. Accordingly, stern penalties are applied against those who attempt to exploit State programs by collecting benefits in more than one State.

Effective Date

July 1, 1997 (or earlier at State option).

37. Prohibitions; Requirements—Fugitive felons and probation and parole violators

Present Law

States may provide a recipient's address to a State or local law enforcement officer who furnishes the recipient's name and social security number and demonstrates that the recipient is a fugitive felon and that the officer's official duties include locating or apprehending the felon.

Explanation of Provision

No assistance may be provided to an individual who is fleeing to avoid prosecution, custody or confinement after conviction for a crime (or an attempt to commit a crime) that is a felony (or, in New Jersey, a high misdemeanor), or who violates probation or parole imposed under Federal or State law.

Any safeguards established by the State against use or disclosure of information about individual recipients shall not prevent the agency, under certain conditions, from providing the address of a recipient to a law enforcement officer who is pursuing a fugitive felon or parole or probation violator. This provision applies also to a recipient sought by an officer not because he is a fugitive but because he has information that the officer says is necessary for his official duties. In both cases the officer must notify the State that

location or apprehension of the recipient is within his official duties.

Reason for Change

The Committee believes that Federal cash welfare funds should be reserved to families in need only, and that State officials including law enforcement officers should have the appropriate tools to see that this mandate is fulfilled. Thus individuals who should not receive taxpayer-provided benefits, including fugitive felons, are ineligible for block grant funds.

Effective Date

July 1, 1997 (or earlier at State option).

38. Prohibitions; Requirements—Minor children absent from home for a significant period

Present Law

Regulations allow benefits to continue for children who are "temporarily absent" from home.

Explanation of Provision

No assistance may be provided for a minor child who has been absent from the home for 45 consecutive days or, at State option, between 30 and 180 consecutive days. States may establish a good cause exemption as long as it is detailed in the State report to the Secretary. No assistance can be given to a parent or caretaker who fails to report a missing minor child within five days of the time when it is clear (to the parent) that the child will be absent for the specified time.

Reason for Change

As described above, block grant benefits are designed to assist families with children only. Thus, the Committee proposal provides that families from whom minor children are absent for extended periods are not eligible for benefits.

Effective Date

July 1, 1997 (or earlier at State option).

39. Prohibitions; Requirements—Medical assistance required to be provided for 1 year for families losing eligibility for cash assistance

Present Law

States must provide Medicaid to all AFDC recipients and to some AFDC-related groups who do not receive cash aid. Examples include persons who do not receive a monthly payment because the amount would be below $10 (Federal law prohibits payments this small) and persons whose payments are reduced to zero in order to recover previous overpayments. States are also required to furnish Medicaid to certain two-parent families whose principal earn-

er is unemployed and who are not receiving cash assistance because the State has set a time limit on their AFDC coverage. In addition, they must continue Medicaid (or pay premiums for employer-provided health insurance) for 6 months to a family that loses AFDC eligibility because of hours of, or income from, work of the caretaker relative, or because of loss of the earned income disregard after 4 months of work. States must offer an additional 6 months of medical assistance (12-month total), for which it may require a premium payment if the family's income after child care expenses is above the poverty guideline. For extended medical aid, families must submit specified reports. States must continue Medicaid for 4 months to those who lose AFDC because of increased child or spousal support.

Explanation of Provision

States must provide medical assistance for one year to AFDC families who lose eligibility for cash aid because of new eligibility standards adopted by the State for the replacement TANF program, provided their income is below the poverty line. States also must provide medical assistance for one year to TANF families who lose eligibility for that program because of increased earnings or collections of child or spousal support, provided their income is below the poverty level. For purposes of determining family income to compare with the Federal poverty line, States have the authority to establish their own definition of income, except that they must exclude payments from the Earned Income Tax Credit. In order to qualify for this one year of extended medical coverage, families must have received AFDC or TANF, respectively, in at least 3 of the 6 months before the month in which they lost cash eligibility.

Reason for Change

Both program administrators and researchers have informed the Committee that if single parents have health insurance, they are more willing to leave welfare and are more successful in remaining off welfare. In order to help parents have the confidence that they can escape welfare dependency, the States would be required to provide at least 1 year of coverage for families that leave welfare because of increased earnings or child support unless family income exceeds the poverty level.

Effective Date

July 1, 1997 (or earlier at State option).

40. Application of anti-discrimination laws to new IV–A program

Present Law

No explicit provision in AFDC law.

Explanation of Provision

Clarifies that any program or activity that receives TANF block grant funds shall be subject to the Age Discrimination Act of 1975,

the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1964.

Reason for Change

The Committee wants to clarify that important anti-discrimination laws still apply to protect individuals.

Effective Date

July 1, 1997 (earlier at State option).

41. Penalties—Use of grant in violation of this part

Present Law

If the Secretary finds that a State has failed to comply with the State plan, she is to withhold all payments from the State (or limit payments to categories not affected by noncompliance).

Explanation of Provision

Before imposing any of the penalties below, the Secretary shall notify the State of the violation and allow the State to enter into a corrective action plan. Also, except for items 48 and 49, the Secretary may not impose a penalty if she finds that the State has reasonable cause for its failure to comply.

If an audit finds that a State has used Federal funds in violation of the purposes of this title, the Secretary shall reduce the following quarter's payment by the amount misused. If the State cannot prove that the misuse was unintentional, the State's following quarter payment is to be reduced by an additional five percent.

Reason for Change

States are required to spend block grant funds to achieve the purposes of the program. States that do not spend Federal funds for these purposes are penalized by having to repay the amounts misspent. Further, they face an added penalty: loss of up to five percent of their block grant amount if the misspending is judged to have been intentional.

Effective Date

July 1, 1997 (or earlier at State option).

42. Penalties—Failure to submit required report

Present Law

There is no specific penalty for failure to submit a report, although the general noncompliance penalty could apply.

Explanation of Provision

If a State fails to submit a required quarterly report within one month after the end of a fiscal quarter, the Secretary shall reduce by four percent the block grant amount otherwise payable to the State for the next fiscal year. However, the penalty shall be re-

scinded if the State submits the report before the end of the fiscal quarter succeeding the one for which the report was due.

Reason for Change

This penalty is designed to ensure State compliance with Federal reporting requirements.

Effective Date

July 1, 1997.

43. Penalties—Failure to satisfy minimum participation rates

Present Law

If a State fails to achieve the JOBS participation rate specified in law, the Secretary is to reduce to 50 percent the Federal matching rate for JOBS activities and for full-time personnel costs, which now ranges from 60 percent to 78 percent among States. (However, see item 55, "Corrective Compliance," for penalty waiver authority.)

Explanation of Provision

If a State fails to achieve its required work participation rate for the fiscal year, the Secretary shall reduce the following year's block grant by up to five percent, with the percentage cut based on the "degree of noncompliance." However, if the Secretary determines that the State failed to achieve work participation rates for two or more consecutive preceding fiscal years, she shall impose an additional penalty: a reduction in the grant equal to 5 percent of the full amount.

Reason for Change

It is essential to the success of welfare reform that States convert welfare into a program that emphasizes work. Thus States are required to place specified percentages of their welfare caseload in work activities, rising to 50 percent in 2002; States that fail to meet these objective requirements lose a portion of their annual block grant. This penalty works in tandem with other provisions of the block grant program (such as bonus funds and a reduction in required State spending for "high performance") to provide strong incentives for States to achieve the work-related goals of the new program.

Effective Date

July 1, 1997.

44. Failure to participate in the income and eligibility verification system

Present Law

States must have in effect an Income and Eligibility Verification System covering AFDC, Medicaid, unemployment compensation,

the Food Stamp program, and adult cash aid in the outlying areas. There is no specific penalty for failure to comply.

Explanation of Provision

If the State fails to participate in the Income and Eligibility Verification System (IEVS) designed to reduce welfare fraud, the Secretary shall reduce by up to two percent the annual family assistance grant of the State.

Reason for Change

States should participate in the IEVS system to ensure that recipients of block grant benefits do not receive duplicate benefits from other programs.

Effective Date

July 1, 1997.

45. Failure to comply with paternity establishment and child support enforcement requirements

Present Law

The penalty against a State for noncompliance with child support enforcement rules is loss of AFDC matching funds, but it must be suspended if a State submits and implements a corrective action plan.

Explanation of Provision

If the Secretary determines that a State does not enforce penalties requested by the Title IV–D child support enforcement agency against recipients of cash aid who fail to cooperate in establishing paternity or in establishing, modifying, or enforcing a child support order under Title IV–D (and who do not qualify for any good cause or other exception), the Secretary shall reduce the cash assistance block grant by up to five percent.

Reason for Change

It is important to the integrity of the national child support enforcement system (and for the protection of taxpayers who support Federal cash welfare benefits) for every State to enforce penalties against recipients who fail to cooperate on child support. Thus, States that fail to enforce these penalties against individuals are penalized through the loss of Federal block grant funds.

Effective Date

July 1, 1997.

46. Failure to timely repay a Federal loan fund for State welfare programs

Present Law

No provision.

Explanation of Provision

If a State fails to pay any amount borrowed from the Federal Loan Fund for State Welfare Programs within the maturity period, plus any interest owed, the Secretary shall reduce the State's family assistance block grant for the immediately succeeding fiscal year quarter by the outstanding loan amount, plus the interest owed on it. The Secretary may not forgive these overdue debts.

Reason for Change

States must promptly repay loans from the new $1.7 billion "rainy day" loan fund, or their subsequent block grant funds will be reduced by the outstanding loan amount and any interest owed.

Effective Date

July 1, 1997.

47. Failure of any State to maintain certain level of historic effort

Present Law

No provision.

Explanation of Provision

If in fiscal years 1997 through 2001 a State fails to spend a sum equal to at least 80 percent of its "historic level" of State spending on specified programs (generally fiscal year 1994 expenditures for AFDC, JOBS, Emergency Assistance, AFDC-related child care and "at-risk" child care), the Secretary shall reduce the following year's family assistance grant (that is, during fiscal years 1998 through 2002) by the difference between the 80 percent requirement and what the State actually spent.

Qualified State expenditures that count toward the 80 percent spending requirement are all expenditures under all State programs that provide any of the following assistance to families eligible for family assistance benefits (and those no longer eligible because of the 5-year time limit): cash and child care assistance; educational activities designed to increase self-sufficiency, job training and work (excluding any expenditure for public education in the State except expenditures that involve the provision of services or assistance to a member of an eligible family which is not generally available to persons who are not members of eligible families); administrative costs not to exceed 15 percent of the total amount of qualified State expenditures; and any other use of funds reasonably calculated to accomplish purposes of the temporary family assistance. Qualified State expenditures exclude spending from funds transferred from local programs or from State programs other than those listed above. Also not qualified are State funds used for Medicaid or to match Federal funds, or spent as a condition of receiving Federal funds under Federal programs other than Title IV–A.

The Secretary is to reduce the 80 percent maintenance of effort spending requirement by up to eight percentage points (i.e., to no lower than 72 percent) for States that achieve "high performance"

scores, based on a threshold to be set by the Secretary, for achieving the goals of the program of Temporary Assistance for Needy Families (TANF).

Reason for Change

The family assistance block grant program provides States with broad new flexibility in the use of Federal funds to operate their Statewide welfare programs. In general, there are few restrictions on the use of State funds. However, because the current welfare system requires State matching of Federal funds, some have expressed the concern that States should be forced to maintain a certain level of spending in order to receive full Federal funding. Thus the Committee proposal requires States to maintain 80 percent of prior funding levels on related welfare programs over the early years of the block grant program. This level is designed to allow States that are successful in reforming welfare and moving families into work to achieve considerable savings, while also guaranteeing that a basic national safety net remains in place in every State. With the exception of certain "high performing" States, States that fall below the 80 percent maintenance of effort level required would lose the equivalent in Federal block grant funds.

Effective Date

July 1, 1997.

48. Substantial noncompliance of State child support enforcement program requirements

Present Law

If a State child support program is found not to be in substantial compliance with Federal requirements, the Secretary is to reduce AFDC matching funds: by 1–2 percent for first finding of noncompliance, by 2–3 percent for second consecutive finding, and by 3–5 percent for third or subsequent finding. (See "corrective compliance" item 55.) Note: State child support plans must undertake to establish paternity of children born out-of-wedlock for whom AFDC is sought, and AFDC law requires the parent to cooperate in establishing paternity. Failure to cooperate makes the parent ineligible for AFDC.

Explanation of Provision

If a State child support enforcement program is found by review not to have complied with Title IV–D requirements, and the Secretary determines that the program is not in compliance at the time the finding is made, then the Secretary will reduce the State's quarterly block grant payment for each quarter during which the State is not in compliance. For the first finding of non-compliance, the reduction will be between one and two percent; for the second consecutive finding, between two and three percent; for the third or subsequent findings, between three and five percent. Non-compliance of a technical nature is to be disregarded.

Reason for Change

As described above, it is important to the integrity of the national child support enforcement system (and for the protection of taxpayers who support Federal cash welfare benefits) for every State to operate an effective child support enforcement program in compliance with the revised standards in this proposal. Thus States that fail to meet this basic requirement are subject to penalties that can reach five percent of the block grant amount.

Effective Date

July 1, 1997.

49. Failure of State receiving amounts from contingency fund to maintain 100 percent of historic effort

Present Law

Not relevant.

Explanation of Provision

If the Secretary determines that a State failed to maintain 100 percent of historic State spending, as required during a year in which contingency funds are paid to the State, the following year's block grant payment to the State is to be reduced by the amount of contingency funds paid.

Reason for Change

The Committee proposal establishes a new contingency fund to provide for increased welfare needs of certain States during times of economic distress. One of the conditions of State eligibility for these added funds is that States must maintain 100 percent of prior spending levels during periods in which they receive contingency funds. If a later audit finds that a State has failed to meet this requirement, the State must repay the contingency funds.

Effective Date

July 1, 1997.

50. Failure to comply with provisions of IV-A or the State plan

Present Law

If the Secretary finds that a State has failed to comply with the State plan, she is to withhold all payments from the State (or limit payments to categories not affected by noncompliance).

Explanation of Provision

If the Secretary finds, after notice and hearing opportunity, that a State during a fiscal year has not substantially complied with any provision of Title IV-A or the State plan, she shall (if a preceding penalty paragraph does not apply) reduce the grant for the next year by up to 5 percent and shall continue an annual reduction of

up to 5 percent until she determines that the State no longer is out of compliance.

Reason for Change

This provision reinforces the Committee's intent that States meet the requirements of the Act.

Effective Date

July 1, 1997 (sooner at State option).

51. Required replacement of grant fund reductions caused by penalties

Present Law

Not applicable.

Explanation of Provision

If a State's block grant is reduced as a result of one of the above penalties, the State must, during the following fiscal year, replace the penalized funds using State funds.

Reason for Change

This change is designed to ensure that States, not welfare recipients in need of assistance, lose funding as a result of State failure to meet the requirements of the Committee proposal.

Effective Date

July 1, 1997.

52. Penalties—Reasonable cause exception

Present Law

Not applicable. (States are eligible for unlimited funds, but must match every dollar at a prescribed rate.)

Explanation of Provision

The Secretary may (except for failure to timely repay the loan fund or failure to meet the 80 percent maintenance-of-effort requirement) withhold any of the above penalties against a State if she determines that the State had reasonable cause for failing to comply with the requirement.

Reason for Change

The Secretary is granted flexibility in setting most penalties against States.

Effective Date

July 1, 1997.

53. Penalties—Corrective compliance plan

Present Law

The penalty against a State for substantial noncompliance with child support rules is loss of AFDC matching funds. That penalty shall be suspended if a State submits and implements a corrective action plan. Also, if a State fails to achieve the JOBS participation rate specified in law, the Secretary may waive, in whole or part, the reduction in matching funds, provided the State has submitted a proposal likely to achieve the applicable participation rate for the current year.

Explanation of Provision

Before assessing a penalty against a State under any program established or modified by this Act, the Secretary must notify the State of the violation and allow the State an opportunity to enter into a corrective compliance plan within 60 days of the notification. The Federal government will have 60 days within which to accept or reject the plan; if it accepts the plan, and if the State corrects the violation, no penalty will be assessed. A plan submitted by a State is deemed to be accepted if the Secretary does not accept or reject the plan during the 60-day period after the plan is submitted.

Reason for Change

States are allowed a mechanism by which to avoid penalties through cooperation with Federal officials in correcting violations of specific provisions in the Committee proposal.

Effective Date

July 1, 1997.

54. Penalties—Limitation on amount of penalty

Present Law

If the Secretary finds that a State has failed to comply with the State AFDC plan, she is to withhold all AFDC payments from the State (or limit payments to categories not affected by the noncompliance.)

Explanation of Provision

In imposing the penalties described above, a State's quarterly family assistance grant cannot be reduced by more than a total of 25 percent; if necessary, penalties in excess of 25 percent will be carried forward to the immediately following fiscal year.

Reason for Change

Total penalties in any single quarter are limited to protect the interests of families who depend on State assistance through the block grant program.

Effective Date

July 1, 1997.

55. Appeal of adverse decision

Present Law

Current law (sec. 1116 of the Social Security Act) entitles a State to a reconsideration, which HHS must grant upon request, of any disallowed reimbursement claim for an item or class of items. The section also provides for administrative and judicial review, upon petition of a State, of HHS decisions about approval of State plans. At the option of a State, any plan amendment may be treated as the submission of a new plan.

Explanation of Provision

The Secretary is required to notify the Governor of a State within five days of any adverse decision or action under Title IV–A, including any decision about the State's plan or imposition of a penalty. This section provides for administrative review by a Departmental Appeals Board within HHS, requires a Board decision within 60 days after an appeal is filed, and provides for judicial review (by a United States district court) within 90 days after a final decision by the Board. The proposal also repeals the reference to Title IV–A in section 1116.

Reason for Change

This is a technical provision setting the terms of notice given to States about the imposition of penalties for failure to comply with provisions of the Committee proposal.

Effective Date

July 1, 1997.

56. Data Collection and Reporting—General reporting requirement

Present Law

States are required to report the average monthly number of families in each JOBS activity, their types, amounts spent per family, length of JOBS participation and the number of families aided with AFDC/JOBS child care services, the kinds of child care services provided, and sliding fee schedules. States that disallow AFDC for minor mothers in their own living quarters are required to report the number living in their parent's home or in another supervised arrangement. States also must report data (including numbers aided, types of families, how long aided, payments made) for families who receive transitional Medicaid benefits.

The National Integrated Quality Control System draws monthly samples of AFDC cases and reports extensive background information about each case in the sample. JOBS regulations require States to submit a sample of monthly unaggregated case record data.

Explanation of Provision

Each eligible State must collect on a monthly basis, and report to the Secretary on a quarterly basis, the following information on individual families receiving assistance:

1. the county of residence of the family;
2. whether a child receiving assistance or an adult in the family is disabled;
3. the ages of family members;
4. the number of individuals in the family, and the relationship of each member to the youngest child;
5. the employment status and earnings of the employed adult;
6. the marital status of adults, including whether they are never married, widowed, or divorced;
7. the race and educational status of each adult;
8. the race and educational status of each child;
9. whether the family received subsidized housing, Medicaid, food stamps, or subsidized child care, and if the latter two, the amount received;
10. the number of months the family has received each type of assistance under the program;
11. if the adults participated in, and the number of hours per week of participation in, the following activities: education; subsidized private sector employment; unsubsidized employment; public sector employment, work experience, or community service; job search; job skills training or on-the-job training; and vocational education;
12. information necessary to calculate the State work participation rates;
13. the type and amount of assistance received under the program, including the amount of and reason for any reduction of assistance (including sanctions);
14. any amount of unearned income received by any family member; and
15. the citizenship of family members.

In addition to data on individual cases, States must report, on a sample of cases closed during the quarter, whether families left welfare because of employment, marriage, the five-year time limit on benefits, sanction, or State policy.

States may use scientifically acceptable sampling methods approved by the Secretary to estimate the data elements required for annual reports. The Secretary shall provide States with case sampling plans and data collection procedures deemed necessary for statistically valid estimates.

Reason for Change

The Committee proposal is based on the philosophy that the role of the Federal government is to establish the broad guidelines of social policy, to provide States with money to create quality programs, and then to ensure that information on the effectiveness of State programs is publicly available. Thus, States are required to report both quarterly and annual data that can be used both to describe their program and to measure the outcomes of the program.

In addition, provisions are made in the proposal for nationally representative data to examine program outcomes (see below).

Effective Date

July 1, 1997.

57. Other State reporting requirements

Present Law

Regulations require each State to submit quarterly estimates of the total amount (and the Federal share) of expenditures for AFDC benefits and administration. Required quarterly reports include estimates of the Federal share of child support collections made by the State.

Explanation of Provision

The above quarterly report by the State must also include:

1. a Statement of the percentage of the funds paid to the State for the quarter that are used to cover administrative costs or overhead;
2. a Statement of the total amount expended by the State during the quarter on programs for needy families;
3. the number of noncustodial parents in the State who participated in work activities as defined in the proposal during the quarter; and
4. the total amount spent by the State during the quarter for providing transitional services to a family that no longer receives assistance because of employment, along with a description of those services.

The Secretary shall prescribe regulations necessary to define the data elements.

Reason for Change

See item No. 56 above. This provision requires State reporting of additional information that will help Federal officials determine the impact and results of block grant programs nationwide.

Effective Date

July 1, 1997.

58. Data collection and reporting—Annual reports to the Congress by the Secretary

Present Law

The law requires the HHS Secretary to report promptly to Congress the results of State reevaluations of AFDC need standards and payment standards required at least every 3 years. The Secretary is to annually compile and submit to Congress annual State reports on at-risk child care. The Family Support Act requires the Secretary to submit recommendations regarding JOBS performance standards by a deadline that was extended.

Explanation of Provision

Not later than 6 months after the end of fiscal year 1997, and each fiscal year thereafter, the Secretary shall send Congress a report describing:

1. whether States are meeting minimum participation rates and whether they are meeting objectives of increasing employment and earnings of needy families, increasing child support collections, and decreasing out-of-wedlock pregnancies and child poverty;
2. demographic and financial characteristics of applicant families, recipient families, and those no longer eligible for temporary family assistance;
3. characteristics of each State program funded under this part; and
4. trends in employment and earnings of needy families with minor children.

Reason for Change

To assist in evaluating whether State programs are achieving their purposes, the Secretary is to report this information directly to Congress.

Effective Date

Not later than six months after the end of fiscal year 1997, and each fiscal year thereafter.

59. Direct Funding and Administration by Indian Tribes—Grants for Indian tribes

Present Law

No provision for AFDC administration by Indian tribes. Indian and Alaska families with children receive AFDC benefits on the same terms as other families in their States, from State or local AFDC agencies.

More than 80 tribes and native organizations in 24 States are JOBS grantees, having applied to conduct JOBS within 6 months of enactment of the law establishing it. Their JOBS allocation of funds is deducted from that of their State.

Explanation of Provision

For each fiscal year 1997 through 2001, the Secretary shall pay tribal family assistance grants to eligible Indian tribes and shall reduce the family assistance grant for the State (s) containing the tribe's service areas accordingly. The tribal family assistance grant is equal to the total amount of Federal payments to the State for fiscal year 1994 in AFDC benefits, AFDC Administration, Emergency Assistance, and JOBS funds for Indian families residing in the tribal service area. The Secretary shall pay tribes that participated in the JOBS program in fiscal year 1995 a grant equal to their fiscal year 1994 JOBS funding ($7.6 million). This sum is appropriated for each of six fiscal years, 1996 through 2001.

Reason for Change

Like States, Indian tribes are given new authority and flexibility in operating reformed welfare programs. Eligible tribes receive guaranteed funding for this purpose.

Effective Date

July 1, 1997.

60. Direct Funding and Administration by Indian Tribes—Three-year tribal family assistance plan

Present Law

Not applicable.

Explanation of Provision

Indian tribes must submit a tribal family assistance plan to be eligible to receive a tribal family assistance grant. The plan must outline the tribe's approach to providing welfare services during the three-year period, specify how services will be provided, identify populations and areas served, provide that families will not receive duplicate assistance from a State or other tribal assistance plan, identify employment opportunities in the service area, and apply fiscal accountability provisions of the Indian Self-Determination and Education Assistance Act relating to the submission of a single-agency audit report required under current law.

The Secretary must approve tribal family assistance plans that contain the above elements. For each tribe receiving a family assistance grant and with the participation of the tribe, the Secretary shall establish minimum work requirements, time limits, and penalties that are consistent with provisions of this Act and the economic conditions and resources of the tribe. Tribes will be subject to the same penalties as States for misusing funds, failing to pay back Federal loan funds, and failing to meet work participation rates. Tribes will also be required to abide by the same data collection and reporting requirements as States.

Unless excepted through a waiver from the appropriate State authority, tribes in Alaska that receive tribal family assistance grants must operate a program comparable to the temporary family assistance program of the State of Alaska.

Reason for Change

Like States, tribes must submit family assistance plans describing the nature and operation of their welfare programs in order to be eligible for block grant funding.

Effective Date

July 1, 1997.

61. Research, Evaluations, and National Studies—Research

Present Law

Section 1110 of the Social Security Act authorizes and appropriates "such sums as the Congress may determine" for making grants and contracts to (or jointly financed arrangements with) States and public or other organizations for cooperative research or demonstration projects. The law cites as examples: research about the prevention and reduction of dependency, projects to achieve coordinated planning between public and private welfare agencies, and projects to improve administration and effectiveness of social welfare programs.

Explanation of Provision

The Secretary shall conduct research on the effects, benefits, and costs of operating State TANF programs, including time limits for eligibility. The research shall include studies on the effects of different programs and the impacts of the programs on welfare dependency, illegitimacy, teen pregnancy, employment rates, child well-being, and other appropriate issues.

Reason for Change

As with the requirement that States must report program data, the purpose of these studies is to provide Congress and the nation with reliable information about the effectiveness of State Temporary Family Assistance programs in helping people leave and remain independent of welfare. The studies will be conducted so that Congress can get information that represents both national performance and the performance of most States.

Effective Date

Upon enactment (October 1, 1996).

62. Research, Evaluations, and National Studies—Development and evaluation of innovative approaches to reducing welfare dependency and increasing child well-being

Present Law

Section 1115 of the Social Security Act authorizes waiver of specified provisions of AFDC law for State experimental, pilot or demonstration projects to promote objectives of the law, including self-support of parents and stronger family life.

Explanation of Provision

The Secretary may assist States in developing, and shall evaluate, innovative approaches for reducing welfare dependency and increasing the well-being of minor children, using random assignments in these evaluations to the maximum extent feasible.

Reason for Change

Consistent with the overall goals of providing enhanced State flexibility and encouraging innovative reforms, the Secretary is au-

thorized to assist States in evaluating new methods of reducing welfare dependency and increasing child well-being.

Effective Date

Upon enactment (October 1, 1996).

63. Research, Evaluations, and National Studies—Dissemination of information

Present Law

No provision.

Explanation of Provision

The Secretary shall develop innovative methods of disseminating information on research, evaluations, and studies, including ways to facilitate sharing of information via computers and other technologies.

Reason for Change

A major role of the Secretary will be to assist States in evaluating and becoming familiar with promising welfare reform programs operating in other States.

Effective Date

October 1, 1996.

64. Research, Evaluations, and National Studies—Annual rankings of States and review of most and least successful work programs

Present Law

No provision.

Explanation of Provision

The Secretary shall rank annually States receiving family assistance grants in the order of their success in moving families off welfare and into work. The Secretary shall review annually the three most and three least successful programs under these criteria.

Reason for Change

See above.

Effective Date

October 1, 1996.

65. Research, Evaluations, and National Studies—Annual rankings of States and review of issues relating to out-of-wedlock births

Present Law

No provision.

Explanation of Provision

The Secretary shall rank States annually on the percentage of births to families on welfare that are out-of-wedlock and on net changes in the percentage of out-of-wedlock births to families on welfare. The Secretary must review the programs of the five highest and five lowest ranking States under these criteria.

Reason for Change

See above.

Effective Date

October 1, 1996.

66. Research, Evaluations, and National Studies—State-initiated evaluations

Present Law

In a 1994 public notice, HHS Stated that it is committed to a broad range of evaluation strategies, including true experimental, quasi-experimental, and qualitative designs, for demonstrations operating under waivers. Section 1115 (d) of the Social Security Act required the Secretary to enter into agreements with up to eight applicant States to conduct demonstration projects testing more liberal treatment of unemployed 2-parent families. The law stipulated that the States must evaluate costs and work effort results by use of experimental and control groups.

Explanation of Provision

A State is eligible to receive funding to evaluate its family assistance program if it submits an evaluation design determined by the Secretary to be rigorous and likely to yield credible and useful information. The State must pay 10 percent of the study's cost, unless the Secretary waives this rule.

Reason for Change

In addition to familiarizing States with other State reform programs, the Secretary is charged with helping States evaluate the effects of their own programs, and is authorized to provide Federal funding.

Effective Date

October 1, 1996.

67. Research, Evaluations, and National Studies—Requirement that the Secretary of HHS prepare an annual report

Present Law

No provision.

Explanation of Provision

This provision requires the Secretary of HHS to prepare an annual report, beginning three years after enactment, which would examine the impact of welfare reform on various subgroups of families and children.

Reason for Change

In order to better understand the effects of welfare reform on families, including those made ineligible or whose benefits would be limited under requirements in the proposal, the Secretary is required to prepare and submit annual reports to Congress.

Effective Date

The Secretary must submit the first report three years after the date of enactment, and annually thereafter.

68. Research, Evaluations, and National Studies—Funding of studies and demonstrations

Present Law

See "Research" above. For Section 1115 (a) "waiver" projects ("Innovative Approaches" above) Federal cost neutrality over the life of a demonstration project is required.

Note: The annual budgets of HHS request funds for policy research under Section 1110. The fiscal year 1997 budget seeks $9 million and lists these priority issues: issues related to welfare reform, health care, family support and independence, poverty, at-risk children and youth, aging and disability, science policy, and improved access to health care and support services.

Explanation of Provision

For research, development and evaluation of innovative approaches, State-initiated evaluation studies of the family assistance program, and for costs of operating and evaluating demonstration projects begun under the AFDC waiver process, this section authorizes to be appropriated, and appropriates, a total of $15 million annually for four fiscal years, 1998 through 2001. Half of this sum is allocated to the purposes described above in "Research" and "Innovative Approaches" and half to the other purposes.

Reason for Change

Federal funds are guaranteed to ensure that adequate resources are available to evaluate family assistance programs and determine that the purposes of this block grant are being achieved. In addition to the broad authority to carry out studies under this section, the Secretary is given specific authorization to implement and evaluate demonstrations of a variety of innovative and promising strategies such as those currently operated in a number of States by Goodwill Industries. Such programs are examples of efforts that have been successful in moving families off welfare and into work; providing for the evaluation of and dissemination of information

about innovative, private-sector programs is an important part of nationwide reform.

Effective Date

October 1, 1996.

69. Study by the Census Bureau

Present Law

No provision.

Explanation of Provision

The Census Bureau must expand the Survey of Income and Program Participation (SIPP) to evaluate the impact of welfare reforms made by this title on a random national sample of recipients and, as appropriate, other low-income families. The study should focus on the impact of welfare reform on children and families, and should pay particular attention to the issues of out-of-wedlock birth, welfare dependency, the beginning and end of welfare spells, and the causes of repeat welfare spells. $10 million per year for five years (1998–2002) is appropriated for this study.

Reason for Change

The Committee wishes to ensure that data about the results of welfare reform are known, in particular on major issues addressed by the proposal: out-of-wedlock births, welfare dependency, the causes of poverty, and the reasons families return to welfare.

Effective Date

October 1, 1996.

70. Waivers

Present Law

Section 1115 of the Social Security Act authorizes the HHS Secretary to waive specified requirements of State AFDC plans in order to enable a State to carry out any experimental, pilot, or demonstration project that the Secretary judges likely to assist in promoting the program's objectives.

Explanation of Provision

This section provides that terms of AFDC waivers in effect, or approved, as of September 30, 1996, will continue until their expiration, except that beginning with fiscal year 1996 a State operating under a waiver shall be entitled to receive the block grant described under Section 403 in lieu of any other payment provided for in the waiver. The section also allows for continuation, under certain conditions, of waivers on or approved before July 1, 1997, on the basis of applications made before enactment of the new program.

States have the option to terminate waivers before their expiration, but projects that are ended prematurely must be summarized

in written reports. A State that submits a request to end a waiver within 90 days after the adjournment of the first regular session of the State legislature that begins after the date of enactment will be held harmless for accrued cost neutrality liabilities incurred under the waiver.

The Secretary is directed to encourage any State now operating a waiver to continue the project and to evaluate its result or effect. A State may elect to continue one or more individual waivers.

Reason for Change

The provision is designed to allow States flexibility to continue or under certain conditions terminate current waiver projects.

Effective Date

July 1, 1997 (or earlier at State option).

71. Assistant secretary for family support

Present Law

An Assistant Secretary for Family Support, appointed by the President by and with consent of the Senate, is to administer AFDC, child support enforcement, and the Jobs Opportunities and Basic Skills (JOBS) program.

Explanation of Provision

The provision for an Assistant Secretary for Family Support now found in section 417 of Part A of the Social Security Act is retained but modified to remove the reference to the JOBS program, which is repealed.

Reason for Change

This is a technical change.

Effective Date

October 1, 1996.

72. Reductions in workforce of the Department of Health and Human Services

Current Law

The Department of Health and Human Services reports (1995 data) that 118 employees in the Office of Family Assistance (OFA) work on AFDC and 209 (full-time equivalent positions) work in regional offices of the Administration for Children and Families (ACF). The OFA employees include 30 who spend some time interpreting AFDC/JOBS policy and participating with States and developing State plans. Programs administered by ACF include AFDC, JOBS, emergency assistance, child support enforcement, foster care, adoption assistance, independent living, family preservation and support, Head Start, Title XX social services block grant, child care and development block grant program, low-income

home energy assistance, refugee resettlement, child welfare services, and child abuse prevention.

Explanation of Provision

The proposal requires the Secretary of Health and Human Services to reduce the number of positions within the Department by 245 full-time equivalent (FTE) positions related to the conversion of AFDC, Emergency Assistance, and JOBS into the block grant program for Temporary Assistance for Needy Families and by 60 FTE managerial positions. It also requires the HHS Secretary to reduce by 75 percent the number of FTE positions that relate to any direct spending program, or any program funded through discretionary spending that is converted into a block grant program under the bill and to reduce FTE department management positions similarly (on the basis of the portion of the Department's total appropriation represented by programs converted to block grants).

Reason for Change

The Committee believes that returning authority to the States for these programs should also result in a reduction in the Federal bureaucracy.

Effective Date

July 1, 1997.

73. Limitation on Federal authority

Present Law

No provision.

Explanation of Provision

No officer or employee of the Federal Government may regulate the conduct of States under this part or enforce any provision of this part, except to the extent expressly provided in this part.

Reason for Change

Many States are highly critical of the current welfare system's lack of flexibility and high degree of Federal regulation. This provision is designed to explicitly restrict the ability of Federal officials to regulate State block grant programs, except as specifically provided under the Committee proposal.

Effective Date

Upon enactment.

74. Definitions—Adult

Present Law

No provision.

Explanation of Provision

An individual who is not a minor child.

Reason for Change

This is a technical change.

Effective Date

October 1, 1996.

75. Definitions—Minor child

Present Law

No provision. A dependent child is defined as a needy child who is under age 18 (19, at State option, if a full time student in a secondary school or equivalent level of vocational and technical training and expected to complete school before age 19).

Explanation of Provision

An individual who has not attained 18 years of age or has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training).

Reason for Change

This is a technical change.

Effective Date

October 1, 1996.

76. Definitions—Fiscal year

Present Law

No provision.

Explanation of Provision

Any 12-month period ending on September 30 of a calendar year.

Reason for Change

This is a technical change.

Effective Date

October 1, 1996.

77. Definitions—Indian, Indian tribe, and tribal organization

Present Law

For JOBS purposes, an Indian tribe is defined as any tribe, band, nation, or other organized group of Indians that is recognized as eligible for special programs and services of the U.S. because of their status as Indians. An Alaska native organization is any organized

group of Alaska natives eligible to operate a Federal program under P.L. 93–638 or that group's designee.

Explanation of Provision

With the exception of specified Indian tribes in Alaska, these terms have the meaning given in the Indian Self-Determination and Education Assistance Act.

Reason for Change

This is a technical change.

Effective Date

October 1, 1996.

78. Definitions—State

Present Law

For purposes of AFDC, the term "State" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, and American Samoa. The last jurisdiction has not implemented AFDC.

Explanation of Provision

Except as otherwise specifically provided (e.g., regarding the provision of supplemental grants for population growth and low Federal spending per poor person), the term "State" means the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa.

Reason for Change

This is a technical change.

Effective Date

October 1, 1996.

79. Additional grants to Puerto Rico, the Virgin Islands, Guam, and American Samoa; limitation on total payments

Present Law

Under current law, the territories are eligible for 75 percent matching grants for their expenditures on cash welfare for adult assistance (i.e., assistance for needy persons who are aged, blind, or disabled), Aid to Families with Dependent Children (AFDC), Emergency Assistance (EA), Foster Care and Adoption Assistance, the Job Opportunities and Basic Skills (JOBS) program, and the Family Preservation program (Title IV–B, subpart 2). These matching grants are limited by *caps* on Federal payments. The territories also receive grants under the child welfare services (Title IV–B, subpart 1) program. Note: Although eligible, territories do not claim foster care and option assistance matching funds.

The law places a ceiling on total payments for AFDC, aid to needy aged, blind or disabled adults, and foster care and adoption assistance to Puerto Rico—$82 million, the Virgin Islands—$2.8 million, Guam—$3.8 million, and American Samoa (AFDC , foster care, and adoption assistance)—$1 million.

Explanation of Provision

The proposal retains but increases aggregate welfare ceilings in each of the territories and effectively combines all but the IV–B services into a single block grant. The new ceilings would apply to aggregate spending for cash aid for needy families (temporary family assistance program), cash aid to needy aged, blind or disabled adults, and foster care and adoption assistance (Title IV–E).

To receive the new ceiling amounts (capped entitlements), territories must spend from their own funds in a fiscal year as much as they did in fiscal year 1995 for cash aid to needy families and cash aid to needy aged, blind, or disabled adults. Federal matching funds, at a 75 percent rate, would reimburse territories for expenditures above their fiscal year 1995 base level, but below the Federal cap. Mandatory ceiling amounts: Puerto Rico—$102 million; Guam, $4.7 million; Virgin Islands, $3.6 million; and American Samoa, $1 million. The proposal authorizes territories to transfer funds among these programs. (Current law is retained for IV–B programs—child welfare services and family preservation services.)

Reason for Change

The provision updates Federal grants for U.S. territories in keeping with revisions in the national welfare system.

Effective Date

October 1, 1996.

80. Repeal of provisions requiring reduction of Medicaid payments to States that reduce welfare payment levels

Present Law

If a State reduces AFDC "payment levels" below those of May 1, 1988, the Secretary shall not approve the State's Medicaid plan.

If a State reduces AFDC payment levels below those of July 1, 1987, Medicaid matching funds shall be disallowed for services to certain pregnant women and children not enrolled in AFDC but eligible for Medicaid on grounds of low income.

Explanation of Provision

The Committee proposal repeals provisions that impose Medicaid sanctions upon States that reduce AFDC payment levels below Stated levels.

Reason for Change

The Committee proposal increases State flexibility in operating reformed welfare programs by removing the restrictive current law requirement on benefit levels.

Effective Date

July 1, 1997 (or earlier at State option).

81. Services provided by charitable, religious, and private organizations

Present Law

The Child Care and Development Block Grant (CCDBG) Act prohibits use of any financial assistance provided through any grant or contract for any sectarian purpose or activity. In general, the CCDBG requires religious nondiscrimination, but it does allow a sectarian organization to require employees to adhere to its religious tenets and teachings.

Explanation of Provision

The Committee proposal authorizes States to administer and provide family assistance services (and services under SSI and public housing) through contracts with charitable, religious, or private organizations. Under this provision, religious organizations would be eligible, on the same basis as any other private organization, to provide assistance as contractors or to accept certificates and vouchers so long as their programs are implemented consistent with the Establishment Clause of the Constitution. States may pay recipients by means of certificates, vouchers, or other forms of disbursement that are redeemable with such private organizations.

The proposal provides that, except as otherwise allowed by law, a religious organization administering the program may not discriminate against beneficiaries on the basis of religious belief or refusal to participate in a religious practice. States must provide an alternative provider for a beneficiary who objects to the religious character of the designated organization.

Nothing in this section shall be construed to preempt any provision of a State constitution or State statute that prohibits or restricts the expenditure of State funds in or by religious organizations.

Reason for Change

Consistent with the intent of the Committee proposal to restore flexibility and control over welfare programs to States, communities, and individuals, this provision authorizes States to involve charitable, religious, and private organizations in the operation of their revised welfare programs. The provision encourages participation by religious organizations in the effort to help welfare recipients reach self-sufficiency, while assuring such organizations that they are not required to give up their religious identities and commitments in doing so. The provision also contains language that assures protection of the religious liberties of recipients of welfare services.

Effective Date

July 1, 1997 (or earlier at State option).

82. Census data on grandparents as primary caregivers for their grandchildren

(This provision is not under jurisdiction of the Committee on Finance but is included here for the sake of completeness.)

Present Law

No provision.

Explanation of Provision

The Secretary of Commerce shall expand the Census Bureau's question (for the decennial census and the mid-decade census) concerning households with both grandparents and their grandchildren so as to distinguish between households in which a grandparent temporarily provides a home and those where the grandparent serves as primary caregiver.

Effective Date

Ninety days after enactment.

83. Report on data processing

Present Law

No provision. (State child support plans may provide for establishment of a Statewide automated data processing and information retrieval system.)

Explanation of Provision

The Secretary must report to Congress within six months on the status of automatic data processing systems in the States and on what would be required to produce a system capable of tracking participants in public programs over time and checking case records across States to determine whether some individuals are participating in public programs in more than one State. The report should include a plan for building on the current automatic data processing system to produce a system capable of performing these functions as well as an estimate of the time required to put the system in place and the cost of the system.

Reason for Change

The revised welfare program provided for in the Committee proposal requires a number of major changes in the ways States track participants (such as for purposes of the five-year time limit, interstate movement, work requirements, and child support enforcement). This provision requires the Secretary to report to Congress on current State tracking programs and capabilities and changes needed to allow for the success of revised State programs.

Effective Date

The Secretary is to report within six months of the date of enactment (October 1, 1996).

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84. Study on alternative outcomes measures

Present Law

The Family Support Act required the Secretary to submit to Congress recommendations for JOBS performance standards regarding "specific measures of outcomes." It said the standards should not be measured solely by levels of activity or participation. (The report, due Oct. 1, 1993, was submitted one year late.)

Explanation of Provision

The Secretary must, in cooperation with the States, study and analyze measures of program outcomes (as an alternative to minimum participation rates) for evaluating the success of State block grant programs in helping recipients leave welfare. The study must include a determination of whether outcomes measures should be applied on a State or national basis and a preliminary assessment of the job placement performance bonus established in the Act. The Secretary must report findings to the Committee on Finance and the Committee on Ways and Means not later than September 30, 1998.

Reason for Change

The Secretary must consider whether outcomes would be a better measure of State performance than minimum participation rates, and report to Congress on her findings.

Effective Date

October 1, 1996 (with the Secretary reporting to Congress by September 30, 1998).

85. Welfare Formula Fairness Commission

Present Law

No provision. AFDC funds are not distributed by formula. States are entitled to reimbursement, at varying matching rates, for all AFDC and AFDC-related child care spending. Federal funds received by a State are a function of its AFDC benefit levels, caseloads, and Medicaid matching rate (which is inversely related to its per capita income).

Explanation of Provision

Establishes a Welfare Formula Fairness Commission to review and make recommendations on funding formulas, bonus payments, and work requirements of the new IV–A program of cash aid to needy families. The Commission is to have 13 members, three each appointed by the President, Senate Majority Leader, and House Speaker. The Senate Minority Leader and House Minority Leader shall each appoint two members. It is to report to Congress by Sept. 1, 1998, either making recommendations for change or giving notice that change is unneeded.

Reason for Change

The purpose of this commission is to study the TANF block grant, the funding formulas, the bonus payments, and the work requirements.

Effective Date

Commission shall hold its first meeting not later than 30 days after all members have been appointed.

86. Conforming amendments to the Social Security Act

Present Law

No provision.

Explanation of Provision

This section makes a series of technical amendments, including the repeal of the JOBS program, that conform provisions of the proposal with various titles of the Social Security Act.

Reason for Change

Technical changes.

Effective Date

October 1, 1996.

87. Conforming amendments to the Food Stamp Act of 1977 and related provisions

(This provision is not under jurisdiction of the Committee on Finance but is included here for completeness.)

Present Law

No provision.

Explanation of Provision

This section makes a series of technical amendments that conform provisions of the proposal with various titles of the Food Stamp Act and other related provisions.

88. Conforming amendments to other laws

Present Law

No provision.

Explanation of Provision

This section makes a series of amendments that conform provisions of the proposal to the Unemployment Compensation Amendments of 1976, the Omnibus Budget Reconciliation Act of 1987, the Housing and Urban-Rural Recovery Act of 1983, the Tax Equity and Fiscal Responsibility Act of 1982, the Social Security Amendments of 1967, the Stewart B. McKinney Homeless Assistance

Amendments Act of 1988, the Higher Education Act of 1965, the Carl D. Perkins Vocational and Applied Technology Education Act, the Elementary and Secondary Education Act of 1965, Public Law 99–88, the Internal Revenue Code of 1986, the Wagner-Peyser Act, the Job Training Partnership Act, the Low-Income Home Energy Assistance Act of 1981, the Family Support Act of 1988, the Balanced Budget and Emergency Deficit Control Act of 1985, the Immigration and Nationality Act, the Head Start Act, and the School-to-Work Opportunities Act of 1994.

Reason for Change

Technical changes.

Effective Date

October 1, 1996.

89. Development of prototype of counterfeit-resistant Social Security card required

Present Law

No provision.

Explanation of Provision

The Commissioner of Social Security is required to develop a prototype of a counterfeit-resistant Social Security card. The Commissioner must report to Congress on the cost of issuing a tamper-proof card for all persons over a 3, 5, and 10-year period.

Reason for Change

This provision is designed to determine the possible efficacy of a counterfeit-resistant Social Security card in preventing fraud and abuse in the administration of public welfare programs.

Effective Date

The Commissioner is to submit her report within one year after the date of enactment.

90. Disclosure of receipt of Federal funds

(This provision is not under jurisdiction of the Committee on Finance but is included here for sake of completeness.)

Present Law

No provision.

Explanation of Provision

Specified public funds (except those provided under Titles IV, XVI, and XX of the Social Security Act) received by non-profit, tax-exempt 501(c) organizations, must be publicly disclosed. When a 501(c) organization that accepts Federal funds under the Personal Responsibility and Work Opportunity Act makes any communication intended to promote public support or opposition to any gov-

ernmental policy (Federal, State or local) through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public advertising, the communication must state: "This was prepared and paid for by an organization that accepts taxpayer dollars." If an organization fails to comply, it shall be ineligible to receive Federal funds under Title IV–A or amendments made by it.

91. Modifications to the job opportunities for certain low-income individuals programs

Present Law

The Family Support Act of 1988 (Sec. 505) directed the Secretary to enter into agreement with between 5 and 10 nonprofit organizations to conduct demonstrations to create job opportunities for AFDC recipients and other low-income persons. For these projects, $6.5 million was authorized to be appropriated for each fiscal year, 1990–1992.

Explanation of Provision

The word "demonstration" is struck from the description of these projects, and the projects are converted to grant status. The provision requires the Secretary to enter into agreements with nonprofit organizations to conduct projects that create job opportunities for recipients of family assistance and other persons with income below the poverty guideline. $25 million annually is authorized for these projects.

Reason for Change

The change authorizes a permanent grant program.

Effective Date

October 1, 1996.

92. Secretarial submission of legislative proposal for technical and conforming amendments

Present Law

No provision.

Explanation of Provision

Not later than 90 days after the date of enactment, the Secretary must submit to the appropriate committees of Congress a legislative proposal providing for any technical and conforming amendments needed to make the law consistent with the policy embodied in the subtitle.

Reason for Change

Technical change.

Effective Date

The Secretary must submit proposals within 90 days after the date of enactment.

93. Effective date; transition rule

Present Law

Not relevant.

Explanation of Provision

Except as otherwise provided, this title and the amendments made by it take effect on July 1, 1997. Penalties (with the major exception of penalties for misuse of Federal family assistance grant funds) will not take effect until July 1, 1997, or six months after the State plan is received by the Secretary, whichever is later. Title IV–A amendments eliminating AFDC-related child care programs (which are replaced elsewhere in the bill) take effect October 1, 1996.

States may opt to begin their block grant program before July 1, 1997, in which case the State is entitled to receive no more than the State family assistance grant for the entire fiscal year; block grant payments will be made pro rata based on the number of days remaining in the fiscal year after the Secretary first received the State plan. The submission of a State plan is deemed to constitute the State's acceptance of the family assistance grant (including pro rata reductions for a partial fiscal year) and the termination of the individual entitlement to benefits under the AFDC program. Effective October 1, 1996, no individual or family shall be entitled to any benefits or services under any State plan under part A or F of Title IV of the Social Security Act (as in effect on September 30, 1995).

The amendments made do not apply with respect to powers, duties, penalties and other considerations applicable to aid, assistance or services provided before the effective date, or with respect to administrative actions and proceedings that commenced before the effective date. Federal and State officials may use scientifically acceptable statistical sampling techniques in closing out accounts. Each State shall complete the filing of all claims within two years after the date of enactment. The person serving as Assistant Secretary for Family Support within HHS on the day before the effective date of this title will continue to serve in that position until a successor is named, performing functions provided under current law and having powers and duties provided in Section 103 of this bill.

Reason for Change

This provision allows States the flexibility to begin their block grant programs until as late as July 1, 1997; penalties are generally delayed until that date to allow for the orderly transition to the revised program.

Effective Date

July 1, 1997 (or earlier at State option).

CHAPTER 2—SUPPLEMENTAL SECURITY INCOME

SUBCHAPTER A—ELIGIBILITY RESTRICTIONS

1. Reference to Social Security Act

Present Law

No provision.

Explanation of Provision

Any reference in this title expressed in terms of an amendment to or repeal of a section or other provision is made to the Social Security Act.

Reason for Change

The purpose of this section is to indicate that all references (to amend or repeal a section or other provision) in this title are made to the Social Security Act.

Effective Date

Date of enactment.

2. Denial of SSI benefits for 10 years to individuals found to have fraudulently misrepresented residence in order to obtain benefits simultaneously in 2 or more States

Present Law

Current law states that any persons who makes or causes to be made false statements or misrepresentations in applying for, or continuing to receive, Supplemental Security Income (SSI) payments may be subject to a civil monetary penalty or be fined or imprisoned pursuant to title 18, U.S. Code.

Explanation of Provision

Any person convicted in a Federal or State court of having fraudulently misrepresented residence in order to obtain benefits or services from two or more States under title IV, title XV, title XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States from the SSI program, is ineligible for SSI benefits for 10 years. In addition, an official of the court in which the individual was convicted is required to notify the Commissioner of such conviction.

Reason for Change

The Committee has determined that stricter penalties are needed to reduce fraud in the Federally funded benefits programs. This provision imposes a stricter penalty than under current law, ending eligibility for 10 years for individuals who attempt to receive various Federally funded benefits in more than one State.

Effective Date

Date of enactment.

3. Denial of SSI benefits for fugitive felons and probation and parole violators

Present Law

Current law provides safeguards which restrict the use or disclosure of information by the Social Security Administration (SSA) concerning SSI applicants or recipients to purposes directly connected with the administration of the SSI program or other Federally funded programs.

Explanation of Provision

No individual who is fleeing to avoid prosecution, custody or confinement after conviction for a crime (or an attempt to commit a crime) that is a felony (or, in New Jersey, a high misdemeanor), or who violates probation or parole imposed under Federal or State law, shall be eligible for SSI benefits.

SSA shall furnish the current address, Social Security number, and photograph (if applicable) of a recipient to any Federal, State, or local law enforcement officer who is pursuing a fugitive felon or parole or probation violator. This provision applies also to a recipient sought by an officer because the recipient has information necessary to the officer's official duties.

Reason for Change

The Committee proposal emphasizes that assistance through the SSI program is intended for the aged, blind, and disabled. Fleeing convicts or probation or parole violators should not be supported by Federal benefits. Measures to improve cooperation between the Social Security Administration and law enforcement officials are intended to assist in locating and apprehending such individuals.

Effective Date

Date of enactment.

4. Treatment of prisoners

(a) Implementation of prohibition against payment of benefits to prisoners

Present Law

Current law prohibits prisoners from receiving SSI benefits while incarcerated.

Explanation of Provision

The Commissioner shall enter into a contract with any interested State or local institution under which the institution shall provide monthly the names of institution residents, Social Security account numbers, dates of birth, and other identifying information. The Commissioner shall pay to the institution for each eligible individ-

ual who becomes ineligible for SSI benefits an amount not to exceed $400 if the information is provided within 30 days of the individual becoming an inmate. The payment is not to exceed $200 if the information is furnished after 30 days but within 90 days.

In addition, the Computer Matching and Privacy Protection Act of 1988 shall not apply to the information exchanged pursuant to this contract.

Reason for Change

This provision provides financial incentives for State and local institutions to report information on inmates to the Social Security Administration so SSI benefits fraudulently or improperly received by prisoners can be stopped.

The Privacy Act's procedural requirements to computer matching agreements between the Commissioner and the institutions imposes an excessively costly administrative burden that could hamper the administration of the provisions to terminate prisoner payments. Therefore, the Computer Matching and Privacy Protection Act shall not apply to the information exchanged under these provisions.

Effective Date

Date of enactment.

(b) Denial of SSI benefits for 10 years to a person found to have fraudulently obtained SSI benefits while in prison

Present Law

No provision.

Explanation of Provision

Denies benefits for 10 years (beginning the date of release from prison) to a person found to have fraudulently obtained SSI benefits while in prison.

Reason for Change

The Committee strongly believes that there must be a severe penalty for those found to have fraudulently obtained SSI benefits while in prison.

Effective Date

Date of enactment.

(c) Study of other potential improvements in the collection of information respecting public inmates

Present Law

No provision.

Explanation of Provision

The Commissioner shall conduct a study of the desirability, feasibility, and cost of establishing a system for courts to furnish the

Commissioner information regarding court orders and requiring that State and local jails, prisons, and other public institutions to enter into contracts with the Commissioner to furnish information on the inmates of such institutions by means of an electronic or similar data exchange system. The report of this study shall be submitted to the responsible Committees not later than 1 year after enactment.

Reason for Change

The Committee is concerned that the Social Security Administration find better ways to interface directly with courts and State and local prisons and other institutions so that prisoners and other ineligible individuals do not receive SSI and other Federally funded benefits.

Effective Date

Date of enactment.

5. Effective date of application for benefits

Present Law

The application of an individual for SSI benefits is effective on the later of the date the application is filed or the date the individual first becomes eligible for such benefits.

Explanation of Provision

Changes the effective date of an application to the later of the first day of the month following the date the application is filed or the first day of the month following the date the individual first becomes eligible for SSI benefits. The provision expands the Social Security Administration's authority to issue an immediate cash advance to individuals faced with financial emergencies. Effective for applications filed on or after the date of enactment.

Reason for Change

The Committee proposal ends an administrative burden of prorating benefits based on the date of application. In addition, the provision retains SSA's authority to provide immediate assistance to individuals faced with emergencies. The Committee notes that in the Social Security disability insurance (SSDI) program, once an individual is determined to be eligible to receive Social Security disability benefits, there is a five-month waiting period during which the individual is not entitled to benefits. This waiting period begins on the first day of the month following application.

Effective Date

Date of enactment.

SUBCHAPTER B—BENEFITS FOR DISABLED CHILDREN

6. Definition and eligibility rules

(a) Definition of childhood disability

Present Law

There is no definition of the childhood disability statute. Instead, the statute prescribes that an individual under age 18 shall be considered disabled for the purposes of eligibility for SSI if that individual has an impairment or combination of impairments of "comparable severity" which would result in a work disability in an adult. The impairment or combination of impairments must be expected to result in death or to last for a continuous period of not less than 12 months.

Explanation of Provision

This section adds a new statutory definition of childhood disability: An individual under the age of 18 is considered as disabled if the individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for at least a continuous period of not less than 12 months.

Reason for Change

The Committee intends that only needy children with severe disabilities be eligible for SSI, and that the Listing of Impairments and other current disability determination regulations as modified by these provisions properly reflect the severity of disability contemplated by the new statutory definition. In those areas of the Listing that involve domains of functioning, the Committee expects no less than two marked limitations as the standard for qualification. The Committee is also aware that the Social Security Administration uses the term "severe" to often mean "other than minor" in an initial screening procedure for disability determination and in other places. The Committee, however, uses the term "severe" in its commonsense meaning.

In addition, the Committee expects that the Social Security Administration will properly observe the requirements of section 1614(a)(3)(F) of the Social Security Act and ensure that the combined effects of all the physical or mental impairments of an individual under age 18 are taken into account in making a determination regarding eligibility under the definition of childhood disability. The Committee notes that the 1990 Supreme Court decision in *Zebley* held that the Social Security Administration previously had been remiss in this regard. The Committee also expects the Social Security Administration to continue to use criteria in its Listing of Impairments and in the application of other determination procedures, such as functional equivalence, to ensure that children, especially children too young to be tested, are properly considered for eligibility for benefits.

The Committee recognizes that there are rare disorders or emerging disorders not included in the Listing of Impairments that

may be of sufficient severity to qualify for benefits. Where appropriate, the Committee reminds the Social Security Administration of the importance of the use of functional equivalence disability determination procedures.

Nonetheless, the Committee does not intend to suggest by this definition of childhood disability that every child need be especially evaluated for functional limitations, or that this definition creates a supposition for any such examination. Under current procedures for writing individual listings, level of functioning is an explicit consideration in deciding which impairment, with certain medical or other findings, is of sufficient severity to be included in the Listing. Nonetheless, the Committee does not intend to limit the use of functional information, if reflecting sufficient severity and is otherwise appropriate.

Effective Date

This provision shall apply to applications pending on or filed on or after the date of enactment; this provision shall apply to current recipients upon redetermination.

(b) Request for comments to improve disability evaluation

Present Law

No provision.

Explanation of Provision

The Commissioner of the Social Security Administration shall publish annually in the Federal Register a request for comments regarding improvements to the disability determination procedures for SSI benefits for individuals under age 18.

Reason for Change

Consistent with the Committee's concerns described above and below that needy individuals under age 18 with severe disabilities be properly determined for SSI benefits, the Committee believes that outside experts and associations devoted to specific disabling conditions, among others, can provide important and useful information to the Social Security Administration to ensure that its disability determination procedures both reflect the best current knowledge of what conditions constitute severe disabilities and how such disabilities may be best evaluated.

Effective Date

Date of enactment.

(c) Changes to childhood SSI regulations

Present Law

Under the disability determination process for children, the Social Security Administration first determines if a child meets or equals the "Listing of Impairments" in Federal regulations. Under the Listings that relate to mental disorders, maladaptive behavior

may be scored twice, in both the domains of social functioning and of personal/behavior functioning.

Under the disability determination process for children, individuals who do not meet or equal the Listing of Impairments are subject to an "Individualized Functional Assessment" (IFA). This assessment is intended to determine whether, or to what extent, a child can engage in age-appropriate activities. If the child cannot, the child may be determined disabled.

Explanation of Provision

The Commissioner of Social Security shall eliminate references in the Listing of Impairments to maladaptive behavior among medical criteria for evaluation of mental and emotional disorders in the domain of personal/behavioral function.

The Commissioner of Social Security shall discontinue use of the Individualized Functional Assessment for children set forth in the Code of Federal Regulations.

Reason for Change

The Committee determined that the same maladaptive behavior could be considered in both the domains of personal/behavioral function and social function during a disability evaluation. Such "double counting" of a maladaptive behavior might, in some cases, result in an individual under 18 being determined as disabled who in fact was not sufficiently disabled to qualify for SSI benefits. The Committee provision is intended to end this clearly erroneous practice, and to allow maladaptive behavior to be considered only in the domain of social function.

Regarding elimination of the IFA, the Committee determined that these regulations have allowed a large number of individuals under age 18 without severe disabilities to qualify for SSI benefits. In the Committee's view, these regulations have had several very negative effects. These regulations have been costly and have led to a serious erosion of public confidence in the program, as the public has become aware that children without severe disabilities are receiving benefits intended for children with severe disabilities. In addition, the Committee is concerned about the psychological impact on children of being labeled as severely disabled in order to receive benefits, but who in fact are not. The SSI changes in the Committee proposal are designed to maintain adequate disability benefits for needy children with disabilities, while restoring public confidence in this program.

Effective Date

These provisions shall apply to applications pending on or filed on or after the date of enactment; and shall apply to current recipients upon redetermination of eligibility for SSI benefits.

(d) Medical improvement review standard as it applies to individuals under the age of 18

Present Law

No provision.

Explanation of Provision

This section contains technical modifications to the medical improvement review standard based on the new definition of childhood disability.

Reason for Change

Incorporates the new definition of childhood disability in the medical improvement standard.

Effective Date

This provision shall apply to applications pending or filed on or after the date of enactment and shall apply to current recipients upon redetermination.

(e) Effective dates, etc.

Present Law

No provision.

Explanation of Provision

Changes apply to applications and pending claims on or after the date of enactment, without regard to whether regulations have been issued.

No later than one year after the date of enactment, the Commissioner shall redetermine the eligibility of any child receiving benefits on the date of enactment whose eligibility might be affected by these provisions. Such current recipients will continue to receive benefits until their redetermination. Should a child be found ineligible, his/her benefits will end following the redetermination, or for months beginning on or after July 1, 1997, whichever is later.

No later than January 1, 1997, the Commissioner must notify those recipients whose eligibility for SSI benefits will be redetermined of such forthcoming redetermination.

The Commissioner must report to Congress within 180 days following enactment regarding progress made in implementing the SSI children's provisions.

The Commissioner shall submit any final regulations to the Committees of jurisdiction of Congress for their review at least 45 days before they become effective.

Additional funding of $300 million is provided to SSA to assist the agency in conducting the required redeterminations and continuing disability reviews.

Reason for Change

The importance of these provisions is emphasized by the immediate effective date for all pending and new applications. The Committee allows one year for the Commissioner to redetermine the eligibility of those recipients currently receiving benefits and whose eligibility might end due to these provisions. Recognizing the impact these redeterminations will have on SSA resources, the Committee proposal provides an additional $300 million for this purpose over the next three years.

Effective Date

Date of enactment.

7. Eligibility redeterminations and continuing disability reviews

Present Law

The Commissioner is required to conduct periodic continuing disability reviews (CDRs) of at least 100,000 disabled SSI recipients per year for a period of three years (i.e., fiscal years 1996–1998) and to report to Congress on CDRs for disabled SSI recipients no later than October 1, 1998.

Current law specifies that the Commissioner must redetermine under adult disability criteria the eligibility of at least one-third of SSI children who turn age 18 in each of the fiscal years 1996, 1997, and 1998 (the CDR must be completed before these children reach age 19) and report to Congress no later than October 1, 1998.

Explanation of Provision

(a) Continuing disability reviews relating to certain children

In addition to the provisions of current law, at least once every three years the Commissioner must conduct CDRs of children receiving SSI benefits. For children who are eligible for benefits and whose medical condition is not expected to improve, the requirement to perform such reviews does not apply (unless the Commissioner decides otherwise). At the time of a review, the parent or guardian must present evidence demonstrating that the recipient is and has been receiving appropriate treatment for his/her disability.

(b) Disability eligibility redeterminations required for SSI recipients who attain 18 years of age

The eligibility for all children qualifying for SSI benefits is to be redetermined using the adult criteria within one year after turning age 18. The review will be considered a substitute for any other review required under the changes made in this section. The "minimum number of reviews" and the "sunset" provisions of section 207 of the Social Security Independence and Program Improvements Act of 1994 are eliminated.

(c) Continuing disability review required for low birth weight babies

A review must be conducted 12 months after the birth of a child whose low birth weight is a contributing factor to the determination of the child's disability. At the time of review, the parent or guardian must present evidence demonstrating that the recipient is and has been receiving appropriate treatment for his/her disability.

Reason for Change

To ensure the integrity of the SSI program, the Commissioner is required to review the eligibility of certain children already receiving SSI benefits in order for such children to continue receiving benefits.

Effective Date

Changes involving redeterminations and CDRs apply to benefits for months beginning on or after the date of enactment, regardless of whether regulations have been issued.

8. Additional accountability requirements

(a) Requirement to establish account

Present Law

No provision.

Explanation of Provision

This section requires the representative payee (who is usually a parent) of an individual under age 18 to establish an account in a financial institution for the receipt of past-due SSI payments if the lump-sum payment amounts to more than 6 times the maximum monthly SSI payment (including any State supplement). A representative payee shall use the funds in the account only for allowable expenses, including education or job skills training; personal needs assistance; special equipment or housing modifications related to the child's disability; medical treatment; appropriate therapy or rehabilitation; or any other item or service that the Commissioner determines is appropriate.

Once the account is established the representative payee may deposit any past-due benefits owed to the recipient and any other funds representing an SSI underpayment provided the amount is more than the maximum monthly SSI benefit payment.

The funds in these accounts would not be counted as a resource, and the interest and other earnings on the account would not be considered income in determining SSI eligibility.

Reason for Change

The Committee believes that rapid expenditure of large, retroactive lump-sum SSI payments in order to retain SSI eligibility is not in the best interest of child recipients. Requiring the establishment of special accounts is designed to increase the likelihood that benefits will be spent on the needs of the disabled child.

Effective Date

These provisions apply to benefit payments made after the date of enactment.

9. Reduction in cash benefits payable to institutionalized individuals whose medical costs are covered by private insurance

Present Law

When a SSI recipient resides in a hospital or other medical institution in which more than half of the bill is paid by the Medicaid program, his/her monthly SSI benefit is reduced to $30 per month for personal needs. This personal needs allowance is intended to

pay for small personal expenses, with the cost of maintenance and medical care provided by the Medicaid program.

Explanation of Provision

Children in medical institutions whose medical costs are covered by private insurance would be treated the same as children whose bills are currently paid by Medicaid (that is, their monthly SSI cash benefit would be reduced to $30 per month).

Reason for Change

This provision is intended to provide for equal treatment of children who are institutionalized, regardless of whether their stay is being paid for by Medicaid or by private insurance.

Effective Date

The provision would apply to benefits for months beginning 90 or more days after the date of enactment, regardless of whether regulations have been issued.

10. Regulations

Present Law

No provision.

Explanation of Provision

The Commissioner of Social Security and the Secretary of HHS shall prescribe the necessary regulations within three months after enactment.

Reason for Change

The provision would require prompt issuance of regulations and operating procedures.

Effective Date

Date of enactment.

SUBCHAPTER C—ADDITIONAL ENFORCEMENT PROVISION

11. Installment payment of large past-due SSI benefits

Present Law

No provision.

Explanation of Provision

If an individual is eligible for past-due benefits (after any withholding for reimbursement to a State for interim assistance) in an amount which exceeds 12 times the maximum monthly benefit payable to an eligible individual or couple (plus any State supplementary payments), benefits will be paid in three installments made at 6-month intervals. The first and second installments may

not exceed 12 times the maximum monthly benefit payable. Installment caps may be extended by certain debt (food; clothing; shelter; or medically necessary services, supplies, or equipment) or the purchase of a home. Installment payments shall not apply to individuals whose medical impairment is expected to result in death in 12 months or for an individual who is ineligible and is likely to remain ineligible for the next 12 months.

Reason for Change

The proposal would enhance a recipient's ability to use retroactive benefits that he/she receives in a more controlled way, making it more likely that benefits will be used to address needs caused by the disability and less likely that funds will be quickly "spent down" in order to continue to meet program income and resource eligibility standards. By receiving retroactive payments in installments, each of which would be excluded from resources for 6 months, recipients would be able to arrange for purchases of items and services that they need over a longer term.

Effective Date

This provision is effective for benefits payable after the third month following the date of enactment.

12. Regulations

Present Law

No provision.

Explanation of Provision

The Commissioner of Social Security and the Secretary of HHS will prescribe necessary regulations within three months after enactment.

Reason for Change

This provision would require the prompt issuance of regulations and operating procedures.

Effective Date

Date of enactment.

SUBCHAPTER D—STATE SUPPLEMENTATION PROGRAMS

13. Repeal of maintenance of effort requirements applicable to optional state programs for supplementation of SSI

Present Law

Since the inception of the SSI program in 1974, States have had the option to supplement (with State funds) the Federal SSI payment. Subsequently, Congress passed section 1618 of the Social Security Act which in effect requires States to maintain such optional payments or lose eligibility for Medicaid funds. The purpose of sec-

tion 1618 was to encourage States to pass along to SSI recipients the amount of any Federal SSI cost-of-living benefit increase. Section 1618 allows States to comply with the "pass along/maintenance of effort" provision by either maintaining their State supplementary payment levels at or above March 1983 levels or by maintaining their supplementary payment spending so that total annual Federal and State expenditures will be at least equal to what they were in the prior 12-month period, plus any Federal cost-of-living increase, provided the State was in compliance for that period.

Explanation of Provision

This section repeals the maintenance of effort requirements in Section 1618 applicable to optional State programs for supplementation of SSI benefits, effective on the date of enactment.

Reason for Change

This provision restores the optional nature of State supplementary benefits, and allows States to manage and configure their supplemental benefit programs in a manner which they determine is most appropriate.

Effective Date

Date of enactment.

SUBCHAPTER E—STUDIES REGARDING SSI PROGRAM

14. Annual report on the supplemental security income program

Present Law

The Social Security Administration collects and publishes limited information on the SSI program.

Explanation of Provision

The Commissioner of Social Security must prepare and provide to the President and the Congress an annual report on the SSI program, which includes specified information and data. The report is due May 30 of each year.

Reason for Change

The Committee intends for the Congress and the President to receive a comprehensive report each year to better promote effective oversight of the SSI program.

Effective Date

Date of enactment.

15. Study by General Accounting Office

Present Law

No provision.

Explanation of Provision

No later than January 1, 1999, the Comptroller General of the United States must study and report on the impact of the amendments and provisions made by this bill, and extra expenses incurred by families of children receiving benefits not covered by other Federal, State, or local programs.

Reason for Change

Many families of disabled children incur expenses beyond those experienced by families of children who are not disabled. However, the extra expenses related to a child's disability vary widely, depending on the nature and degree of disability and the availability of Federal, State, and local health care and/or disability programs. Congress needs better information as to whether the unmet needs of families of disabled children could be better and more efficiently met through services, such as mental health treatment or the purchase of items of assistive technology, rather than through cash payments. In the 24 years since the SSI program was created, substantial new Federal programs have been authorized to assist children with disabilities, including Federal, State, and local funding of special education and the rapid expansion of Medicaid benefits. The impact of these programs on the cash needs of children with disabilities merits further investigation by Congress.

Effective Date

Date of enactment.

CHAPTER 3—CHILD SUPPORT

SUBCHAPTER A—ELIGIBILITY FOR SERVICES; DISTRIBUTION OF PAYMENTS

1. State obligation to provide child support enforcement services

Present Law

States are required to establish paternity for children born out of wedlock if they are recipients of AFDC or Medicaid, and to obtain child and spousal support payments from noncustodial parents of children receiving AFDC, Medicaid benefits, or foster care maintenance payments. States must provide child support collection or paternity determination services to persons not otherwise eligible if the person applies for services. Federal law requires States to cooperate with other States in establishing paternity (if necessary), locating absent parents, collecting child support payments, and carrying out other child support enforcement functions. In cases in which a family ceases to receive AFDC, States are required to provide appropriate notice to the family and continue to provide child support enforcement services without requiring the family to apply for services or charging an application fee.

Explanation of Provision

States must provide services, including paternity establishment and establishment, modification, or enforcement of support obligations, for children receiving benefits from the Temporary Assistance for Needy Families block grant (TANF), foster care maintenance payments, Medicaid, and any child of an individual who applies for services. States must enforce support obligations with respect to children in their caseload and the custodial parents of such children. States must also make child support enforcement services available to individuals not residing within the State on the same terms as to individuals residing within the State. States are not required to provide services to families if the State determines, taking into account the best interests of the child, that good cause or other exceptions exist. The provision also makes minor technical amendments to section 454 of the Social Security Act.

When a family ceases to receive benefits from the TANF block grant, States are required to provide appropriate notice to the family and continue to provide child support enforcement services without requiring the family to apply for services or charging an application fee.

Reason for Change

The provision simply clarifies the current statute regarding which particular families must receive child support enforcement services from States. Given the Federal government's investment of taxpayer dollars in the cash provided to families by the TANF block grant, the new Medicaid block grant established by this legislation, and foster care, the Congress has always required States to capture as much money as possible from parents to repay tax-

payers for their investment. Indeed, perhaps the major reason Congress established the child support program in 1975 was to do everything possible to ensure that parents, especially parents who did not live with their children, repaid taxpayers for supporting these children. Thus, Congress requires States to try to obtain support from noncustodial parents whose children are receiving cash assistance under either the TANF or foster care programs or medical coverage under the Medicaid block grant. Further, because millions of families are at risk of needing public welfare unless noncustodial parents provide child support, and because additional millions of families are not receiving the financial support that is their legal right from noncustodial parents, States must provide child support services to non-welfare families that request such services.

Effective Date

October 1, 1996.

2. Distribution of child support collections

Present Law

Federal law requires that child support collections be distributed as follows: First, up to the first $50 in current support is paid to the AFDC family (a "disregard" that does not affect the family's AFDC benefit or eligibility status). Second, the Federal and State governments are reimbursed for the AFDC benefit paid to the family in that month. Third, if there is money left, the family receives it up to the amount of the current month's child support obligation. Fourth, if there is still money left, the State keeps it to reimburse itself for any arrearages owed to it under the AFDC assignment (with appropriate reimbursement of the Federal share of the collection to the Federal government). If no arrearages are owed the State, the money is used to pay arrearages to the family; such moneys are considered income under the AFDC program and would reduce the family's AFDC benefit.

To receive AFDC benefits, a custodial parent must assign to the State any right to collect child support payments. This assignment covers current support and any arrearages that accumulated before the family began receiving public assistance, and lasts as long as the family receives AFDC.

Some States are required to provide monthly supplemental payments to AFDC recipients who have less disposable income now than they would have had in July 1975 because child support is paid to the child support agency instead of directly to the family. States required to make these supplemental payments are often referred to as "fill-the-gap" States. These States pay less assistance than their full need standard, and allow recipients to use child support income to make up all or part of the difference between the payment made by the State and the State's need standard. In addition, States with a need standard that is higher than its actual welfare payments are allowed to use child support to "fill the gap."

Explanation of Provision

Several changes in the distribution rules under current law are made by this section. The $50 passthrough to families on AFDC is ended. In addition, distribution law is changed so that, beginning October 1, 1997, collections on arrearages that accumulated during the period after the family leaves welfare are paid to the State if the money was collected through the Federal income tax intercept and to the family if collected by any other method. Distribution law is also changed so that beginning on October 1, 2000, arrearages that accumulated during the period before the family went on welfare are paid to the State if the money was collected through the Federal income tax intercept and to the family if collected by any other method. (Note: These new distribution rules require the assignment rules for pre-welfare arrearages to be changed so that families can be paid before States if the money was collected by a method other than the Federal income tax intercept; this change in assignment rules was made in Title I and will appear in Section 408(a)(3)(B) of the revised Social Security Act.)

By October 1, 1998, the Secretary must present a report to the Congress concerning whether post-assistance arrearages have helped mothers avoid welfare and about the effectiveness of the new distribution rules.

All assignments of support in effect when this proposal is enacted must remain in effect.

Several terms, including "assistance from the State," "Federal share," and "State share" are defined.

If States retain less money from collections than they retained in fiscal year 1995, States are allowed to retain the amount retained in fiscal year 1995.

If a State follows a "fill-the-gap" policy as outlined above, that State can continue to distribute funds to the family up to the amount needed to fill the gap. The provision also clarifies the relationship between gap payments and both the $50 passthrough and the State hold harmless provision.

Reason for Change

The $50 passthrough of child support collections to families receiving public assistance poses a significant administrative expense for overburdened State child support agencies. In addition, providing additional funds to families while they remain on welfare provides incentive to stay on welfare. Thus, the Committee proposal ends the $50 passthrough. However, to maintain the link between payments by nonresident parents and the support of their children, States are given the option of sending the entire child support payment, minus the Federal share, to the custodial parent and children. If States follow this option, the payments must count as income against welfare benefits.

The major intent of the changes contained in this section is to provide more money to families that leave welfare and thereby increase the odds that such families will be able to maintain their independence from public benefits. The key feature of this section of the proposal is the change in rules governing distribution of collections in the case of mothers who leave welfare. Under current

law, collections above the amount of current child support are usually kept by the State and Federal governments as repayment for tax dollars that were given to the custodial parent and children in the form of public aid. Under the new proposal, which would be phased in between the date of passage and 2000, arrearages obtained from noncustodial parents through any method other than the Federal tax intercept, are given directly to the custodial parent and children until all the unpaid support that accumulated both before and after the family went on welfare is paid. Research shows that about 75 percent of the mothers who leave welfare come back on the rolls within 5 years. This feature of the proposal will provide a new source of income for mothers trying to work to support their children without relying on public aid. Similarly, the requirement that States continue providing these mothers with child support enforcement services is intended to maintain this new source of income and thereby increase the odds that mothers will be able to support their children without relying on welfare.

The Committee proposal includes a rule requiring States to continue paying to the Federal government a portion of child support collections for parents receiving benefits from the Temporary Family Assistance program. Under current law, States are directly reimbursed by the Federal government for a portion of their payments to families under the Aid to Families with Dependent Children program. But the Federal funding provided to States under the new block grant format requires a change in the method of sharing child support collections. The requirement that States provide the Federal government with the percentage of collections that equals the Medicaid matching rate is intended simply to create a mechanism to ensure that both the Federal and State governments continue receiving roughly the same share of collections they receive under current law.

Effective Date

October 1, 1996, or earlier at State option.

3. Privacy safeguards

Present Law

Federal law limits the use or disclosure of information concerning recipients of Child Support Enforcement Services to purposes connected with administering specified Federal welfare programs.

Explanation of Provision

States must implement safeguards against unauthorized use or disclosure of information related to proceedings or actions to establish paternity or to establish or enforce child support. These safeguards must include prohibitions on release of information where there is a protective order or where the State has reason to believe a party is at risk of physical or emotional harm from the other party. This provision is effective October 1, 1997.

Reason for Change

The Committee proposal contains numerous safeguards on privacy, several of which will be described below. Much of the information discovered in court proceedings and contained in child support records is confidential. States must therefore have laws and administrative procedures that protect this information from public disclosure.

States must take every precaution to ensure against mistaken identification of nonresident parents, and to ensure that erroneous information is corrected in cases where mistakes in identity have occurred.

Effective Date

October 1, 1997.

4. Right to notification of hearing

Present Law

Most States have procedural due process requirements with respect to wage withholding. Federal law requires States to carry out withholding in full compliance with all procedural due process requirements of the State.

Explanation of Provision

Parties to child support cases under Title IV–D must receive notice of proceedings in which child support might be established or modified and must receive a copy of orders establishing or modifying child support (or a notice that modification was denied) within 14 days of issuance.

Reason for Change

The basic purpose of Federal due process requirements is to ensure that no citizen has her rights infringed by government action without the right to present evidence and arguments to defend against such infringement. The purpose of child support judicial and administrative hearings is to establish paternity, to establish child support obligations, or to set or adjust the amount of a child support obligation. All of these government actions substantially effect the interests of both custodial and noncustodial parents. This provision requires States to inform all parties about these hearings. Further, all parties, even those who do not appear at the hearing, must be informed of the results of the proceedings.

Effective Date

October 1, 1997.

SUBCHAPTER B—LOCATE AND CASE TRACKING

5. State case registry

Present Law

Federal law requires that wage withholding be administered by a public agency capable of documenting payments of support and tracking and monitoring such payments.

Federal law requires that child support orders be reviewed and adjusted, as appropriate, at least once every three years.

Explanation of Provision

States must establish an automated State Case Registry that contains a record on each case in which services are being provided by the State agency, as well as each support order established or modified in the State on or after October 1, 1998.

The Registry may be established by linking local case registries of support orders through an automated information network.

The registry record will contain data elements on both parents, such as names, Social Security numbers and other uniform identification numbers, dates of birth, case identification numbers, and any other data the Secretary may require.

Each case record will contain the amount of support owed under the order and other amounts due or overdue (including interest or late payment penalties and fees), any amounts that have been collected and distributed, the birth date of any child for whom the order requires the provision of support, and the amount of any lien imposed by the State.

The State agency operating the registry will promptly establish, maintain, update and regularly monitor case records in the registry with respect to which services are being provided under the State plan. Establishing and updating support orders will be based on administrative actions and administrative and judicial proceedings and orders relating to paternity and support, as well as on information obtained from comparisons with Federal, State, and local sources of information, information on support collections and distributions, and any other relevant information.

The State automated system will be used to extract data for purposes of sharing and matching with Federal and State data bases and locator services, including the Federal Case Registry of Child Support Orders, the Federal Parent Locator Service, and Temporary Assistance for Needy Families and Medicaid agencies, as well as for conducting intraState and interState information comparisons.

Reason for Change

The State Case Registry and the State Disbursement Unit (see below) are essential components of the expanded and automated child support enforcement system envisioned by the Committee proposal. Given the importance of mass processing of records and information received from many sources, the details on data processing outlined in this section of the proposal are essential to the overall functioning of the new system. A major theme of the Com-

mittee proposal is automation and mass processing of records. The Committee view is that as long as the child support enforcement program functions on a case-by-case basis, the program will continue to be inefficient and ineffective. Thus, in this and other sections of the proposal, States are required to establish and maintain, with appropriate Federal matching payments, information networks that will increase the efficacy and efficiency of the child support system.

Effective Date

October 1, 1996.

6. Collection and disbursement of support payments

Present Law

No provision, but States may provide that, at the request of either parent, child support payments be made through the child support enforcement agency or the agency that administers the State's income withholding system regardless of whether there is an arrearage. States must charge the parent who requests child support services a fee equal to the cost incurred by the State for these services, up to a maximum of $25 per year.

Explanation of Provision

By October 1, 1998, State child support agencies are required to operate a centralized, automated unit for collection and disbursement of payments on child support orders enforced by the child support agency and payments on orders issued after December 31, 1993 which are not enforced by the State agency but for which wages are subject to withholding. The specifics of how States will establish and operate their State Disbursement Unit must be outlined in the State plan.

The State Disbursement Unit must be operated directly by the State agency, by two or more State agencies under a regional cooperative agreement, or by a contractor responsible directly to the State agency. The State Disbursement Unit may be established by linking local disbursement units through an automated information network if the Secretary agrees that the system will not cost more, take more time to establish, nor take more time to operate that a single State system. All States, including those that operate a linked system, must give employers one and only one location for submitting withheld income.

The Disbursement Unit must be used to collect and disburse support payments, to generate orders and notices of withholding to employers, to keep an accurate identification of payments, to promptly distribute money to custodial parents or other States, and to furnish parents with a record of the current status of support payments. The Unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical.

The Disbursement Unit must distribute all amounts payable within two business days after receiving money and identifying information from the employer or other source of periodic income, if

sufficient information identifying the payee is provided. The Unit may retain arrearages in the case of appeals until they are resolved.

States must use their automated system to facilitate collection and disbursement including at least:

(1) transmission of orders and notices to employers within two days after receipt of the withholding notice;

(2) monitoring to identify missed payments of support; and

(3) automatic use of enforcement procedures when payments are missed.

It is the sense of Congress that in establishing a centralized unit for the collection of support payments, a State should choose the method of compliance which best meets the needs of parents, employers, and children.

This section of the proposal will go into effect on October 1, 1998. States that process child support payments through local courts can continue court payments until September 30, 1999.

Reason for Change

The State Disbursement Unit is an essential component, along with the Registry of Support Orders and the Directory of New Hires (see below), that forms the core of the reformed child support system. The Disbursement Unit will enable States to locate parents who owe support, issue withholding orders soon after the obligor is hired, process the payment and keep records at a central location, and then distribute the support payments in a timely manner.

The Committee provision requires only that cases being handled by the State agency be processed through the State Disbursement Unit. Here as elsewhere, the Committee intends to interfere with private, nonsubsidized child support arrangements only when the obligated parent fails to pay support promptly.

Effective Date

October 1, 1998.

7. State directory of new hires

Present Law

No provision.

Explanation of Provision

State plans must include the provision that by October 1, 1997 States will operate a Directory of New Hires.

Establishment. States are required to establish a State Directory of New Hires to which employers and labor organizations in the State must furnish a report for each newly hired employee, unless reporting could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission as determined by the head of an agency. States that already have new hire reporting laws may continue to follow the provisions of their own law until October 1, 1998, at which time States must conform to Federal law.

Employer Information. Employers must furnish to the State Directory of New Hires the name, address, and Social Security num-

ber of every new employee and the name, address, and identification number of the employer. Multistate employers that report electronically or magnetically may report to the single State they designate; such employers must notify the Secretary of the name of the designated State. Agencies of the U.S. Government must report directly to the National Directory of New Hires (see below).

Timing of Report. Employers must report new hire information within 20 days of the date of hire. Employers that report new hires electronically or by magnetic tape must file twice per month; reports must be separated by not less than 12 days and not more than 16 days.

Reporting Format and Method. The report required in this section will be made on a W–4 form or the equivalent, and can be transmitted magnetically, electronically, or by first class mail. The decision of which reporting method to use is up to employers.

Civil Money Penalties on Noncomplying Employers. States have the option of setting a civil money penalty which shall be not less than $25 or $500 if, under State law, the failure is the result of a conspiracy between the employer and employee.

Entry of Employer Information. New hire information must be entered in the State data base within five business days of receipt from employer.

Information Comparisons. By May 1, 1998, each State Directory of New Hires must conduct automated matches of the Social Security numbers of reported employees against the Social Security numbers of records in the State Case Registry being enforced by the State agency and report the name, address, Social Security number, and the employer name, address, and identification number on matches to the State child support agency.

Transmission of Information. Within two business days of the entry of data in the registry, the State must transmit a withholding order directing the employer to withhold wages in accord with the child support order. Within three days, the State Directory of New Hires must furnish employee information to the National Directory of New Hires for matching with the records of other State case registries. The State Directory of New Hires must also report quarterly to the National Directory of New Hires information on wages and unemployment compensation taken from the quarterly report to the Secretary of Labor now required by Title III of the Social Security Act.

Other Uses of New Hire Information. The State child support agency must use the new hire information to locate individuals for purposes of establishing paternity as well as establishing, modifying, and enforcing child support obligations. New hire information must also be disclosed to the State agency administering the Temporary Assistance for Needy Families, Medicaid, Unemployment Compensation, Food Stamp, SSI, and territorial cash assistance programs for income eligibility verification, and to State agencies administering unemployment and workers' compensation programs to assist determinations of the allowability of claims. State and local government agencies must participate in quarterly wage reporting to the State employment security agency unless the agency performs intelligence or counterintelligence functions and it is determined that wage reporting could endanger the safety of the em-

ployee or compromise an ongoing investigation or intelligence mission.

Disclosure to Certain Agents. States using private contractors are allowed to share information obtained from the Directory of New Hires with private entities working under contract with the State agency. Private contractors must comply with privacy safeguards.

Reason for Change

The State Case Registry, the State Disbursement Unit, and the State Directory of New Hires comprise the guts of the new child support system envisioned by the Committee proposal. Although New Hire reporting imposes a slight burden on employers, the Committee has attempted to minimize this burden by enabling employers to submit a form (the W–4 form) they must already complete and by allowing them to submit the form at the time of their regular payroll cycle. In addition, the Committee proposal contains a much smaller fine on employers that fail to report new hire information than the fine imposed by previous bills that have been introduced in Congress. Given the importance of quick reporting of employment and the equally quick issuance of the child support withholding order for the collection of child support payments, the Committee felt it was necessary to impose this small additional burden on employers.

The formation of the National Directory of New Hires will extend the benefits of rapid new hire reporting and wage withholding to interState cases. The Committee has received extensive information through letters and testimony that the current system of pursuing child support across State lines is far too sluggish to be effective. Here and elsewhere in the proposal, the Committee takes strong and innovative action to repair a system that is universally regarded as broken. Data from the Federal Office of Child Support Enforcement show that whereas about 30 percent of child support cases are interstate cases, only 10 percent of collections are from interState cases. Once the State and National Directories of New Hires are established, the nation will, for the first time, have a rapid response and automated mechanism in place to locate and withhold wages legally obligated for child support payments.

The Committee proposal also includes requirements to share income information across programs within the State and with several national agencies in order to reduce fraud in these benefit programs including Temporary Family Assistance, Unemployment Compensation, Supplemental Security Income, and the Earned Income Credit. The Committee on Ways and Means has received extensive information on fraud in the Earned Income Credit; this new source of information on employees may help reduce such fraud.

Effective Date

October 1, 1996, except where otherwise noted.

8. Amendments concerning income withholding

Present Law

Since November 1, 1990, all new or modified child support orders that were being enforced by the State's child support enforcement agency have been subject to immediate income withholding. If the noncustodial parent's wages are not subject to income withholding (pursuant to the November 1, 1990 provision), such parent's wages would become subject to withholding on the date when support payments are 30 days past due. Since January 1, 1994, the law has required States to use immediate income withholding for nearly all new or modified support orders, regardless of whether a parent has applied for child support enforcement services. There are two circumstances in which income withholding does not apply: (1) one of the parents argues, and the court or administrative agency agrees, that there is good cause not to do so, or (2) a written agreement is reached between both parents which provides for an alternative arrangement. States must implement procedures under which income withholding for child support can occur without the need for any amendment to the support order or for any further action by the court or administrative entity that issued the order. States are also required to implement income withholding in full compliance with all procedural due process requirements of the State, and States must send advance notice to each nonresident parent to whom income withholding applies (with an exception for some States that had income withholding before enactment of this provision that met State due process requirements). States must extend their income withholding systems to include out-of-State support orders.

Explanation of Provision

States must have laws providing that all child support orders issued or modified before October 1, 1996, which are not otherwise subject to income withholding, will become subject to income withholding immediately if arrearages occur, without the need for judicial or administrative hearing. State law must also allow the child support agency to execute a withholding order through electronic means and without advance notice to the obligor. Employers must remit to the State Disbursement Unit, in a format prescribed by the Secretary, income withheld within five working days after the date such amount would have been paid to the employee. Employers cannot take disciplinary action against employees subject to wage withholding. All child support orders subject to income withholding, including those which are not part of the State IV–D program, must be processed through the State Disbursement Unit. In addition, States must notify noncustodial parents that income withholding has commenced and inform them of procedures for contesting income withholding. Employers must follow the withholding terms and conditions of the State in which the employee works, regardless of the State where the notice originates. The section includes several conforming amendments to section 466 of the Social Security Act.

Reason for Change

Under Present Law, most support orders are automatically subject to income withholding. This provision ensures that every child support order, regardless of when it was issued or modified, would be subject to withholding if arrearages occur. This provision is based on the assumption that a key component of successful child support collection is immediate response when obligors begin to miss payments. At the same time, however, the Committee proposal continues to provide an exception for a parent who can convince the court that payments will be forthcoming without State involvement and parents who reach cooperative agreement on child support and maintain good payment records. The Federal-State child support program intervenes when private arrangements fail.

The provision also addresses a serious problem of current interstate law. The Committee is concerned that interState enforcement is a problem because, among other reasons, employers have difficulty knowing how to respond to orders received from another State. Responding to this problem, the Committee provision requires employers to follow the laws of their own State.

Effective Date

October 1, 1996.

9. Locator information from interstate networks

Present Law

No provision.

Explanation of Provision

All State and the Federal Child Support Enforcement agencies must have access to the motor vehicle and law enforcement locator systems of all States.

Reason for Change

Child support enforcement programs are dependent on current information on the Social Security number and address of parents who owe or could owe child support. Most adults have drivers' licenses and many, especially those who owe past-due child support, have had involvement with law enforcement. Thus, the Committee proposal requires States to make both sources of child support information available to the child support agencies of all States and the Federal government.

Effective Date

October 1, 1996.

10. Expansion of the Federal parent locator Service

Present Law

The law requires that the Federal Parent Locator Service (FPLS) be used to obtain and transmit information about the location of any absent parent when that information is to be used for the pur-

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pose of enforcing child support. Federal law also requires departments or agencies of the United States to be reimbursed for costs incurred in providing requested information to the FPLS.

Information Comparisons and Other Disclosures. Upon request, the Secretary must provide to an "authorized person" (i.e., an employee or attorney of a child support agency, a court with jurisdiction over the parties involved, the custodial parent, the legal guardian, or the child's attorney) the most recent address and place of employment of any nonresident parent if the information is contained in the records of the Department of Health and Human Services or can be obtained from any other department or agency of the United States or of any State. The FPLS also can be used in connection with the enforcement or determination of child custody, visitation, and parental kidnapping. Federal law requires the Secretary of Labor and the Secretary of Health and Human Services to enter into an agreement to give the FPLS prompt access to wage and unemployment compensation claims information useful in locating a noncustodial parent or his employer.

Fees. "Authorized persons" who request information from FPLS must be charged a fee.

Restriction on Disclosure and Use. Federal law stipulates that no information shall be disclosed if the disclosure would contravene the national policy or security interests of the United States or the confidentiality of Census data.

Quarterly Wage Reporting. The Secretary of Labor must provide prompt access by the Secretary of HHS to wage and unemployment compensation claims information and data maintained by the Labor Department or State employment security agencies.

Explanation of Provision

The purposes of the Federal Parent Locator Service are expanded. For the purposes of establishing parentage, establishing support orders or modifying them, or enforcing support orders, the Federal Parent Locator Service will provide information to locate individuals who owe child support (or who are under an obligation to provide child custody or visitation rights) or against whom an obligation is sought or to whom such an obligation is owed. Information in the FPLS includes Social Security number, address, name and address of employer, wages and employee benefits (including information about health care coverage), and information about assets and debts. The provision also clarifies the statute so that parents with orders providing child custody or visitation rights are given access to information from the FPLS unless the State has notified the Secretary that there is reasonable evidence of domestic violence or child abuse or that the information could be harmful to the custodial parent or child.

The Secretary is authorized to set reasonable rates for reimbursing Federal and State agencies for the costs of providing information to the FPLS and to set reimbursement rates that State and Federal agencies that use information from the FPLS must pay to the Secretary.

Federal Case Registry of Child Support Orders. Establishes within the FPLS an automated registry known as the Federal Case Registry of Child Support Orders. The Federal Case Registry con-

tains abstracts of child support orders and other information specified by the Secretary (such as names, Social Security numbers or other uniform identification numbers, and State case identification numbers) to identify individuals who owe or are owed support, or for or against whom support is sought to be established, and the State which has the case. States must begin reporting this information in accord with regulations issued by the Secretary by October 1, 1998.

National Directory of New Hires. This provision establishes within the FPLS a National Directory of New Hires containing information supplied by State Directories of New Hires. When fully implemented, the Federal Directory of New Hires will contain identifying information on virtually every person who is hired in the United States. In addition, the FPLS will contain quarterly data supplied by the State Directory of New Hires on wages and Unemployment Compensation paid. The Secretary of the Treasury must have access to information in the Federal Directory of New Hires for the purpose of administering section 32 of the Internal Revenue Code and the Earned Income Credit. The information for the National Directory of New Hires must be entered within two days of receipt, and requires the Secretary to maintain within the National Directory of New Hires a list of multistate employers that choose to send their report to one State and the name of the State so elected.

Information Comparisons and Other Disclosures. The Secretary must verify the accuracy of the name, Social Security number, birth date, and employer identification number of individuals in the Federal Parent Locator Service with the Social Security Administration. The Secretary is required to match data in the National Directory of New Hires against the child support order abstracts in the Federal Case Registry at least every two working days and to report information obtained from matches to the State child support agency responsible for the case within two days. The information is to be used for purposes of locating individuals to establish paternity, and to establish, modify, or enforce child support orders. The Secretary may also compare information across all components of the FPLS to the extent and with the frequency that the Secretary determines will be effective. The Secretary will share information from the FPLS with several potential users including State agencies administering the Temporary Assistance for Needy Families program, the Commissioner of Social Security (to determine the accuracy of Social Security and Supplemental Security Income), and researchers under some circumstances.

Fees. The Secretary must reimburse the Commissioner of Social Security for costs incurred in performing verification of Social Security information and States for submitting information on New Hires. States or Federal agencies that use information from FPLS must pay fees established by the Secretary.

Restriction on Disclosure and Use. Information from the FPLS cannot be used for purposes other than those provided in this section, subject to section 6103 of the Internal Revenue Code (confidentiality and disclosure of returns and return information).

Information Integrity and Security. The Secretary must establish and use safeguards to ensure the accuracy and completeness of in-

formation from the FPLS and restrict access to confidential information in the FPLS to authorized persons and purposes.

Federal Government Reporting. Each department of the U.S. must submit the name, Social Security number, and wages paid the employee on a quarterly basis to the FPLS. Quarterly wage reporting must not be filed for a Federal or State employee performing intelligence or counter-intelligence functions if it is determined that filing such a report could endanger the employee or compromise an ongoing investigation.

Conforming Amendments. This section makes several conforming amendments to Titles III and IV of the Social Security Act, to the Federal Unemployment Tax Act, and to the Internal Revenue Code. Among the more important are that: State employment security agencies are required to report quarterly wage information to the Secretary of HHS or suffer financial penalties and that private agencies working under contract to State child support agencies can have access to certain specified information from IRS records under some circumstances.

Requirement for Cooperation. The Secretaries of HHS and Labor must work together to develop cost-effective and efficient methods of accessing information in the various directories required by this title; they must also consider the need to ensure the proper and authorized use of wage record information.

Reason for Change

Since the Commission on Interstate Child Support Enforcement published its report nearly three years ago, a national directory of information on child support cases and on new hires has been widely viewed as one of the keys to child support reform. The Committee proposal contains both of these mechanisms as well as a directory of every child support order in the nation. With this new information, the FPLS will become the hub of information in a vitalized system for improving interState child support enforcement. Given that interState cases constitute about 30 percent of the child support caseload but only about 10 percent of collections, the expanded FPLS should greatly improve child support collections. Moreover, better child support collections will enable more mothers to leave and remain off the welfare rolls, thereby fulfilling the most important goal of the Committee proposal. Information from the FPLS, especially that on wages and income, may also prove quite useful in reducing fraud in several large and rapidly growing programs under jurisdiction of the Committee.

Effective Date

October 1, 1996.

11. Collection and use of Social Security numbers for use in child support enforcement

Present Law

Federal law requires that in the administration of any law involving the issuance of a birth certificate, States must require each parent to furnish their Social Security number for the birth

records. The State is required to make such numbers available to child support agencies in accordance with Federal or State law. States may not place Social Security numbers directly on birth certificates.

Explanation of Provision

States must have procedures for recording the Social Security numbers of applicants on the application for professional licenses, commercial driver's licenses, occupational licenses, or marriage licenses. States must also record Social Security numbers in the records of divorce decrees, child support orders, and paternity determination or acknowledgment orders. Individuals who die will have their Social Security number placed in the records relating to the death and recorded on the death certificate. There are several conforming amendments to title II of the Social Security Act.

Reason for Change

The Social Security number is the key piece of information around which the child support information system is constructed. Not only are new hire and support order matches at the State and Federal level based on Social Security numbers, but so too are most data searches aimed at locating nonpaying parents. Thus, giving child support offices access to new sources for obtaining Social Security numbers is important to successful functioning of several other components of the Committee proposal. To promote privacy in keeping Social Security numbers confidential, the provision does not require States to place the numbers directly on the face of the licenses, decrees, or orders. Rather, the number must simply be kept in applications and records that, in most cases, are stored in computer files.

In requiring use of Social Security numbers, the Committee does not intend to alter current law concerning confidentiality of records containing such numbers. Present Law provides that Social Security numbers can be used in nonconfidential, public records if those records were nonconfidential and public under State law prior to October 1, 1990.

Effective Date

October 1, 1996.

SUBCHAPTER C—STREAMLINING AND UNIFORMITY of PROCEDURES

12. Adoption of uniform State laws

Present Law

States have several options available for pursuing interState child support cases including direct income withholding, interState income withholding, and long-arm statutes which require the use of the court system in the State of the custodial parent. In addition, States use the Uniform Reciprocal Enforcement of Support Act (URESA) and the Revised Uniform Reciprocal Enforcement of Support Act (RURESA) to conduct interState cases. Federal law im-

poses a Federal criminal penalty for the willful failure to pay past-due child support to a child who resides in a State other than the State of the obligor. In 1992, the National Conference of Commissioners on State Uniform Laws approved a new model State law for handling interState child support cases. The new Uniform InterState Family Support Act (UIFSA) is designed to deal with desertion and nonsupport by instituting uniform laws in all 50 States that limit control of a child support case to a single State. This approach ensures that only one child support order from one court or child support agency will be in effect at any given time. It also helps to eliminate jurisdictional disputes between States that are impediments to locating parents and enforcing child support orders across State lines. As of June 1996, 33 States and the District of Columbia had enacted UIFSA.

Explanation of Provision

By January 1, 1998, all States must have enacted the Uniform Interstate Family Support Act (UIFSA) and any amendments officially adopted by the National Conference of Commissioners of Uniform State Laws before January 1, 1998, and have the procedures required for its implementation in effect. States are allowed flexibility in deciding which specific interState cases are pursued by using UIFSA and which cases are pursued using other methods of interstate enforcement. States must provide that an employer that receives an income withholding order follow the procedural rules that apply to the order under the laws of the State in which the noncustodial parent works.

Reason for Change

Mandatory passage and use of UIFSA is a cornerstone of a major purpose of the Committee proposal—improved child support enforcement in interstate cases. Without uniform laws and procedures governing child support, the success of interstate cases will continue to be severely constrained. Virtually every witness that testified on interstate enforcement before the Committee recommended that UIFSA be made mandatory.

Effective Date

October 1, 1996, except where otherwise noted.

13. Improvements to full faith and credit for child support orders

(This provision is not under jurisdiction of the Committee but is included here for sake of completeness.)

Present Law

Federal law requires States to treat past-due support obligations as final judgements that are entitled to full faith and credit in every State. This means that a person who has a support order in one State does not have to obtain a second order in another State to obtain support due should the debtor parent move from the issuing court's jurisdiction. P.L. 103–383 restricts a State court's ability

to modify a support order issued by another State unless the child and the custodial parent have moved to the State where the modification is sought or have agreed to the modification.

Explanation of Provision

The provision clarifies the definition of a child's home State, makes several revisions to ensure that full faith and credit laws can be applied consistently with UIFSA, and clarifies the rules regarding which child support orders States must honor when there is more than one order.

14. Administrative enforcement in interstate cases

Present Law

No provision.

Explanation of Provision

States are required to have laws that permit them to send orders to and receive orders from other States. The transmission of the order itself serves as certification to the responding State of the arrears amount and of the fact that the initiating State met all procedural due process requirements. In addition, each responding State must, without requiring the case to be transferred to their State, match the case against its data bases, take appropriate action if a match occurs, and send the collections, if any, to the initiating State. States must keep records of the number of requests they receive, the number of cases that result in a collection, and the amount collected. States must respond to interState requests within five days.

Reason for Change

This provision is simply an additional measure to pursue the goal of improved interstate collection. Strengthening the laws on nonjudicial enforcement across State lines will greatly improve the speed and reduce the expense of enforcing orders in interState cases. If States do a good job of enacting and then implementing the routine administrative procedures required by the Committee proposal, interState child support collections will improve.

Effective Date

October 1, 1996.

15. Use of forms in interState enforcement

Present Law

No provision.

Explanation of Provision

The Secretary of HHS, in consultation with State child support directors and not later than October 1, 1996, must issue forms that States must use for income withholding, for imposing liens, and for

issuing administrative subpoenas in interstate cases. States must be using the forms by March 1, 1997.

Reason for Change

One reason interState cases are difficult to work is that States use different legal forms for the same transactions. This provision will ensure that all States are using identical forms for income withholding, lien imposition, and administrative subpoenas, thereby reducing confusion and promoting rapid execution of legal procedures.

Effective Date

October 1, 1996.

16. State laws providing expedited procedures

Present Law

States must have procedures under which expedited processes are in effect under the State judicial system or under State administrative processes for obtaining and enforcing support orders and for establishing paternity.

Federal regulations provide a number of safeguards in expedited cases, such as requiring that the due process rights of the parties involved be protected.

The Employee Retirement Income Security Act (ERISA) of 1974 supersedes any and all State laws. Under ERISA a noncustodial parent's pension benefits can only be garnished or withheld if the custodial parent has a qualified domestic relations order. Similarly, a pension plan administrator is obligated to adhere to medical support requirements only if the custodial parent has a qualified medical child support order.

Explanation of Provision

States must adopt a series of procedures to expedite both the establishment of paternity and the establishment, enforcement, and modification of support. These procedures must give the State agency the authority to take the following actions, subject to due process safeguards, without the necessity of obtaining an order from any other judicial or administrative tribunal:

(1) ordering genetic testing in appropriate cases;

(2) issuing subpoenas to obtain information necessary to establish, modify or enforce an order, with appropriate sanctions for failure to respond to the subpoena;

(3) requiring all entities in the State (including for-profit, nonprofit, and governmental employers) to provide information on employment, compensation and benefits of any employee or contractor in response to a request from the State IV–D agency or the IV–D agency of any other State, and to sanction failure to respond to such request;

(4) obtaining access to a variety of public and private records including: vital statistics, State and local tax records, real and personal property, occupational and professional licenses and records concerning ownership and control of corporations, part-

nerships and other business entities, employment security records, public assistance records, motor vehicle records, corrections records, and, subject to the nonliability of these private entities and the issuance of an administrative subpoena, information in the customer records of public utilities and cable TV companies, and records of financial institutions;

(5) directing the obligor or other payor to change the payee to the appropriate government entity in cases in which support is subject to an assignment or to a requirement to pay through the State Disbursement Unit;

(6) ordering income withholding in certain IV–D cases;

(7) securing assets to satisfy arrearages: by intercepting or seizing periodic or lump sum payments from States or local agencies including Unemployment Compensation, workers' compensation, judgments, settlements, lottery winnings, assets held by financial institutions, and public and private retirement funds; by attaching and seizing assets held in financial institutions; by attaching public and private retirement funds; and by imposing liens to force the sale of property; and

(8) increasing automatically the monthly support due to include amounts to offset arrears.

Expedited procedures must include the following rules and authority applicable with respect to proceedings to establish paternity or to establish, modify, or enforce support orders:

(1) Locator Information and Notice. Parties in paternity and child support actions must file and update information about identity, address, and employer with the tribunal and with the State Case Registry upon entry of the order. The tribunal can deem due process requirements for notice and service of process to be met in any subsequent action upon delivery of written notice to the most recent residential or employer address filed with the tribunal.

(2) Statewide Jurisdiction. The child support agency and any administrative or judicial tribunal have the authority to hear child support and paternity cases, to exert Statewide jurisdiction over the parties, and to grant orders that have Statewide effect; cases can also be transferred between local jurisdictions without additional filing or service of process.

Except to the extent that the provisions related to expedited procedures are consistent with requirements of the ERISA qualified domestic relations orders and the qualified medical child support orders, the expedited procedures do not alter, amend, modify, invalidate, impair or supersede ERISA requirements.

The automated systems being developed by States are to be used, to the maximum extent possible, to implement expedited procedures.

Reason for Change

Cumbersome court procedures have been a major impediment to the efficient operation of child support systems. Along with automation, expanded sources of information, and the State and national registries and directories, providing child support officials with the authority to bypass court procedures in some cases is a central feature of the Committee proposal. If child support agencies

can order genetic testing, enter default orders, issue subpoenas for information needed to establish or modify orders, obtain access to financial information, issue income withholding notices, secure assets, and increase monthly payments to secure overdue child support, their ability to quickly and efficiently obtain support payments will be greatly improved.

Effective Date

October 1, 1996.

SUBCHAPTER D—PATERNITY ESTABLISHMENT

17. State laws concerning paternity establishment

Present Law

Establishment Process Available from Birth Until Age 18. Federal law requires States to have laws that permit the establishment of paternity until the child reaches age 18. As of August 16, 1984, these procedures would apply to a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because of statute of limitations of less than 18 years was then in effect in the State.

Procedures Concerning Genetic Testing. Federal law requires States to implement laws under which the child and all other parties must undergo genetic testing upon the request of a party in contested cases.

Voluntary Paternity Acknowledgement. Federal law requires States to implement procedures for a simple civil process for voluntary paternity acknowledgment, including hospital-based programs.

Status of Signed Paternity Acknowledgement. Federal law requires States to implement procedures under which the voluntary acknowledgment of paternity creates a rebuttable presumption, or at State option, a conclusive presumption of paternity.

Bar on Acknowledgement Ratification Proceedings. Federal law requires States to implement procedures under which voluntary acknowledgment is admissible as evidence of paternity and the voluntary acknowledgment of paternity must be recognized as a basis for seeking a support order without requiring any further proceedings to establish paternity.

Admissibility of Genetic Testing Results. Federal law requires States to implement procedures which provide that any objection to genetic testing results must be made in writing within a specified number of days before any hearing at which such results may be introduced into evidence. If no objection is made, the test results must be admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

Presumption of Paternity in Certain Cases. Federal law requires States to implement procedures which create a rebuttable or, at State option, conclusive presumption of paternity based on genetic testing results indicating a threshold probability that the alleged father is the father of the child.

Default Orders. Federal law requires States to implement procedures that require a default order to be entered in a paternity case

upon a showing of service of process on the defendant and any additional showing required by State law.

Explanation of Provision

Establishment Process Available from Birth Until Age 18. States are required to have laws that permit paternity establishment until at least age 18 (or a higher limit at State option) even in cases that were previously dismissed because a statute of limitations of less than 18 years was then in effect.

Procedures Concerning Genetic Testing. The child and all other parties, unless good cause provisions are met, must undergo genetic testing upon the request of a party if the request is supported by a sworn Statement establishing a reasonable possibility of parentage or nonparentage. When the tests are ordered by the State agency, States must pay the costs, subject to recoupment at State option from the father if paternity is established. Upon the request and advance payment by the contestant, States must seek additional testing if the original test result is contested.

Voluntary Paternity Acknowledgement.

(1) Simple Civil Process. States must have procedures that create a simple civil process for voluntary acknowledging paternity under which benefits, rights, and responsibilities of acknowledgement are explained to unwed parents before the acknowledgement is signed.

(2) Hospital Program. States must have procedures, including good cause exemptions established by the State, that establish a paternity acknowledgement program through hospitals.

(3) Paternity Services. States must have procedures that require the agency responsible for maintaining birth records to offer voluntary paternity establishment services. The Secretary must issue regulations governing voluntary paternity establishment services, including regulations on State agencies that may offer voluntary paternity acknowledgement services and the conditions such agencies must meet.

(4) Affidavit. States must develop their own voluntary acknowledgment form but the form must contain all the basic elements of a form developed by the Secretary. States must give full faith and credit to the forms of other States.

Status of Signed Paternity Acknowledgement.

(1) Inclusion in Birth Records. States must include the name of the father in the record of births to unmarried parents only if the father and mother have signed a voluntary acknowledgement of paternity or a court or administrative agency has issued an adjudication of paternity.

(2) Legal Finding. States must have procedures under which a signed acknowledgement of paternity is considered a legal finding of paternity unless rescinded within 60 days or the date of a judicial or administrative proceeding to establish a support order.

(3) Contest. States must have procedures under which a paternity acknowledgment can be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof on the challenger.

Bar on Acknowledgement Ratification Proceedings. No judicial or administrative proceedings are required or permitted to ratify a paternity acknowledgement which is not challenged by the parents.

Admissibility of Genetic Testing Results. States must have procedures for admitting into evidence accredited genetic tests, unless any objection is made in writing within a specified number of days, and if no objection is made, clarifying that test results are admissible without the need for foundation or other testimony.

Presumption of Paternity in Certain Cases. States must have laws that create a rebuttable or, at State option, conclusive presumption of paternity when results from genetic testing indicate a threshold probability that the alleged father is the father of the child.

Default Orders. A default order must be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by the State law.

No Right to Jury Trial. State laws must State that parties in a contested paternity action are not entitled to a jury trial.

In addition to all the above provisions that strengthen similar provisions of current law, the Committee report contains a number of new provisions that have no direct parallel in current law. These include:

Temporary Support Based on Probable Paternity. Upon motion of a party, State law must require issuance of a temporary support order pending an administrative or judicial determination of parentage if paternity is indicated by genetic testing or other clear and convincing evidence.

Proof of Certain Support and Paternity Establishment Costs. Bills for pregnancy, childbirth, and genetic testing must be admissible in judicial proceedings without foundation testimony and must constitute prima facie evidence of the cost incurred for such services.

Standing of Putative Fathers. Putative fathers must have a reasonable opportunity to initiate a paternity action.

Filing of Acknowledgement and Adjudications in State Registry of Birth Records. Both voluntary acknowledgements and adjudications of paternity must be filed with the State registry of birth records for data matches with the central Case Registry of Child Support Orders.

National Paternity Acknowledgement Affidavit. The Secretary is required to develop, in consultation with the States, the minimum requirements of an affidavit which includes the Social Security number of each parent to be used by States for voluntary acknowledgement of paternity.

Reason for Change

Like interstate enforcement, paternity establishment is one of the major weaknesses of the current child support system. A significant fraction, perhaps as many as half, of the children on the Aid to Families with Dependent Children program do not have paternity established. Obviously, until paternity is established, child support enforcement cannot even begin. Thus, the Committee proposal includes a host of provisions that will result in improved paternity establishment performance by States. These provisions, most of which have already proven effective in one or more States, include procedures that make maximum use of blood tests, encourage early and voluntary establishment of paternity, and avoid formal and time-consuming court procedures.

Effective Date

October 1, 1996.

18. Outreach for voluntary paternity establishment

Present Law

States are required to regularly and frequently publicize, through public service announcements, the availability of child support enforcement services.

Explanation of Provision

States must publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support.

Reason for Change

Several recent studies of innovative State programs indicate that around the time of an out-of-wedlock birth, many fathers are present in the hospital or their location is well-known to mothers. If the putative father is approached at this time and asked to voluntarily acknowledge paternity, he will often do so. Based on these studies of current State programs, the Committee feels it would be well worth the effort for States to make the availability of voluntary paternity acknowledgment procedures as widely known as possible, especially since voluntary establishment of paternity is less time consuming, less expensive, and more effective in the long run than court-established paternity.

Effective Date

October 1, 1996.

19. Cooperation by applicants for and recipients of temporary family assistance

Present Law

AFDC applicants and recipients are required to cooperate with the State in establishing the paternity of a child and in obtaining child support payments unless the applicant or recipient is found to have good cause for refusing to cooperate. Under the "good cause" regulations, the child support agency may determine that it is against the best interests of the child to seek to establish paternity in cases involving incest, rape, or pending procedures for adoption. Moreover, the agency may determine that it is against the best interest of the child to require the mother to cooperate if it is anticipated that such cooperation will result in the physical or emotional harm of the child, parent, or caretaker relative.

Explanation of Provision

Individuals or their children who apply for or receive public assistance under the Temporary Assistance for Needy Families (TANF) program or the Medicaid program must cooperate, as determined by the State child support agency, with State efforts to

establish paternity and establish, modify, or enforce a support order. State procedures must require both that applicants and recipients provide specific identifying information about the other parent and that applicants appear at interviews, hearings, and legal proceedings, unless the applicant or recipient is found to have good cause for refusing to cooperate. States must have "good cause" exceptions and they must take into account the best interests of the child. The definition of good cause, and the determination of good cause in specific cases, can be accomplished by the State agency administering TANF, child support enforcement, or Medicaid. States also must require the custodial parent and child to submit to genetic testing. States may not require the noncustodial parent to sign an acknowledgement of paternity or relinquish the right to genetic testing as a condition of cooperation. The State child support agency must notify the agencies administering the TANF Block Grant and Medicaid programs if noncooperation is determined.

Reason for Change

Given the central importance of paternity establishment, the Committee wanted to clarify that unless mothers cooperate with child support officials, they and their children will be refused cash benefits under the Temporary Family Assistance program. The Committee has received testimony that the agency administering the Aid to Families with Dependent Children program may be somewhat lax in ensuring that mothers cooperate with child support officials. For this reason, responsibility for determining whether the mother is cooperating fully is moved from the welfare agency to the child support agency. By contrast, States are given great flexibility in deciding which agency should establish the definition and application of good cause. The Committee wants to clarify its intent to require States to have exceptionally clear and strong measures that, if necessary, force applicants for public aid to do all in their power to help establish paternity.

Effective Date

October 1, 1996.

SUBCHAPTER E—PROGRAM ADMINISTRATION AND FUNDING

20. Performance-based incentives and penalties

Present Law

Incentive Adjustments to Federal Matching Rate. The Federal government reimburses approved child support expenditures of States at a rate of 66 percent. In addition, the Federal government pays States an incentive amount ranging from six percent to 10 percent of both AFDC and non-AFDC collections.

Conforming Amendments. No provision.

Calculation of IV–D Paternity Establishment Percentage. States are required to meet Federal standards for the establishment of paternity. The major standard relates to the percentage obtained by

dividing the number of children in the State who are born out of wedlock, are receiving AFDC or child support enforcement services, and for whom paternity has been established by the number of children who are born out of wedlock and are receiving AFDC or child support enforcement services. To meet Federal requirements, this percentage in a State must be at least 75 percent or meet the following standards of improvement from the preceding year: (1) if the State paternity establishment ratio is between 50 and 75 percent, the State ratio must increase by 3 or more percentage points from the ratio of the preceding year; (2) if the State ratio is between 45 and 50, the ratio must increase at least 4 percentage points; (3) if the State ratio is between 40 and 45 percent, it must increase at least 5 percentage points; and (4) if the State ratio is below 40 percent, it must increase at least 6 percentage points. If an audit finds that the State's child support enforcement program has not substantially complied with the requirements of its State plan, the State is subject to a penalty. In accord with this penalty, the Secretary must reduce a State's AFDC benefit payment by not less than one percent nor more than two percent for the first failure to comply; by not less than two percent nor more than three percent for the second consecutive failure to comply; and by not less than three percent nor more than five percent for third or subsequent consecutive failure to comply.

Explanation of Provision

Incentive Adjustments to Federal Matching Rate. The Secretary, in consultation with State child support directors, must develop a proposal for a new incentive system that provides additional payments to States (i.e., above the base matching rate of 66 percent) based on performance and report details of the new system to the Committees on Ways and Means and Finance by November 1, 1996. The Secretary's new system must be revenue neutral. The current incentive system remains effective for fiscal years beginning before 1999.

Conforming Amendments. Conforming amendments are made in Sections 458 of the Social Security Act. The effective date is October 1, 1998.

Calculation of IV–D Paternity Establishment Percentage. States have the option of calculating the paternity establishment rate by either counting only unwed births in the State IV–D caseload or by counting all unwed births in the State. The IV–D paternity establishment percentage for a fiscal year is equal to: (1) the total number of children in the State who were born out-of-wedlock, and who receive services under Part A or Part D, and for whom paternity is acknowledged or established during the fiscal year, divided by (2) the total number of children born out-of-wedlock who receive services under Part A or E or Part D. The Statewide paternity establishment percentage is similar except that all out-of-wedlock births in the fiscal year in the State are in the denominator and all paternities established are in the numerator. The requirements for meeting the standard are the same as current law except the 75 percent rule is increased to 90 percent. States with a paternity establishment percentage of between 75 percent and 90 percent must improve their performance by at least two percentage points per

year. The noncompliance provisions of the child support program are modified so that the Secretary must take overall program performance into account.

Reason for Change

Because paternity establishment is the ground upon which child support enforcement is constructed, the Committee wanted to provide States with both a positive incentive to improve performance as well as a penalty for bad performance. The positive incentive is the substantial increase in the basic Federal matching rate for good performance; the penalty is a reduction of State TANF payments of up to 5 percent. The Committee proposal sets 90 percent as the standard, although States are given several years to reach this standard. Once States reach this level of paternity performance, millions of additional children will enjoy the advantages of having their paternity established as well as the improved financial security that will follow from increased child support payments by nonresident parents.

Effective Date

The new performance based system will become effective on October 1, 1998; meanwhile, the current incentive system remains in place. The requirement that the Secretary develop a proposal for a new incentive system becomes effective upon the date of enactment.

21. Federal and State review and audits

Present Law

States are required to maintain a full record of child support collections and disbursements and to maintain an adequate reporting system. The Secretary must collect and maintain, on a fiscal year basis, up-to-date State-by-State statistics on each of the services provided under the child support enforcement program. The Secretary is also required to evaluate the implementation of State child support enforcement programs and conduct audits of these programs as necessary, but not less often than once every 3 years (or annually if a State has been found to be out of compliance with program rules).

Explanation of Provision

States are required to annually review and report to the Secretary, using data from their automatic data processing system, both information adequate to determine the State's compliance with Federal requirements for expedited procedures and timely case processing as well as the information necessary to calculate their levels of accomplishment and rates of improvement on the performance indicators in the proposal.

The Secretary is required to determine the amount (if any) of incentives or penalties. The Secretary must also review State reports on compliance with Federal requirements and provide States with recommendations for corrective action. Audits must be conducted at least once every 3 years, or more often in the case of States that

fail to meet Federal requirements. The purpose of the audits is to assess the completeness, reliability, and security of data reported for use in calculating the performance indicators and to assess the adequacy of financial management of the State program.

Reason for Change

The current audit system, like the current incentive system, is ineffective because both are based on process indicators. The flaw in process indicators is that they are only indirect measures of performance—they measure the means by which good performance should be achieved, but not the performance itself. The fundamental change in the Committee proposal is to base both incentive payments and audit penalties on actual performance indicators such as paternity establishment ratios, number of child support orders established, and actual child support collected. As a result, States will be able to maximize their incentive payments and avoid penalties only by actually performing well. The overall impact should be increases in child support collections and payments to families.

Effective Date

These provisions take effect beginning with the calendar quarter that begins 12 months after enactment.

22. Required reporting procedures

Present Law

The Secretary is required to assist States in establishing adequate reporting procedures and must maintain records of child support enforcement operations and of amounts collected and disbursed, including costs incurred in collecting support payments.

Explanation of Provision

The Secretary is required to establish procedures and uniform definitions for State collection and reporting of required information, including information necessary to measure State compliance with expedited processes.

Reason for Change

The Committee wants to ensure that Congress will be able to conduct oversight on implementation of the rules on expedited process and timely case processing, two central features of a successful child support system. In addition, the Committee wants to promote the reporting of accurate information that can be used both for reliable calculation of incentive payments and audit penalties and for review by Congressional committees and others interested in the performance of State child support programs.

Effective Date

October 1, 1996.

23. Automated data processing requirements

Present Law

Federal law (P.L. 104–35) requires that by October 1, 1997, States have an operational automated data processing and information retrieval system designed to control, account for, and monitor all factors in the support enforcement and paternity determination process, the collection and distribution of support payments, and the costs of all services rendered.

The automated data processing system must be capable of providing management information on all IV–D cases from initial referral or application through collection and enforcement. The automated data processing system must also be capable of providing security against unauthorized access to, or use of, the data in such system. To establish these automated data systems, the Federal government provided States with a 90 percent matching rate for the costs of development. This enhanced matching money expired on October 1, 1995.

Explanation of Provision

States are required to have a single Statewide automated data processing and information retrieval system which has the capacity to perform the necessary functions and with the required frequency, as described in this section. The State data system must be used to perform functions the Secretary specifies, including controlling and accounting for the use of Federal, State, and local funds and maintaining the data necessary to meet Federal reporting requirements in carrying out the program. The system must maintain the requisite data for Federal reporting, calculate the State's performance for purposes of the incentive and penalty provisions, and have in place systems controls to ensure the completeness, reliability, and accuracy of the data.

To promote security of information, the State agency must have safeguards to protect the integrity, accuracy, and completeness of, and access to and use of, data in the automated systems including restricting access to passwords, monitoring of access to and use of the system, conducting automated systems training, and imposing penalties for unauthorized use or disclosure of confidential data. The Secretary must prescribe final regulations for implementation of this section no later than 2 years after the date of the enactment of this Act.

The statutory provisions for State implementation of Federal automatic data processing requirements are revised to provide that, first, all requirements enacted on or before the date of enactment of the Family Support Act of 1988 are to be met by October 1, 1997. The requirements enacted on or before the date of enactment of this proposal must be met by October 1, 1999. The October 1, 1999 deadline will be extended by one day for each day by which the Secretary fails to meet the 2-year deadline for regulations. The Federal government will continue the 90 percent matching rate for fiscal years 1996 and 1997 in the case of provisions outlined in advanced planning documents submitted before September 30, 1995; the enhanced match is also provided retroactively for funds ex-

pended since expiration of the enhanced rate on October 1, 1995. For fiscal years 1996 through 2001, the matching rate for the provisions of this section will be 80 percent.

The Secretary must create procedures to cap payments to States to meet the new requirements at $400,000,000 over 6 years (fiscal years 1996–2001) to be distributed among States by a formula set in regulations which takes into account the relative size of State caseloads and the level of automation needed to meet applicable automatic data processing requirements.

Reason for Change

States appear to be having difficulty implementing the automatic data processing requirements of both the 1988 Family Support Act and the 1993 OBRA legislation. Even so, a number of States with effective data processing systems have shown that remarkable improvements in both total collections and efficiency are possible if the procedures established in the Committee proposal are implemented. Although States have a spotty record of implementing the data processing requirements of previous legislation, the potential improvements that could come with effective data processing are worth the risk of imposing the new requirements. As in the past, Congress is offering funding at a high Federal matching rate so that States will develop high quality systems.

It is the intent of the Committee to conduct hearings in the future to determine whether the new automatic data processing requirements are being effectively implemented. The Committee will also pay careful attention to the timeliness of regulations published by the Secretary.

Effective Date

October 1, 1996, except where otherwise noted.

24. Technical assistance (and funding of parent locator service)

Present Law

Annual appropriations are made to cover the expenses of the Administration for Children and Families, which includes the Federal Office of Child Support Enforcement (OCSE). Among OCSE's administrative expenses are the costs of providing technical assistance to the States.

Explanation of Provision

The Secretary can use one percent of the Federal share of child support collections on behalf of families in the Temporary Assistance for Needy Families program the preceding year to provide technical assistance to the States. Technical assistance can include training of State and Federal staff, research and demonstration programs, special projects of regional or national significance, and similar activities. The Secretary will receive two percent of the Federal share of collections on behalf of TANF recipients the preceding year for operation of the Federal Parent Locator Service to

the extent that costs of the Parent Locator Service are not recovered by user fees.

Reason for Change

These changes in current law are intended to provide funding to continue activities that already occur but are expected to expand under the Committee proposal.

Effective Date

October 1, 1997.

25. Report and data collection by the Secretary

Present Law

The Secretary is required to submit to Congress, not later than 3 months after the end of the fiscal year, a complete report on all child support enforcement activities.

Explanation of Provision

In addition to current reporting requirements, the Secretary is required to report the following data to Congress in her annual report each fiscal year:

(1) the total amount of child support payments collected;

(2) the cost to the State and Federal governments of furnishing child support services;

(3) the number of cases involving families that became ineligible for aid under part A with respect to whom a child support payment was received;

(4) the total amount of current support collected and distributed;

(5) the total amount of past due support collected and distributed; and

(6) the total amount of support due and unpaid for all fiscal years.

Reason for Change

This provision streamlines data reporting requirements and keeps data reporting by States to a minimum. Each piece of information is necessary for effective operation of the child support program or to provide the Administration, Congress, and other interested parties with information about program performance.

Effective Date

October 1, 1996.

SUBCHAPTER F—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

26. Simplified process for review and adjustment of child support orders

Present Law

A child support order legally obligates noncustodial parents to provide financial support for their child and stipulates the amount of the obligation and how it is to be paid. In 1984, P.L. 98–378 required States to establish guidelines for establishing child support orders. In 1988, P.L. 100–485 made the guidelines binding on judges and other officials who had authority to establish support orders. P.L. 100–485 also required States to review and adjust individual child support orders once every three years under some circumstances. States are required to notify both resident and nonresident parents of their right to a review.

Explanation of Provision

Every three years, States must review and, as appropriate, adjust support orders being enforced under the TANF block grant and other orders at the request of the parent or at State option. No proof of change or circumstances is needed to initiate the review. States may adjust child support orders by either applying the State guidelines and updating the award amount or by applying a cost-of-living increase to the order. In the latter case, both parties must be given 30 days after notice of adjustment to contest the results. States may use automated methods to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment to the orders based on the threshold established by the State. States must also review and, upon a showing of a change in circumstances, adjust orders pursuant to the child support guidelines upon request of either a parent or the State. States are required to give parties one notice of their right to request review and adjustment, which may be included in the order establishing the support amount. If neither parent requests a review, States have the option of avoiding the 3-year review requirement.

Effective Date

October 1, 1996.

27. Furnishing consumer reports for certain purposes relating to child support

(This provision is not under jurisdiction of the Committee but is included here for sake of completeness.)

Present Law

The Fair Credit Act requires consumer reporting agencies to include in any consumer report information on child support delinquencies provided by or verified by a child support enforcement agency, which antedates the report by 7 years.

Explanation of Provision

This section amends the Fair Credit Reporting Act. In response to a request by the head of a State or local child support agency (or a State or local government official authorized by the head of such an agency), consumer credit agencies must release information if the person making the request makes all of the following certifications: that the consumer report is needed to establish an individual's capacity to make child support payments or determine the level of payments; that paternity has been established or acknowledged; that the consumer has been given at least 10 days notice by certified or registered mail that the report is being requested; and that the consumer report will be kept confidential, will be used solely for child support purposes, and will not be used in connection with any other civil, administrative, or criminal proceeding or for any other purpose. Consumer reporting agencies must also give reports to a child support agency for use in setting an initial or modified award.

28. Nonliability for financial institutions providing financial records

Present Law

No provision.

Explanation of Provision

Financial institutions are not liable to any person for information provided to child support agencies. Child support agencies can disclose information obtained from depository institutions only for child support purposes. There is no liability for disclosures that result from good faith but erroneous interpretation of this statute. However, individuals who knowingly disclose information from financial records can have civil actions brought against them in Federal district court; the maximum penalty is $1,000 for each disclosure or actual damages plus, in the case of willful disclosure resulting from gross negligence, punitive damages, plus the costs of the action. Definitions of "financial institution" and "financial record" are included in this section.

Reason for Change

Depository institutions are one of the best sources of information about the resources of parents who owe child support. The intent of this provision is to protect this source by requiring that States provide immunity from prosecution for depository institutions providing information to State agencies in accord with State law. To ensure that this information is not misused, States must also have laws that provide civil penalties against employees who knowingly disclose financial information to unauthorized persons or agencies.

Effective Date

October 1, 1996.

SUBCHAPTER G—ENFORCEMENT OF SUPPORT ORDERS

29. Internal Revenue Service collection of arrearages

Present Law

If the amount of overdue child support is at least $750, the Internal Revenue Service (IRS) can enforce the child support obligation through its regular collection process, which may include seizure of property, freezing accounts, or use of other procedures if child support agencies request assistance according to prescribed rules (e.g., certifying that the delinquency is at least $750, etc.).

Explanation of Provision

The Internal Revenue Code is amended so that no additional fees can be assessed for adjustment to previously certified amounts for the same obligor.

Reason for Change

This provision is designed to encourage States to use the IRS as an additional tool of child support collection by ensuring that the cost of this IRS service remains moderate.

Effective Date

October 1, 1997.

30. Authority to collect support from Federal employees

Present Law

Federal law allows the wages of Federal employees to be garnished to enforce legal obligations for child support or alimony. Federal law provides that moneys payable by the United States to any individual are subject to being garnished in order to meet an individual's legal obligation to provide child support or make alimony payments. An executive order issued on February 27, 1995 establishes the Federal government as a model employer in promoting and facilitating the establishment and enforcement of child support. Under the terms of the Executive Order, all Federal agencies, including the Uniformed Services, are required to cooperate fully in efforts to establish paternity and child support and to enforce the collection of child and medical support. All Federal agencies are to review their wage withholding procedures to ensure that they are in full compliance. Beginning no later than July 1, 1995, the Director of the Office of Personal Management must publish annually in the Federal Register the list of agents (and their addresses) designated to receive service of withholding notices for Federal employees. Federal law states that neither the United States nor any disbursing officer or government entity shall be liable with respect to any payment made from moneys due or payable from the United States pursuant to the legal process. Federal law provides that money that may be garnished includes compensation for personal services, whether such compensation is denominated as wages, salary, commission, bonus, pay, or otherwise, and includes but is not limited to, severance pay, sick pay, incentive pay-

ments, and periodic payments. Includes definitions of "United States," "child support," "alimony," "private person," and "legal process."

Explanation of Provision

Consolidation and Streamlining of Authorities.

(1) Federal employees are subject to wage withholding and other actions taken against them by State child support enforcement agencies.

(2) Federal agencies are responsible for the same wage withholding and other child support actions taken by the State as if they were a private employer.

(3) The head of each Federal agency must designate an agent and place the agent's name, title, address, and telephone number in the Federal Register annually. The agent must, upon receipt of process, send written notice to the individual involved as soon as possible, but no later than 15 days, and to comply with any notice of wage withholding or respond to other process within 30 days. The agent also must respond to any order, process, or interrogatory about child support or alimony within 30 days after effective service of such requests.

(4) Current law governing allocation of moneys owed by a Federal employee is amended to give priority to child support, to require allocation of available funds, up to the amount owed, among child support claimants, and to allocate remaining funds to other claimants on a first-come, first-served basis.

(5) A government entity served with notice of process for enforcement of child support is not required to change its normal pay and disbursement cycle to comply with the legal process.

(6) Similar to current law, the U.S., the government of the District of Columbia, and disbursing officers are not liable for child support payments made in accord with this section; nor is any Federal employee subject to disciplinary action or civil or criminal liability for disclosing information while carrying out the provisions of this section.

(7) The President has the authority to promulgate regulations to implement this section as it applies to Federal employees of the Administrative branch of government; the President Pro Tempore of the Senate and Speaker of the House can issue regulations governing their employees; and the Chief Justice can issue regulations applicable to the Judicial branch.

(8) This section broadens the definition of income to include, in addition to wages, salary, commissions, bonus pay, allowances, severance pay, sick pay, and incentive pay, funds such as insurance benefits, retirement and pension pay (including disability pay if the veteran has waived a portion of retirement pay to receive disability pay), survivor's benefits, compensation for death and black lung disease, veteran's benefits, and workers' compensation; but to exclude from income funds paid to defray expenses incurred in carrying out job duties; amounts owed to the U.S. or used to pay Federal employment taxes, fines, or forfeitures ordered by court martial; and amounts withheld for tax purposes, for health insurance or life insurance premiums, for retirement contributions, or for life insurance premiums.

(9) This section includes definitions of "United States," "child support," "alimony," "private person," and "legal process."

Conforming Amendments. The Committee provision makes several conforming amendments to Title IV–D of the Social Security Act and Title 5 of the United States Code.

Military Retired and Retainer Pay. The definition of "court" in the Armed Forces title of the U.S. Code (title 10) is amended to include an administrative or judicial tribunal of a State which is competent to enter child support orders, and clarifies the definition of "court order." The Secretary of Defense is required to send withheld amounts for child support to the appropriate State Disbursement Unit. The provision also clarifies that military personnel who have never been married to the parent of their child are under jurisdiction of the State child support program and the terms of section 459 of the Social Security Act.

Reason for Change

The Federal government employs nearly 3 million people. These employees work in offices all over the United States. Yet the current procedures for ensuring that these employees participate fully in the nation's child support system are weak. The Committee proposal completely revamps the Federal system of responding to child support requests, especially wage withholding. Once these provisions are implemented, the Federal child support system should function more smoothly and efficiently while recovering additional dollars for child support.

Effective Date

This section goes into effect 6 months after the date of enactment.

31. Enforcement of child support obligations of members of the Armed Forces

(This provision is not under jurisdiction of the Committee but is included here for sake of completeness.)

Present Law

Availability of Locator Information. The Executive Order issued February 27, 1995 requires a study which would include recommendations on how to improve service of process for civilian employees and members of the Uniformed Services stationed outside the United States.

Facilitating Granting of Leave for Attendance at Hearings. No provision.

Payment of Military Retired Pay in Compliance with Child Support Orders. Federal law requires allotments from the pay and allowances of any member of the uniformed service when the member fails to pay child (or child and spousal) support payments.

Explanation of Provision

Availability of Locator Information. The Secretary of Defense must establish a central personnel locator service that contains res-

idential or, in specified instances, duty addresses of every member of the Armed Services (including members of the Coast Guard, if requested). The locator service must be updated within 30 days of the time an individual establishes a new address. Information from the locator service must be made available upon request to the Federal Parent Locator Service.

Facilitating Granting of Leave for Attendance at Hearings. The Secretary of each military department must issue regulations to facilitate granting of leave for members of the Armed Services to attend hearings to establish paternity or to establish child support orders. The terms "court" and "child support" are defined.

Payment of Military Retired Pay in Compliance with Child Support Orders. Child support orders received by the Secretary do not have to have been recently issued. The Secretary of each branch of the Armed Forces (including retirees, the Coast Guard, the National Guard, and the Reserves) is required to make child support payments from military retirement pay directly to any State to which a custodial parent has assigned support rights as a condition of receiving public assistance. Payments to satisfy current support or child support arrears must be made from disposable retirement pay. Payroll deductions must begin within 30 days or the first pay period after 30 days of receiving a wage withholding order.

32. Voiding of fraudulent transfers

Present Law

No provision.

Explanation of Provision

States must have in effect the Uniform Fraudulent Conveyance Act of 1981, the Uniform Fraudulent Transfer Act of 1984, or an equivalent law providing for voiding transfers of income or property that were made to avoid payment of child support. States also must have in effect procedures under which the State must seek to void a fraudulent transfer or obtain a settlement in the best interest of the child support creditor.

Reason for Change

Some noncustodial parents liquidate their property in order to avoid paying child support. Under the Committee proposal, such fraudulent transfer of property for the purpose of avoiding child support would become illegal. Even more important, such transfers would be voided, thereby increasing the amount of income or property that could be attached for payment of child support.

Effective Date

October 1, 1996.

33. Work requirement for persons owing past-due child support

Present Law

P.L. 100–485 required the Secretary to grant waivers to up to five States allowing them to provide JOBS services on a voluntary or mandatory basis to noncustodial parents who are unemployed and unable to meet their child support obligations. (In their report the conferees noted that the demonstrations would not grant any new powers to the States to require participation by noncustodial parents. The demonstrations were to be evaluated.)

Explanation of Provision

States must have procedures under which the State has the authority to issue an order or request that a court or administrative process issue an order that requires individuals owing past-due child support for a child receiving assistance under the Temporary Family Assistance program either to pay the support due, to have and be in compliance with a plan to pay child support, or to participate in work activities as deemed appropriate by the court or the child support agency. "Past-due support" is defined and a conforming amendment is made to section 466 of the Social Security Act.

Reason for Change

States must require custodial parents on welfare to fulfill work requirements as a condition of receiving public benefits. If the custodial parent refuses to participate, her benefits can be reduced or even terminated. The obligation of noncustodial parents to work for public benefits that support their children is equal to the obligation of custodial parents. However, because noncustodial parents generally do not receive the welfare payment, it is difficult for States to effectively require them to participate in work programs. The Committee intends to at least partially rectify this imbalance in the expectations placed on custodial and noncustodial parents by encouraging judges to make noncustodial parents either pay the child support they owe or participate in work programs.

Effective Date

October 1, 1996.

34. Definition of support order

Present Law

No provision.

Explanation of Provision

A support order is defined as a judgement, decree, or order (whether temporary, final, or subject to modification) issued by a court or an administrative agency for the support (monetary support, health care, arrearages, or reimbursement) of a child (including a child who has reached the age of majority under State law) or of a child and the parent with whom the child lives, and which

may include costs and fees, interest and penalties, income withholding, attorney's fees, and other relief.

Reason for Change

The term "support order" is used throughout Title IV–D of the Social Security Act but is never defined. The Committee definition includes spousal support if the original child support order includes spousal support.

Effective Date

October 1, 1996.

35. Reporting arrearages to credit bureaus

Present Law

Federal law requires States to implement procedures which require them to periodically report to consumer reporting agencies the name of debtor parents owing at least 2 months of overdue child support and the amount of child support overdue. However, if the amount overdue is less than $1,000, information regarding it shall be made available only at the option of the State. Moreover, information may only be made available after the noncustodial parent has been notified of the proposed action and has been given reasonable opportunity to contest the accuracy of the claim against him. States are permitted to charge consumer reporting agencies that request child support arrearage information a fee that does not exceed actual costs.

Explanation of Provision

States are required to periodically report to consumer credit reporting agencies the name of any noncustodial parent who is delinquent in the payment of support and the amount of overdue support owed by the parent. Before such a report can be sent, the obligor must have been afforded all due process rights, including notice and reasonable opportunity to contest the claim of child support delinquency.

Reason for Change

A good credit history is an important part of modern economic life. Most people will go to great lengths to avoid damaging their credit history. Thus, child support agencies should acquire a reputation for notifying credit reporting agencies of delinquent child support. Such reports must become systematic and immediate if they are to gain widespread credibility. An additional reason for this provision, along with several others that will be described below, is to develop enforcement tools that can be used against self-employed individuals. Wage withholding is perhaps the single most effective tool in collecting child support. Unfortunately, this tool is usually not available in the case of self-employed individuals. However, the self-employed need to maintain a good credit rating, so the threat of reporting to credit bureaus can be expected to have a positive impact.

Effective Date

October 1, 1996.

36. Liens

Present Law

Federal law requires States to implement procedures under which liens are imposed against real and personal property for amounts of overdue support owed by a noncustodial parent who resides or owns property in the State.

Explanation of Provision

States must have procedures under which liens arise by operation of law against property for the amount of overdue support. States must grant full faith and credit to liens of other States if the originating State agency or party has complied with procedural rules relating to the recording or serving of liens, except such rules cannot require judicial notice or hearing prior to enforcement of the lien.

Reason for Change

Many noncustodial parents, including those who claim to have little cash, own property that can be used to make child support payments. Equally important, the knowledge that property will be seized and, if necessary, liquidated to obtain payment on past-due child support is often enough to force noncustodial parents to locate the cash necessary to make payment on arrearages. In order to be fully effective, seizure of property must be done quickly and efficiently. Thus, the Committee provision would require States to have laws that enable them to place liens on property in anticipation of new arrearages. Then, when arrearages occur, child support agencies can immediately seize the property without the need to engage in court proceedings. These laws must also require States to honor the liens of other States if all procedural rules of the State in which the lien is registered. Liens are also an effective collection tool in the case of self-employed individuals.

Effective Date

October 1, 1996.

37. State law authorizing suspension of licenses

Present Law

No provision.

Explanation of Provision

States must have the authority to withhold, suspend, or restrict the use of drivers' licenses, professional and occupational licenses, and recreational licenses of individuals owing past-due support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.

Reason for Change

Drivers' licenses, professional and occupational licenses, and recreational licenses are all essential features of life in America. Without them, individuals have serious restrictions on their ability to pursue a livelihood, to get from one place to another, and to engage in recreational activity. Placing licenses to these vital activities in jeopardy is an exceptionally effective way to ensure that noncustodial parents pay child support in a timely fashion. License suspension is often an effective tool against noncustodial parents who are self employed. States already using license suspension have enjoyed substantial increases in child support collections. The goal of the Committee provision is to spread these benefits to the entire nation.

Effective Date

October 1, 1996.

38. Denial of passports for nonpayment of child support

(This section is not under jurisdiction of the Committee but is included here for sake of completeness.)

Present Law

No provision.

Explanation of Provision

If an individual owes arrearages in excess of $5,000 of child support, the Secretary of HHS must request that the State Department deny, revoke, restrict, or limit the individual's passport. State child support agencies must have procedures for certifying to the Secretary arrearages in excess of $5,000 and for notifying individuals who are in arrears and providing them with an opportunity to contest. These provisions become effective on October 1, 1997.

39. International child support enforcement

Present Law

No provision.

Explanation of Provision

(1) The Secretary of State, with concurrence of the Secretary of HHS, is authorized to declare reciprocity with foreign countries having requisite procedures for establishing and enforcing support orders. The Secretary may revoke reciprocity if she determines that the enforcement procedures do not continue to meet the requisite criteria.

(2) The requirements for reciprocity include procedures in the foreign country for U.S. residents—available at no cost—to establish parentage, to establish and enforce support orders for children and custodial parents, and to distribute payments.

(3) An agency of the foreign country must be designated a central authority responsible for facilitating support enforcement and en-

suring compliance with standards by both U.S. residents and residents of the foreign country.

(4) The Secretary in consultation with the States, may establish additional standards that she judges necessary to promote effective international support enforcement.

(5) The Secretary of HHS is required to facilitate enforcement services in international cases involving residents of the U.S. and of foreign reciprocating countries, including developing uniform forms and procedures, providing information from the FPLS on the State of residence of the obligor, and providing such other oversight, assistance, or coordination as she finds necessary and appropriate.

(6) Where there is no Federal reciprocity agreement, States are permitted to enter into reciprocal agreements with foreign countries.

(7) The State plan must provide that request for services in international cases be treated the same as interstate cases, except that no application will be required and no costs will be assessed against the foreign country or the obligee (costs may be assessed at State option against the obligor).

Reason for Change

The ever increasing frequency of international travel has led to an increase in international support cases. To date, efforts to pursue support across national boundaries has proven difficult. Thus, in consultation with the State Department and with State child support leaders, the Committee has developed a provision that will allow and encourage the Secretary of State to pursue reciprocal support agreements with other nations. In this way, the U.S. and selected foreign nations may be able to help each other deal with the problem of parents and former spouses crossing boundaries to avoid support payments.

Effective Date

October 1, 1996.

40. Financial Institution Data Matches

Present Law

No provision.

Explanation of Provision

States are required to implement procedures under which the State child support agency must enter into agreements with financial institutions doing business within the State to develop and operate a data match system, using automated data exchanges to the maximum extent feasible, in which such financial institutions are required to provide for each calendar quarter the name, address, Social Security number, and other identifying information for each noncustodial parent identified by the State who has an account at the institution and owes past-due child support. In response to a notice of lien or levy, the financial institution must encumber or surrender assets held by the institution on behalf of the noncusto-

dial parent who is subject to the child support lien. The State agency may pay a fee to the financial institution. The financial institution is not liable for activities taken to implement the provisions of this section. Definitions of the terms "financial institution" and "account" are included.

Reason for Change

Collecting child support payments, especially from reluctant noncustodial parents, is one of the major problems in child support enforcement. Thus, several provisions of the Committee provision are designed to provide States with additional collection tools. One of the most important is requiring States to have access to the financial assets of noncustodial parents who fall behind in paying child support. This provision will enable States to discover on a routine basis whether obligors have resources in financial institutions and then provide them with the means to gain access to such resources. Several States have been implementing these provisions with great success. In testimony before our Committee this year, a witness from one State informed us that after the State legislature enacted this provision, there was an immediate boost in collections directly attributable to the State's ability to gain access to resources held in financial institutions.

Effective Date

October 1, 1996.

41. Enforcement of orders against paternal or maternal grandparents in cases of minor parents

Present Law

No provision. However, Wisconsin and Hawaii have State laws that make grandparents financially responsible for their minor children's dependents.

Explanation of Provision

With respect to a child of minor parents receiving support from the Temporary Assistance for Needy Families Block Grant, States have the option to enforce a child support order against the parents of the minor noncustodial parent.

Reason for Change

States have an obligation to taxpayers to make certain that every reasonable step is taken to either recover from parents the welfare money spent on their children or avoid payments in the first place. Parents, of course, are responsible for the behavior of their minor children. If minors cause a nonmarital pregnancy, their parents should be help accountable. This provision ensures that they will be.

Effective Date

October 1, 1996.

42. Nondischargeability in bankruptcy of certain debts for the support of a child

(This provision is not under jurisdiction of the Committee but is included here for sake of completeness.)

Present Law

Although child support payments may not be discharged in a filing of bankruptcy (i.e., the debtor parent cannot escape her child support obligation by filing a bankruptcy petition), a bankruptcy filing may cause long delays in securing child support payments. Pursuant to P.L. 103–394, a filing of bankruptcy will not stay a paternity, child support, or alimony proceeding. In addition, child support and alimony payments will be priority claims and custodial parents will be able to appear in bankruptcy court to protect their interests without paying a fee or meeting any local rules for attorney appearances.

Explanation of Provision

Title 11 of the U.S. Code and Title IV–D of the Social Security Act are amended to ensure that a debt owed to the State "that is in the nature of support and that is enforceable under this part" cannot be discharged in bankruptcy proceedings. This amendment applies only to cases initiated under Title 11 after enactment of this Act.

SUBCHAPTER H—MEDICAL SUPPORT

43. Correction to ERISA definition of medical child support order

(This provision is not under jurisdiction of the Committee but is included here for sake of completeness.)

Present Law

P.L. 103–66 requires States to adopt laws that require health insurers and employers to enforce orders for medical and child support and that forbid health insurers from denying coverage to children who are not living with the covered individual or who were born outside of marriage. Under P.L. 103–66, group health plans are required to honor "qualified medical child support orders."

Explanation of Provision

This provision expands the definition of medical child support order in ERISA to clarify that any judgement, decree, or order that is issued by a court of competent jurisdiction or by an administrative process has the force and effect of law.

44. Enforcement of orders for health care coverage

Present Law

Federal law requires the Secretary to require IV–D agencies to petition for the inclusion of medical support as part of child support

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whenever health care coverage is available to the noncustodial parent at reasonable cost.

Explanation of Provision

All orders enforced under this part must include a provision for health care coverage. If the noncustodial parent changes jobs and the new employer provides health coverage, the State must send notice of coverage, which shall operate to enroll the child in the health plan, to the new employer.

Reason for Change

Health coverage is a vital aspect of child support enforcement. This is especially the case since the alternative is often taxpayer-provided Medicaid coverage, which is expensive. In recent years, States have gained experience in learning new ways to help promote health coverage by noncustodial parents. One result has been laws requiring that insurance companies cover a worker's children, even if the worker does not live with his children. States have now discovered that even when covered by the noncustodial parent's employer-based health insurance, children can experience gaps in coverage if their parent moves to a different job. The Committee provision therefore requires States to immediately notify new employers of the coverage without any judicial or administrative proceedings.

Effective Date

October 1, 1996.

SUBCHAPTER I—ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NON-RESIDENTIAL PARENTS

45. Grants to states for access and visitation programs

Present Law

In 1988, Congress authorized the Secretary to fund for fiscal year 1990 and fiscal year 1991 demonstration projects by States to help divorcing or never-married parents cooperate with each other, especially in arranging for visits between the child and the nonresident parent.

Explanation of Provision

This proposal authorizes grants to States for access and visitation programs including mediation, counseling, education, development of parenting plans, and visitation enforcement. Visitation enforcement can include monitoring, supervision, neutral drop-off and pick-up, and development of guidelines for visitation and alternative custody agreements. An annual entitlement of $10 million is appropriated for these grants.

The amount of the grant to a State is equal to either 90 percent of the State expenditures during the year for access and visitation programs or the allotment for the State for the fiscal year. The allotment to the State bears the same ratio to the amount appropriated for the fiscal year as the number of children in the State

living with one biological parent divided by the national number of children living with one biological parent. The Administration for Children and Families must adjust allotments to ensure that no State is allotted less than $50,000 for fiscal years 1997 or 1998 or less than $100,000 for any year after 1998. Projects are required to supplement rather than supplant State funds. States may use the money to create their own programs or to fund grant programs with courts, local public agencies, or non-profit organizations. The programs do not need to be Statewide. States must monitor, evaluate, and report on their programs in accord with regulations issued by the Secretary.

Reason for Change

For more than two decades, the Federal Government has played a leading role in requiring States to establish and conduct strong child support enforcement programs. The fundamental goal of these programs, of course, is to increase the financial security of children who live with one parent. This goal enjoys nearly universal support among members of Congress and among the American public. However, in addition to using government power to enforcement child support, many members of Congress believe there is an important role for government in assisting the children of divorced or never-married parents to maintain contact with their noncustodial parent. Thus, in 1988 Congress authorized the first demonstration programs to promote visitation between children and nonresident parents. The Committee provision on access and visitation is an extension and expansion of this original provision. Entitlement funding was provided to be certain that the money would be available for these important grants.

Effective Date

October 1, 1997.

SUBCHAPTER J—EFFECTIVE DATES AND CONFORMING AMENDMENTS

46. Effective dates

Present Law

No provision.

Explanation of Provision

Except as noted in the text of the Committee proposal for specific provisions, the general effective date for provisions in the proposal is October 1, 1996. However, given that many of the changes required by this proposal must be approved by State Legislatures, the proposal contains a grace period tied to the meeting schedule of State Legislatures. In any given State, the proposal becomes effective either on October 1, 1996 or on the first day of the first calendar quarter after the close of the first regular session of the State Legislature that begins after the date of enactment of the proposal. In the case of States that require a constitutional amendment to comply with the requirements of the proposal, the grace

period is extended either for one year after the effective date of the necessary State constitutional amendment or five years after the date of enactment of the proposal. This section contains several conforming amendments to title IV–D of the Social Security Act. This section also replaces the term "absent parent" with "noncustodial parent" each place it occurs in title IV–D.

Reason for Change

If Congress requires States to change their laws, it is standard practice for Congress to accommodate effective dates to the meeting schedule of State legislative bodies. The Committee provision is consistent with this practice.

Effective Date

Upon enactment.

CHAPTER 4—RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

1. Statements of national policy concerning welfare and immigration

Present Law

No provision.

Explanation of Provision

The Congress makes several statements concerning national policy with respect to welfare and immigration. These include the affirmation that it continues to be the immigration policy of the U.S. that noncitizens within the nation's borders not depend on public resources, that noncitizens nonetheless have been applying for and receiving public benefits at increasing rates, and that it is a compelling government interest to enact new eligibility and sponsorship rules to assure that noncitizens become self reliant and to remove any incentive for illegal immigration.

Reason for Change

It is the intent of the Committee to make clear that the reduction of welfare for aliens supports our national traditions and values regarding work, opportunity and self reliance for those who immigrate to the U.S.

Effective Date

Date of enactment.

SUBCHAPTER A—ELIGIBILITY FOR FEDERAL BENEFITS

2. Aliens who are not qualified aliens ineligible for Federal public benefits

Present Law

Current law limits alien eligibility for most major Federal assistance programs, including restrictions on, among other programs, Supplemental Security Income, Aid to Families with Dependent Children, housing assistance, and Food Stamps programs. Current law is silent on alienage under, among other programs, school lunch and nutrition, the Special Supplemental Food Program for Women, Infants, and Children (WIC), Head Start, migrant health centers, and the earned income credit.

Under the programs with restrictions, benefits are generally allowed for permanent resident aliens (also referred to as immigrants and green card holders), refugees, asylees, and parolees, but benefits (other than emergency Medicaid) are denied to nonimmigrants (or aliens lawfully admitted temporarily as, for example, tourists, students, or temporary workers) and illegal aliens. Benefits are permitted under AFDC, SSI, unemployment compensation, and nonemergency Medicaid to other aliens permanently residing in the U.S. under color of law (PRUCOL).

Explanation of Provision

Noncitizens who are "not qualified aliens" (generally, illegal immigrants and nonimmigrants such as students) are ineligible for all Federal public benefits, with limited exceptions for emergency medical services, emergency disaster relief, immunizations and testing and treatment of communicable diseases, community programs necessary for the protection of life or safety, certain housing benefits (only for current recipients), licenses and benefits directly related to work for which a nonimmigrant has been authorized to enter the U.S. and certain Social Security retirement benefits protected by treaty or statute.

Federal public benefits include: any grant, contract, loan, professional license or commercial license, and any retirement, welfare, health, disability, food assistance, unemployment or similar benefit provided by an agency or appropriated funds of the United States.

Reason for Change

It is the intent of the Committee that individuals who are illegally present in the U.S. or here for a temporary purpose such as to attend school should not receive public welfare benefits. Accordingly, the Committee proposal restricts the availability of Federal public welfare benefits for such "non-qualified aliens" with only very limited exceptions such as for emergency medical services, immunizations, and non-cash emergency disaster relief.

Effective Date

October 1, 1996.

3. Limited eligibility of certain qualified aliens

Present Law

With the exception of certain buy-in rights under Medicare, immigrants (or aliens) lawfully admitted for permanent residence are eligible for major Federal benefits, but the ability of some immigrants to meet the needs tests for SSI, AFDC, and food stamps may be affected by the sponsor-to-alien deeming provisions discussed below. Refugees, asylees, and parolees also generally are eligible. Benefits are permitted under AFDC, SSI, unemployment compensation, and nonemergency Medicaid to other aliens permanently residing in the U.S. under color of law (PRUCOL).

Explanation of Provision

Legal noncitizens who are "qualified aliens" (i.e., permanent resident aliens, refugees, asylees, aliens paroled into the U.S. for a period of at least one year, and aliens whose deportation has been withheld) are ineligible for SSI and food stamp benefits until they attain citizenship, with exceptions noted below. States are given the option of similarly restricting Federal cash welfare, Medicaid and Title XX benefits for qualified aliens, with the exception of those who are receiving benefits on the date of enactment as described below.

Refugees, asylees, and aliens whose deportation has been withheld are excepted for five years after being granted their respective statuses. Also excepted are legal permanent residents who have worked (in combination with their spouse and parents) for at least 10 years, and noncitizens who are veterans or on active duty or their spouse or unmarried child.

To allow individuals time to adjust to the revised policy, otherwise restricted aliens who are receiving SSI, food stamps, cash welfare, Medicaid or Title XX benefits on the date of enactment would remain eligible for at most one year after enactment. However, if a review determines the noncitizen would be ineligible if enrolling under the revised standards for SSI and food stamps (for example, because the noncitizen failed to qualify under the refugee or work exemptions) such benefits would cease immediately. States have the option of ending cash welfare, Medicaid, and social services benefits for current recipients after January 1, 1997.

Reason for Change

Since Congress first passed legislation on immigration in the 1880s, it has been a fundamental tenet of American immigration policy that aliens should not receive public welfare benefits. Yet today there are well over 2.8 million noncitizens receiving Aid to Families with Dependent Children, Supplemental Security Income, Medicaid, and Food Stamps. Studies indicate that total Federal spending on welfare for noncitizens exceeds $20 billion per year.

The Committee proposal is based on the principle that immigration is essentially a reciprocal compact between the nation and each immigrant who requests permission to enter the country: Aliens are allowed to enter the U.S. and join our economy; in return, the nation asks that immigrants obey our laws, pay taxes if they earn sufficient income, and avoid welfare until they become citizens. The Committee proposal is designed to uphold this bargain. In addition, the proposal reduces Federal spending by billions of dollars by withholding welfare payments to aliens.

Effective Date

The restrictions in this section generally apply beginning on the date of enactment. For noncitizens who are receiving SSI and food stamp benefits on the date of enactment, eligibility would continue for one year; however, if a review or recertification during the year after enactment finds that the noncitizen would not meet the revised eligibility standards (such as by qualifying for exceptions for refugees or for having worked ten or more years), eligibility would end upon the review or recertification. Noncitizens receiving cash welfare, Medicaid, and social services benefits (which States would have the option to restrict) would remain eligible until at least January 1, 1997.

4. Five-year limited eligibility of qualified aliens for Federal means-tested public benefit

Present Law

See above.

Explanation of Provision

The proposal restricts most Federal means-tested benefits (including SSI, food stamps, cash welfare, Medicaid, and title XX social services benefits) for permanent resident aliens who arrive after the date of enactment for their first five years in the U.S. Programs that are not restricted to legal noncitizens arriving in the future include emergency medical services, non-cash emergency disaster relief, school lunch and child nutrition benefits, immunizations and testing and treatment of communicable diseases, foster care and adoption payments, community programs for the protection of life or safety, certain elementary and secondary education programs, and higher education grants and loans.

Exceptions are made for refugees, asylees, aliens whose deportation is being withheld, and noncitizens who are veterans, on active duty, or the spouse or unmarried child of such an individual.

Reason for Change

See above. In addition to the restrictions on the receipt of SSI and food stamp benefits (and, at State option, cash welfare, Medicaid and social services) for all noncitizens, this provision provides a broader restriction on the availability of Federal welfare benefits for most noncitizens who arrive in the U.S. after the date of enactment (this restriction would apply during the noncitizen's first five years in the U.S.). The purpose is to send a clear signal that immigrants are expected to uphold pledges that have been required under U.S. immigration law for generations that they will not become dependent on public welfare benefits prior to obtaining citizenship.

Effective Date

The above changes in eligibility apply to most noncitizens arriving in the U.S. after the date of enactment during their first five years in the U.S.

5. Notification and information reporting

(1) Notification

Present Law

Under regulation, individual advance written notice must be given of an intent to suspend, reduce, or terminate SSI benefits.

Explanation of Provision

Each Federal agency that administers an affected program shall post information and provide general notification to the public and to program recipients of changes regarding eligibility.

Reason for Change

Agencies now providing welfare benefits to noncitizens should take reasonable steps to notify aliens of impending program changes in order to help aliens make arrangements for replacing

welfare income with earned income or assistance from relatives, friends, sponsoring organizations, or private charities.

Effective Date

October 1, 1996.

(2) Information Reporting

Present Law

AFDC and SSI restrict the use or disclosure of information concerning applicants and recipients to purposes connected to the administration of needs-based Federal programs.

Explanation of Provision

Agencies that administer SSI, housing assistance programs under the United States Housing Act of 1937, or block grants for temporary assistance for needy families (the successor program to AFDC) are required to furnish information about aliens they know to be unlawfully in the United States to the Immigration and Naturalization Service (INS) at least four times annually and upon INS request.

Reason for Change

As public benefits are a magnet for illegal aliens to come to and stay in the U.S., welfare agencies should assist INS in its mandate to identify and remove illegal aliens from the country.

Effective Date

October 1, 1996.

SUBCHAPTER B—ELIGIBILITY FOR STATE AND LOCAL PUBLIC BENEFITS PROGRAMS

6. Aliens who are not qualified aliens or nonimmigrants not eligible for state and local public benefits

(This provision is not under jurisdiction of the Committee but is included here for sake of completeness.)

Present Law

Under *Plyler v. Doe* (457 U.S. 202 (1982)), States may not deny illegal alien children access to a public elementary education without authorization from Congress. However, the narrow 5–4 Supreme Court decision may imply that illegal aliens may be denied at least some State benefits and that Congress may influence the eligibility of illegal aliens for State benefits. Many, but not all, State general assistance laws currently deny illegal aliens means-tested general assistance.

Explanation of Provision

Illegal aliens are ineligible for all State and local public benefits, with limited exceptions for emergency medical services, emergency disaster relief, immunizations and testing and treatment of com-

municable diseases, and programs necessary for the protection of life or safety. States may, however, pass laws after the date of enactment that specify that illegal aliens may be eligible for certain State or local benefits that otherwise would be denied under this section.

7. State authority to limit eligibility of qualified aliens for state public benefits

(This provision is not under jurisdiction of the Committee but is included here for sake of completeness.)

Present Law

Under *Graham v. Richardson* (403 U.S. 365 (1971)), States may not deny legal permanent residents State-funded assistance that is provided to equally needy citizens without authorization from Congress.

Currently, there is no Federal law barring legal temporary residents (i.e., nonimmigrants) from State and local needs-based programs. In general, States are restricted in denying assistance to nonimmigrants where the denial is inconsistent with the terms under which the nonimmigrants were admitted. Where a denial of benefits is not inconsistent with Federal immigration law, however, States have broader authority to deny benefits and States often do deny certain benefits to nonimmigrants. Also, aliens in most nonimmigrant categories generally may have difficulty qualifying for many State and local benefits because of requirements that they be State "residents."

Explanation of Provision

States are authorized to determine the eligibility of "qualified aliens," nonimmigrants, and aliens paroled into the U.S. for less than one year for any State or local means-tested public benefit program. Noncitizens receiving State and local benefits on the date of enactment would remain eligible for benefits until January 1, 1997.

Exceptions to State authority to deny benefits are made for refugees, asylees and aliens whose deportation has been withheld (for five years), permanent resident aliens who have worked in the U.S. (in combination with their spouse or parents) for at least 10 years, and noncitizens who are veterans or on active duty or their spouse or unmarried child.

SUBCHAPTER C—ATTRIBUTION OF INCOME AND AFFIDAVITS OF SUPPORT

8. Federal attribution of sponsor's income and resources to alien

(1) Federal benefits

Present Law

In determining whether an alien meets the means test for AFDC, SSI (except in cases of blindness or disability occurring after entry), and food stamps, the resources and income of an individual who

filed an affidavit of support ("sponsor") for the alien (and the income and resources of the individual's spouse) are taken into account during a designated period after entry. Sponsor-to-alien deeming provisions were added to these three programs in part because several courts have found that affidavits of support, under current practice, do not obligate sponsors to reimburse government agencies for benefits provided to sponsored aliens. See below.

Explanation of Provision

During the applicable deeming period (see "Length of Deeming Period" below), the income and resources of a sponsor and the sponsor's spouse are to be taken into account under all Federally-funded means-tested programs (with the exception of the programs below) in determining the sponsored individual's neediness. Excepted programs are emergency medical services, emergency disaster relief, school lunch and child nutrition assistance, immunizations and testing for and treatment of communicable diseases, certain programs that protect life, safety, or public health, certain foster care and adoption assistance, certain elementary and secondary education programs, and higher education grants and loans.

Reason for Change

Sponsorship agreements reflect a willingness on the part of the sponsor to assume responsibility for the alien while in the U.S. By deeming the income of the sponsor to the alien when determining the alien's eligibility for means-tested public assistance, the importance of sponsorship agreements—including needed financial support—is underscored. In addition, deeming sponsors' income to aliens means it is less likely that taxpayers (including State and local taxpayers) will be called on to pay for public assistance for aliens, in keeping with the purposes of this title.

Effective Date

October 1, 1996.

(2) Amount of income and resources deemed

Present Law

While the offset formulas vary among the programs, the amount of income and resources deemed under AFDC, SSI, and Food Stamps is reduced by certain offsets to provide for some of the sponsor's own needs.

Explanation of Provision

The full income and resources of the sponsor and the sponsor's spouse are deemed to be that of the sponsored alien.

Reason for Change

The Committee proposal provides for the deeming of the sponsor's full income to the sponsored noncitizen for two reasons. First, deeming the sponsor's full income reinforces that it is the responsibility of the sponsor, not taxpayers, to provide for the public wel-

fare needs of the noncitizen he or she has sponsored to enter the U.S. Accordingly the sponsor's full resources should be presumed to be available to help support the sponsored noncitizen during times of need. Second, deeming the full amount of the sponsor's income to the sponsored noncitizen reinforces the central theme of the Committee proposal that noncitizens, except in very limited circumstances, should not depend on public welfare benefits prior to obtaining citizenship.

Effective Date

October 1, 1996.

(3) Length of deeming period

Present Law

For AFDC and Food Stamps, sponsor-to-alien deeming applies to a sponsored alien seeking assistance within three years of entry. Through September 1996, sponsor-to-alien deeming applies to a sponsored alien seeking SSI within five years of entry, after which the deeming period reverts to three years.

Explanation of Provision

Deeming extends until citizenship, unless the noncitizen has worked for at least 10 years in the U.S. (either individually or in combination with the noncitizen's spouse and parents).

Reason for Change

The current system of deeming for only several years has resulted in taxpayers, not sponsors, who promised to support noncitizens as a condition of their entry, providing years of public welfare benefits to thousands of noncitizens. This problem has been particularly pervasive in the SSI and Medicaid programs. For example, the Committee has received reports of sponsors assisting and encouraging sponsored noncitizens, in some cases their own parents, to apply for Federal benefits immediately upon the expiration of the relevant deeming period.

Effective Date

October 1, 1996.

(4) Review upon reapplication

Present Law

Regulations implementing the food stamp program expressly require providing information on a sponsor's resources as part of recertification.

Explanation of Provision

Whenever a sponsored noncitizen is required to reapply for benefits under any Federal means-tested public benefits program, the agency must review the income and resources deemed to the sponsored noncitizen.

Reason for Change

Especially as the deeming period is extended to last until citizenship, it is important that any changes in a sponsor's income are considered each time a sponsored noncitizen applies for Federal welfare benefits. A sponsor's income may have increased or decreased over time, significantly affecting the sponsored noncitizen's eligibility for public benefits.

Effective Date

October 1, 1996.

(5) Application

Present Law

No provision.

Explanation of Provision

For programs that already deem income and resources on the date of enactment, the changes in this section apply immediately; other programs must implement changes required within 180 days after the date of enactment.

Reason for Change

This provision allows for a transition period for programs that do not currently require sponsor-to-alien deeming.

Effective Date

For programs that currently provide for deeming, this provision takes effect on the date of enactment. Other programs must implement changes within 180 days of enactment.

9. Authority for states to provide for attribution of sponsor's income and resources to the alien with respect to state programs

Present Law

The highest courts of at least two States have held that the Supreme Court decision barring State discrimination against legal aliens in providing State benefits without Federal authorization (*Graham* v. *Richardson,* 403 U.S. 365 (1971)) prohibits State sponsor-to-alien deeming requirements for State benefits.

Explanation of Provision

State and local governments may, for the deeming period that applies to Federal benefits, deem a sponsor's income and resources (and those of the sponsor's spouse) to a sponsored individual in determining eligibility for and the amount of needs-based benefits. State and local governments may not require deeming for the following State public benefits: emergency medical services, emergency disaster relief, school lunch and child nutrition assistance, immunizations and testing and treatment of communicable dis-

eases, foster care and adoption payments, and certain programs to protect life and safety.

Reason for Change

See explanations regarding deeming for Federal programs, above. It is the Committee's intent that States that choose to follow Federal deeming restrictions are acting pursuant to congressional authorization and as part of a comprehensive national immigration policy.

Effective Date

October 1, 1996.

10. Requirements for sponsor's affidavit of support

(This provision is not under jurisdiction of the Committee but is included here for sake of completeness.)

(1) In general

Present Law

Administrative authorities may request an affidavit of support on behalf of an alien seeking permanent residency pursuant to regulation. Requirements for affidavits of support are not specified by statute.

Under the Immigration and Nationality Act, an alien who is likely to become a public charge may be excluded from entry unless this restriction is waived, as is the case for refugees. By regulation and administrative practice, the State Department and the Immigration and Naturalization Service permit a prospective permanent resident alien (also immigrant or green card holder) who otherwise would be excluded as a public charge (i.e., because of insufficient means or prospective income) to overcome exclusion through an affidavit of support or similar document executed by an individual in the U.S. commonly called a "sponsor." It has been reported that roughly one-half of the aliens who obtain legal permanent resident status have had affidavits of support filed on their behalf.

Various State court decisions and decisions by immigration courts have held that the affidavits of support, as currently constituted, do not impose a binding obligation on the sponsor to reimburse State agencies providing aid to the sponsored alien.

Explanation of Provision

The proposal provides that when affidavits of support are required, they must comply with the following:

1. Affidavits of support must be executed as contracts that are legally enforceable against sponsors by Federal, State, and local agencies with respect to any means-tested benefits (with exceptions noted below) paid to sponsored aliens before they become citizens.
2. Affidavits of support must be enforceable against the sponsor by the sponsored alien.
3. Reimbursement shall be requested for all Federal, State or local need-based programs with the exceptions noted below.

4. To qualify to execute an affidavit of support, an individual must meet the revised definition of sponsor below.
5. Governmental entities that provide benefits may seek reimbursement up to 10 years after a sponsored alien last receives benefits.
6. Sponsorship extends until the alien becomes a citizen.

(2) Forms

Present Law

No statutory provision. The Department of Justice issues a form (Form I–134) that complies with current sponsorship guidelines.

Explanation of Provision

The Attorney General, in consultation with the Secretary of State and the Secretary of HHS, shall formulate an affidavit of support within 90 days after enactment, consistent with this section.

(3) Notification of change of address

Present Law

There is no express requirement under current administrative practice that sponsors inform welfare agencies of a change in address. However, a sponsored alien who applies for benefits for which deeming is required must provide various information regarding the alien's sponsor.

Explanation of Provision

Until they no longer are potentially liable for reimbursement of benefits paid to sponsored individuals, sponsors must notify the Attorney General and the State, district, territory or possession in which the sponsored individual resides of any change of their address within 30 days of moving. Failure to notify may result in a civil penalty of up to $2,000 or, if the failure occurs after knowledge that the sponsored individual has received a reimbursable benefit, of up to $5,000.

(4) Reimbursement of government expenses

Present Law

Various State court decisions and decisions by immigration courts have held that these affidavits, as currently constituted, do not impose a binding obligation on the sponsor to reimburse State agencies providing aid to the sponsored alien.

Explanation of Provision

If a sponsored alien receives any benefit under any means-tested public assistance program, the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such assistance. Thereafter the official may seek reimbursement in court if the sponsor fails to respond within 45 days of the request that the sponsor is willing to begin repayments. The official also may seek reimbursement through the courts within 60 days

after a sponsor fails to comply with the terms of repayment. The Attorney General in consultation with the Secretary of HHS, shall prescribe regulations on requesting reimbursement. No action may be brought later than 10 years after the alien last received benefits.

(5) Definitions—sponsor

Present Law

There are no firm administrative restrictions on eligibility to execute an affidavit of support.

Explanation of Provision

A "sponsor" is a citizen or an alien lawfully admitted to the U.S. for permanent residence who petitioned for immigration preference for the sponsored alien, is at least 18 years of age, and resides in any State.

(6) Definitions—means-tested public benefits program

Present Law

No provision.

Explanation of Provision

A "Means-Tested Public Benefits Program" is a program of public benefits of the Federal, State or local government in which eligibility for or the amount of, benefits or both are determined on the basis of income, resources, or financial need.

(7) Effective date

Present Law

No provision.

Explanation of Provision

The changes regarding affidavits of support shall apply to affidavits of support executed no earlier than 60 days or later than 90 days after the Attorney General promulgates the form.

(8) Benefits not subject to reimbursement

Present Law

No provision.

Explanation of Provision

Governmental entities cannot seek reimbursement with respect to:

1. emergency medical services;
2. emergency disaster relief;
3. school lunch and child nutrition assistance;
4. payments for foster care and adoption assistance;

5. immunizations and testing for and treatment of communicable diseases;

6. certain programs that protect life, safety, or public health; and

7. postsecondary education benefits.

11. Cosignature of alien student loans

(This provision is not under jurisdiction of the Committee but is included here for sake of completeness.)

Present Law

No provision.

Explanation of Provision

A student who is an alien lawfully admitted for permanent residence shall not be eligible for a loan unless the loan is endorsed and cosigned by the alien's sponsor or by another creditworthy individual who is a United States citizen.

SUBCHAPTER D—GENERAL PROVISIONS

12. Definitions

(1) In general

Present Law

Federal assistance programs that have alien eligibility restrictions generally reference specific classes defined in the Immigration and Nationality Act.

Explanation of Provision

Unless otherwise provided, the terms used in this title have the same meaning as defined in Section 101(a) of the Immigration and Nationality Act.

Reason for Change

Technical provision.

Effective Date

October 1, 1996.

(2) Qualified Alien

Present Law

Some programs allow benefits for otherwise eligible aliens who are "permanently residing under color of law (PRUCOL)." This term is not defined under the Immigration and Nationality Act, and there has been some inconsistency in determining which classes of aliens fit within the PRUCOL standard.

Explanation of Provision

An alien who is a lawful permanent resident, refugee, asylee, or an alien who has been paroled into the U.S. for at least one year.

Reason for Change

The Committee believes that making illegal aliens, short-term parolees, PRUCOL aliens, and nonimmigrants ineligible for public benefits will reduce the incentive for aliens to illegally enter and remain in the U.S.

Effective Date

October 1, 1996.

13. Verification of eligibility for federal public benefits

(This provision is not under jurisdiction of the Committee but is included here for sake of completeness.)

Present Law

State agencies that administer most major Federal programs with alienage restrictions generally use the SAVE (Systematic Alien Verification for Entitlements) system to verify the immigration status of aliens applying for benefits.

Explanation of Provision

The Attorney General must adopt regulations to verify the lawful presence of applicants for Federal benefits no later than 18 months after enactment. States must have a verification system that complies with these regulations within 24 months of their adoption, and must authorize necessary appropriations.

14. Statutory construction

(This provision is not under jurisdiction of the Committee but is included here for sake of completeness.)

Present Law

No provision.

Explanation of Provision

This title addresses only program eligibility based on alienage and does not address whether any individual meets other eligibility criteria. This title does not address alien eligibility for basic education or for any program of foreign assistance.

15. Communication between state and local government agencies and the Immigration and Naturalization Service

(This provision is not under jurisdiction of the Committee but is included here for sake of completeness.)

Present Law

The confidentiality provisions of various State statutes may prohibit disclosure of immigration status obtained under them. Some Federal laws, including the Family Education Rights and Protection Act, may deny funds to certain State and local agencies that disclose a protected individual's immigration status. Various localities have enacted laws preventing local officials from disclosing the immigration status of individuals to INS.

Explanation of Provision

No State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States.

16. Qualifying quarters

Present Law

No provision.

Explanation of Provision

In determining whether an alien may qualify for benefits under the exception for individuals who have worked at least 40 quarters while in the U.S. (see sections 402 and 421 above), work performed by parents and spouses may be credited to aliens under certain circumstances. Each quarter of work performed by the parent while an alien was under the age of 18 is credited to the alien, provided the parent did not receive any Federal public benefits during the quarter. Similarly, each quarter of work performed by a spouse of an alien during their marriage is credited to the alien, if the spouse did not receive any Federal public benefits during the quarter.

Reason for Change

Millions of noncitizens have worked in the U.S. for long periods without collecting welfare benefits. The Committee proposal recognizes this fact by including general exemptions from the restrictions on eligibility and sponsorship and deeming provisions described above for individuals who have a long history of work without collecting welfare benefits.

Effective Date

Individuals can be credited with quarters of work performed either before or after the date of enactment.

SUBCHAPTER E—CONFORMING AMENDMENTS RELATING TO ASSISTED HOUSING

17. Conforming amendments related to assisted housing

(This provision is not under jurisdiction of the Committee but is included here for sake of completeness.)

Present Law

No provision.

Explanation of Provision

This section consists of a series of technical and conforming amendments.

SUBCHAPTER F—EARNED INCOME CREDIT DENIED TO UNAUTHORIZED EMPLOYEES

18. Deny credit to individuals not authorized to be employed in the United States

Present Law

In general

Certain eligible low-income workers are entitled to claim a refundable credit on their income tax return. The amount of the credit an eligible individual may claim depends upon whether the individual has one, more than one, or no qualifying children and is determined by multiplying the credit rate by the individual's [1] earned income up to an earned income amount. The maximum amount of the credit is the product of the credit rate and the earned income amount. For individuals with earned income (or adjusted gross income (AGI), if greater) in excess of the beginning of the phaseout range, the maximum credit amount is reduced by the phaseout rate multiplied by the amount of earned income (or AGI, if greater) in excess of the beginning of the phaseout range. For individuals with earned income (or AGI, if greater) in excess of the end of the phaseout range, no credit is allowed.

The parameters for the credit depend upon the number of qualifying children the individual claims. For 1996, the parameters are given in the following table:

	Two or more qualifying children	One qualifying child	No qualifying children
Credit rate (percent)	40.00	34.00	7 65
Earned income amount	$8,890	$6,330	$4,220
Maximum credit	$3,556	$2,152	$323
Phaseout begins	$11,610	$11,610	$5,280
Phaseout rate (percent)	21 06	15.98	7.65
Phaseout ends	$28,495	$25,078	$9,500

For years after 1996, the credit rates and the phaseout rates will be the same as in the preceding table. The earned income amount and the beginning of the phaseout range are indexed for inflation; because the end of the phaseout range depends on those amounts as well as the phaseout rate and the credit rate, the end of the phaseout range will also increase if there is inflation.

In order to claim the credit, an individual must either have a qualifying child or meet other requirements. A qualifying child must meet a relationship test, an age test, an identification test,

[1] In the case of a married individual who files a joint return with his or her spouse, the income for purposes of these tests is the combined income of the couple.

and a residence test. In order to claim the credit without a qualifying child, an individual must not be a dependent and must be over age 24 and under age 65.

To satisfy the identification test, individuals must include on their tax return the name and age of each qualifying child. For returns filed with respect to tax year 1996, individuals must provide a taxpayer identification number (TIN) for all qualifying children born on or before November 30, 1996. For returns filed with respect to tax year 1997 and all subsequent years, individuals must provide TINs for all qualifying children, regardless of their age. An individual's TIN is generally that individual's social security number.

An individual with qualifying children may elect to receive the credit on an advance basis by furnishing an advance payment certificate to his or her employer. For such an individual, the employer makes an advance payment of the credit at the time wages are paid. The amount of advance payment allowable in a taxable year is limited to 60 percent of the maximum credit available to an individual with one qualifying child.

Mathematical or clerical errors

The Internal Revenue Service may summarily assess additional tax due as a result of a mathematical or clerical error without sending the taxpayer a notice of deficiency and giving the taxpayer an opportunity to petition the Tax Court. Where the IRS uses the summary assessment procedure for mathematical or clerical errors, the taxpayer must be given an explanation of the asserted error and a period of 60 days to request that the IRS abate its assessment. The IRS may not proceed to collect the amount of the assessment until the taxpayer has agreed to it or has allowed the 60-day period for objecting to expire. If the taxpayer files a request for abatement of the assessment specified in the notice, the IRS must abate the assessment. Any reassessment of the abated amount is subject to the ordinary deficiency procedures. The request for abatement of the assessment is the only procedure a taxpayer may use prior to paying the assessed amount in order to contest an assessment arising out of a mathematical or clerical error. Once the assessment is satisfied, however, the taxpayer may file a claim for refund if he or she believes the assessment was made in error.

Reasons for Change

The Committee does not believe that individuals who are not authorized to work in the United States should be able to claim the credit. To enforce the requirement that credit claimants and their qualifying children have proper social security numbers and to insure that credit claimants have paid self-employment taxes on any self-employment income used to qualify for the credit, the Committee believes the IRS should be able to use the streamlined procedures it currently uses for mathematical or clerical errors.

Explanation of Provision

Individuals are not eligible for the credit if they do not include their taxpayer identification number (and, if married, their spouse's taxpayer identification number) on their tax return. Solely

for these purposes and for purposes of the present-law identification test for a qualifying child, a taxpayer identification number is defined as a social security number issued to an individual by the Social Security Administration other than a number issued under section 205(c)(2)(B)(i)(II) (or that portion of sec. 205(c)(2)(B)(i)(III) relating to it) of the Social Security Act (regarding the issuance of a number to an individual applying for or receiving Federally funded benefits).

If an individual fails to provide a correct taxpayer identification number, such omission will be treated as a mathematical or clerical error. If an individual who claims the credit with respect to net earnings from self-employment fails to pay the proper amount of self-employment tax on such net earnings, the failure will be treated as a mathematical or clerical error for purposes of the amount of credit allowed.

Effective Date

The provision is effective for taxable years beginning after December 31, 1995.

CHAPTER 5—REDUCTIONS IN FEDERAL GOVERNMENT POSITIONS

1. Reductions

Present Law

No provision.

Explanation of Provision

A covered activity is defined as one that the Department must carry out under a provision of this Act or a provision of Federal law that is amended or repealed by the Act. It also requires the Secretaries of Agriculture, Education, Labor, HHS, and Housing and Urban Development to report to Congress by December 31, 1996 on the number of full-time equivalent (FTE) positions required to carry out "covered" activities before and after enactment of the amendment and to reduce the number of employees by the difference in numbers. The Comptroller General of the United States shall prepare and submit to Congress by July 1, 1997, a report analyzing the determinations made by each Secretary.

2. Reductions in federal bureaucracy

Present Law

The Department of Health and Human Services (HHS) reports that 118 employees in the Office of Family Assistance (OFA) work on AFDC and 209 (full-time equivalent positions) in regional offices of the Administration on Children and Families. The OFA employees include 30 who spend some time interpreting AFDC/JOBS policy and participating with States in State plan development.

Explanation of Provision

Requires the HHS Secretary to reduce the Department workforce by 245 FTE positions related to the AFDC program (which the amendment would replace) and by 60 FTE managerial positions. This section also provides for a reduction of 75 percent of the FTE positions "at such Department" that relate to any direct spending program, or program funded through discretionary spending, that is converted into a block grant program under the Act (but it calls for this action to be taken by the HHS Secretary alone to each such Department).

3. Reducing personnel in Washington, D.C. area

Present Law

No provision.

Explanation of Provision

The Secretary is encouraged to reduce personnel in the Washington, D.C. office (agency headquarters) before reducing field personnel.

CHAPTER 6—REFORM OF PUBLIC HOUSING

1. Failure to comply with rules of other welfare and public assistance programs

Present Law

If cash benefits of a means-tested program are reduced because of a recipient's failure to comply with that program rules and the person lives in public housing, the rental subsidy is increased (generally at the rate of 30 cents per dollar lost) to offset part of the income loss.

Explanation of Provision

If a family's benefits from a means-tested Federal, State, or local program are reduced for the failure of a family member to perform a required act, the family's housing assistance may not, for the duration of the penalty reduction, be increased in response to that income decrease. (Provision shall not apply if family benefits are reduced because of a time limit imposed on eligibility.)

Reason for Change

Most welfare recipients receive benefits from more than one program. As a result, a major problem with imposing penalties in a given program is that in many cases this decline in income from the penalty is made up in part by an increase in benefits from another program. This interaction minimizes the impact of the penalty on correcting the client's behavior. By ensuring that housing benefits are not adjusted as a result of penalties imposed on benefits from another welfare program, this provision corrects the interaction problem and helps to maintain the behavioral impact of penalties.

Effective Date

October 1, 1996.

2. Fraud under means-tested welfare and public assistance programs

Present Law

No provision.

Explanation of Provision

If a person's means-tested benefits from a Federal, State, or local welfare program are reduced because of an act of fraud, their benefits from public or assisted housing may not be increased in response to the income loss caused by the penalty.

Reason for Change

Same as for item 1 above.

Effective Date

October 1, 1996.

CHAPTER 7—TECHNICAL AMENDMENTS RELATING TO CHILD PROTECTION PROGRAMS

1. Extension of enhanced funding for implementation of statewide automated child welfare information systems

Present Law

Section 13713 of the Omnibus Budget Reconciliation Act of 1993 (P.L. 103–66) provides Federal matching at an enhanced rate for the planning, design, development or installation of Statewide automated child welfare information systems (SACWIS), that meet certain requirements established in Federal regulations. The enhanced Federal matching rate is 75 percent for fiscal years 1994–1996. After fiscal year 1996, the Federal matching rate for these activities is scheduled to revert to 50 percent.

Explanation of Provision

The provision will extend the enhanced Federal matching rate of 75 percent for one additional year, fiscal year 1997.

Reasons for Change

The SACWIS system was designed to improve efficiency by developing world class data management systems tailored specifically to the needs of child protection. Most States have been working effectively to implement their SACWIS systems. However, given the newness of the technology involved, especially the computer software, and the short time limits established by Congress, States are behind in implementation. Because there is nearly universal agreement that the SACWIS system is vital to improved effectiveness and efficiency of child protection programs, the Committee provision extends the enhanced funding for an additional year.

2. Redesignation of section 1123

Explanation of Provision

The proposal makes a technical correction to the Social Security Act, which currently contains two sections numbered 1123. The provision redesignates section 1123, the second place it appears, as section 1123A.

CHAPTER 8—CHILD CARE

1. Short title and references

Present Law

No provision.

Explanation of Provision

Short Title: Child Care and Development Block Grant (CCDBG) Amendments of 1996. Unless otherwise specified, references should be considered as made to the Child Care and Development Block Grant Act of 1990.

Reasons for Change

The Committee provision continues current use of the term "Child Care and Development Block Grant" because this popular and widely-used program, which is greatly expanded by this proposal, will become the major Federal-State child care program.

Effective Date

October 1, 1996.

2. Goals

Present Law

No provision.

Explanation of Provision

This section establishes the following goals for the Child Care and Development Block Grant:

(1) to allow each State maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within the State;

(2) to promote parental choice to empower working parents to make their own decisions on the child care that best suits their family's needs;

(3) to encourage States to provide consumer education information to help parents make informed choices about child care;

(4) to assist States to provide child care to parents trying to achieve independence from public assistance; and

(5) to assist States in implementing the health, safety, licensing, and registration standards established in State regulations.

Reasons for Change

The Committee believes that establishing a few broad goals for the States, with proper assessments and accountability for results in relationship to these goals, to replace the current fragmented and highly regulated Federal system of support for child care will provide more efficient and effective use of Federal funds.

Effective Date

October 1, 1996.

3. Authorization of appropriations and entitlement authority

Present Law

The authorization of appropriations for the Child Care and Development Block Grant expired at the end of fiscal year 1995. Appropriations in fiscal year 1996 are $935 million. (Sec. 658B of the CCDBG Act)

In addition to appropriated funds under the Child Care and Development Block Grant, entitlement funds are available under the AFDC Child Care, Transitional Child Care, and At-Risk Child Care programs authorized by Title IV–A of the Social Security Act.

Explanation of Provision

The proposal establishes a single child care block grant and State administrative system. A combination of discretionary and mandatory funding will be provided, so that a total of $22 billion will be provided for the child care block grant over the 7-year period, fiscal years 1996–2002. The funding is provided as described below:

Authorization of Appropriations. There are authorized to be appropriated $1 billion per year for the Child Care and Development Block Grant in each of fiscal years 1996 through 2002, for a 7-year total of $7 billion in discretionary funding.

Child Care Entitlement. In addition to discretionary funding under the CCDBG, a total of $13.852 billion in mandatory child care funds will be authorized under Title IV–A of the Social Security Act. For fiscal years 1997–2002 respectively, the following amounts are authorized: $1.967 billion; $2.067 billion; $2.167 billion; $2.367 billion; $2.567 billion; and $2.717 billion. (In fiscal year 1996, States will receive an estimated $1.1 billion in mandatory child care funding under the current Title IV–A programs.) Beginning in fiscal year 1997, mandatory child care funding will be distributed among States as follows:

a. General entitlement

From the total stream of entitlement funding, each State first will receive the amount of funds it received for child care under all of the entitlement programs currently under Title IV–A of the Social Security Act (AFDC Child Care, Transitional Child Care, and At-Risk Child Care) in fiscal year 1994, fiscal year 1995, or the average amount in fiscal years 1992 through 1994, whichever is greater. This source of funds will provide States with approximately $1.2 billion for child care each year between 1997 and 2002.

b. Remainder

The mandatory funds remaining after the General Entitlement, described above, and the allocation to Indians (see below) will be distributed among the States based on the formula currently used in the Title IV–A At-Risk Child Care program. Specifically, funds will be distributed based on the proportion of the number of chil-

dren under age 13 residing in the State to the number of all of the nation's children under age 13. States must provide matching funds at the fiscal year 1995 State Medicaid rate to receive these funds and must maintain spending at their fiscal year 1994 or 1995 level, whichever is higher, under the Title IV–A child care programs.

If the Secretary determines that a State will not use its full portion of funds for a particular fiscal year, these unused funds will be redistributed in the subsequent fiscal year to other States according to the formula in the Title IV–A At-Risk Child Care program (as such section was in effect before October 1, 1995). Thus, each State applying for these remaining funds will receive the percentage of funds that equals the percentage of children under age 13 residing in that State of all children under age 13 residing in all the States that apply for funds. The Secretary must determine whether States will use their entire portion of funds no later than the end of the first quarter of the subsequent fiscal year.

c. Appropriation

As Stated above, total child care funds under this proposal will equal approximately $22 billion for child care over the 7-year period, fiscal years 1996–2002, including approximately $15 billion in mandatory funds and $7 billion in discretionary funds. The mandatory funds consist of more than $1 billion in fiscal year 1996 for the three existing AFDC-related child care programs under current law, and a total of $13.85 billion in mandatory funds in fiscal years 1997–2002. (These funds are described above under General Entitlement and Remainder.) Finally, as Stated earlier, $1 billion will be authorized annually in discretionary funds for the Child Care and Development Block Grant, for a 7-year total of $7 billion in discretionary funds.

d. Indian tribes

The Secretary will reserve no more than 1 percent of all child care funds (mandatory and discretionary) for payments to Indian tribes and tribal organizations.

Use of Funds. Funds shall only be used to provide child care assistance. Funds provided to States under the General Entitlement shall be available for use without fiscal year limitation.

States are required to ensure that not less than 70 percent of the total amount of mandatory funds received in a fiscal year must be used to provide child care assistance to families that are receiving assistance under a State program under Title IV–A of the Social Security Act, families that are attempting to transition off public assistance through work activities, and families at risk of becoming dependent on public assistance.

Application of CCDBG Act of 1990. Notwithstanding any other provision of law, States are required to transfer all entitlement amounts received for child care under this section to the lead agency under the Child Care and Development Block Grant Act. These funds must be integrated by the State into CCDBG programs and be subject to the requirements and limitations of the CCDBG Act.

Reasons for Change

The proposal allocates $3 billion more in child care entitlement funds than current law. The Committee believes that the consolidation of programs eliminates income requirements, time limits, and work requirements between and among programs, and facilitates efficient use of Federal money by both States and parents.

The substantial increase in funding for child care over current law reflects the Subcommittee's position that giving States more resources with maximum flexibility will move more people from welfare to work and help pay the child care expenses of low-income working families. In addition, providing Federal funds that are allowed to follow the parent whether the parent is receiving public cash assistance while participating in work or education, has recently left public assistance, or is otherwise employed but meets the State criteria for "very low income" increases efficiency and saves parents time and trouble.

The proposal contains a requirement that 70 percent of the mandatory child care funds received in a given fiscal year must be used solely to assist in providing child care for families receiving public assistance, or families that recently left public assistance or are at risk of becoming dependent. This provision is consistent with the purpose of the proposal to decrease dependency through work.

Effective Date

The effective date of this title will be October 1, 1996, except for the authorization of discretionary funds, which will be effective upon date of enactment.

4. Lead agency

Present Law

The Chief Executive Officer of a State is required to designate an appropriate State agency to act as the lead agency in administering financial assistance under the Act. The lead agency must develop a State plan, and must hold at least one public hearing in conjunction with the development of the State plan. (Sec. 658D of the CCDBG Act)

Explanation of Provision

The proposal allows the State lead agency to administer child care funds either directly or through other "governmental or nongovernmental" agencies (instead of other "State" agencies). States must ensure that "sufficient time and Statewide distribution of the notice" be given of the public hearing on the development of the State plan. This section strikes language in current law specifying issues that may be considered during consultation with local governments on development of the State plan.

Reasons for Change

The provision allows States more flexibility in determining how the block grant would be administered. Under this change, a governmental or nongovernmental agency, chosen by the State but not

necessarily a State agency, could be established to administer the block grant.

The section also requires that States give sufficient notice of public hearings on the development of the State plan. The Committee included this provision in order to ensure that all interested parties have an opportunity to participate in the development of the State plan.

Effective Date

October 1, 1996.

5. Application and plan

Present Law

States are required to prepare and submit to the Secretary an application that includes a State plan. The initial plan must cover a 3-year period, and subsequent plans must cover 2-year periods. Required contents of the plan include designation of a lead agency; an outline of policies and procedures regarding parental choice of providers, a summary of policies that guarantee unlimited parental access, assurances that States will keep a record of parental complaints and will provide consumer education.

Plans also must include assurances that child care providers will comply with applicable State and local regulatory requirements and that exempt providers will be registered with the State. State plans must include assurances that child care requirements are in effect, under State or local law, to protect the health and safety of children, including requirements for prevention and control of infectious diseases; building and physical premises safety; and minimum health and safety training. The plan must assure that procedures are in effect to ensure compliance with State and local health and safety standards, and that the State will inform HHS if the State reduces its level of standards. The plan also must assure that the State will review its licensing and regulatory requirements within 18 months of submitting an initial application (unless such a review was conducted within the 3-year period prior to enactment of the CCDBG Act).

In addition, the State plan must provide that CCDBG funds will be used to supplement, and not supplant, any other Federal, State or local funds received for child care.

The plan must provide that all funds will be used for child care services and activities to improve the availability and quality of child care. States must reserve 25 percent of funds for activities to improve the quality of child care and to increase the availability of early childhood development and before- and after-school child care.

State plans also must assure that payment rates will be adequate to provide eligible children with equal access to child care as compared with children whose families are not eligible for subsidies, taking into account the variations in costs of providing child care in different settings and to children of different ages and with special needs. Finally, plans also must assure that the State will establish and periodically revise a sliding fee scale that provides for

cost sharing by families that receive child care subsidies. (Sec. 658E of the CCDBG Act)

Explanation of Provision

The proposal requires the State plan to cover a 2-year period. In most instances where State plans are required to "provide assurances," the proposal changes such provisions to require State plans to "certify." The proposal requires State plans to provide a detailed description of procedures to be used to assure parental choice of providers and unlimited parental access. The proposal also requires State plans to provide a detailed description of how records of parental complaints are maintained and made available.

The proposal requires States to certify that they have in effect child care licensing requirements and to provide a detailed description of such requirements and how they are enforced. The proposal specifies that this provision does not require that licensing requirements be applied to specific types of child care providers. With regard to Indian tribes and tribal organizations, the proposal requires the Secretary to develop minimum standards for Indian tribes and tribal organizations receiving assistance.

The proposal eliminates current law requirements that States review their licensing and regulatory requirements and notify HHS when standards are reduced. The proposal also eliminates the requirement that unlicensed providers be registered.

The proposal requires State plans to include a summary of the facts relied upon by the State in determining that payment rates are sufficient to ensure equal access to child care. The proposal establishes that funds must be used for child care services, for activities to improve the quality and availability of such services, and for any other activity that the State deems appropriate to realize the goals specified above. The proposal deletes the current law requirement that States reserve 25 percent of funds for activities to improve the quality of child care and to increase availability of early childhood development and before- and after-school care. The proposal also establishes that States may spend no more than 5 percent on administrative costs.

Under the proposal, States must spend a substantial portion of amounts available to provide child care to low-income working families who are not welfare recipients, attempting to work their way off welfare, or at risk of becoming welfare dependent. However, States first must comply with the requirement, described above, that at least 70 percent of mandatory funds be used for welfare or at-risk families. State plans must demonstrate how they will meet the child care needs of welfare and at-risk families.

Reasons for Change

The Committee intends this provision to reflect a change in the approval process followed by the Secretary of HHS. In this new approach, the Committee limits the Secretary's ability to shape the content of the State plan. For functions in which Congress requires the State to have in effect certain procedures and policies, States must certify in their State plan that such procedures and policies are actually in effect.

In reviewing the State plan, the Secretary may determine the form in which the plan is submitted and determine what information the State presents in the plan. However, unlike the existing approval process, about required components the Secretary is only authorized to ensure that the plan submitted includes the certifications and assurances called for by the statute. The Secretary does not have authority to require changes in the State's plan unless the plan does not include the basic elements called for by the statute or when, based on the content of the plan, it is clear that the State would be expending Federal funds on activities not authorized by law. The Committee believes that this approach is necessary to ensure that States are given adequate flexibility to design programs of child care assistance that address needs within the State and that are within the broad parameters of the law.

The Committee believes that the information collected and disseminated by the State should directly support the goal of helping parents make informed child care choices rather than being focused solely on bureaucratic requirements. The Committee also notes that consumer information should not only include sources of subsidized care, but should make a concerted effort to provide information on other sources of affordable care, such as family and relative care.

The Committee's child care proposal assures that adequate money is available for child care assistance to families working their way off welfare, families at risk of becoming dependent on welfare, and families already dependent on welfare. Further, the proposal reforms current law to ensure that States can use available resources in the most efficient manner while simultaneously protecting the health and safety of children.

Effective Date

October 1, 1996.

6. Limitation on State allotments

Present Law

No funds may be used for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or facility.

Explanation of Provision

The proposal makes a technical change to this provision, consistent with the provision that would allow Indian tribes and tribal organizations to use a portion of their funds for renovation or construction of child care facilities, under certain circumstances and subject to the approval of the Secretary (see Item 13, below).

Effective Date

October 1, 1996.

25-735 96-6

7. Activities to improve the quality of child care

Present Law

As stated above, 25 percent of State CCDBG allotments must be reserved for activities to improve child care quality and to increase the availability of early childhood development and before- and after-school child care. Of these reserved funds, States are required to use no less than 20 percent (5 percent of the total CCDBG allotment) for improving the quality of care, including resource and referral programs, making grants or loans to assist providers in meeting State and local standards, monitoring of compliance with licensing and regulatory requirements, training of child care personnel, and improving compensation for child care personnel. (Sec. 658G of the CCDBG Act).

Explanation of Provision

A State that receives child care funds must use at least 3 percent of all funds received (both mandatory and discretionary) for activities designed to provide comprehensive consumer education to parents and the public, for activities that increase parental choice, and for activities designed to improve the quality and availability of child care.

Reasons for Change

The categorical language of current law that requires States to spend fixed percentages of funds on specific activities is rigid and interferes with State flexibility. Under the Committee proposal, more money is devoted to actually paying for child care and States are given more flexibility over the smaller amount of money set aside for improving the quality of child care.

Effective Date

October 1, 1996.

8. Repeal of early childhood development and before- and after-school care requirement

Present Law

Of the 25 percent of CCDBG funds reserved for quality and availability improvement, States are required to use no less than 75 percent (18.75 percent of the total CCDBG allotment) for activities to expand and conduct early childhood development programs and before- and after-school child care. (Sec. 658H of the CCDBG Act)

Explanation of Provision

The set-aside for early childhood development programs and before- and after-school care is repealed.

Reasons for Change

States are provided with substantially more child care funds than under current law. If they so choose, they may spend part of

these funds on either early childhood programs or before- and after-school care. A major goal of the block grant approach is to leave the allocation of funds to specific types of child care completely up to States.

Effective Date

October 1, 1996.

9. Administration and enforcement

Present Law

The Secretary of HHS must review, monitor, and enforce compliance with the Act and the State plan by withholding payments and imposing additional sanctions in certain cases. (Sec. 658I of the CCDBG Act)

Explanation of Provision

This section strikes the current law requirement that the Secretary withhold further payments to a State in case of a finding of noncompliance until the noncompliance is corrected. Instead, the Secretary is authorized, in such cases, to require that the State reimburse the Secretary for any improperly spent funds, or the Secretary may deduct from the administrative portion of the State's subsequent allotment an amount equal to or less than the misspent funds, or a combination of such options.

Reasons for Change

The Committee chose to strike this provision because it did not want to penalize recipients of child care assistance by withholding payments to States indefinitely. Instead, the Committee decided to provide the Secretary with discretion in sanctioning States. The Committee believes it is important that any sanctions should be designed to ensure the State's compliance while limiting the impact of those sanctions on the families dependent upon Federal assistance to meet their child care needs.

Effective Date

October 1, 1996.

10. Payments

Present Law

Payments received by a State for a fiscal year may be expended in that fiscal year or in the succeeding 3 fiscal years. (Sec. 658J of the CCDBG Act)

Explanation of Provision

The provision changes the term "expended" to "obligated."

Reasons for Change

Requiring States to spend money in only the next fiscal year will permit the Secretary to reallocate unspent funds among other States.

Effective Date

October 1, 1996.

11. Annual report and audits

Present Law

States must prepare and submit to the Secretary every year a report specifying how funds are used; presenting data on the manner in which the child care needs of families in the State are being fulfilled, including information on the number of children served, child care programs and providers in the State, compensation provided to child care staff, and activities to encourage public-private partnerships in child care; describing the extent to which affordability and availability of child care has increased; summarizing findings from a review of State licensing and regulatory requirements, if applicable; explaining any action taken by the State to reduce standards, if applicable; and describing standards and health and safety requirements applied to child care providers in the State, including a description of efforts to improve the quality of child care. (Sec. 658K of the CCDBG Act)

Explanation of Provision

The title of the section is changed from "Annual Report and Audits" to "Reports and Audits." The proposal revises the section to require that States collect and report the following information on each family receiving assistance. This information is to be collected on a monthlv basis, and reported to HHS on a quarterly basis:

(1) family income;
(2) county of residence;
(3) the gender, race, age of children receiving benefits;
(4) whether the family includes only one parent;
(5) the sources of family income, including:
  (a) the amount obtained from employment, including self-employment;
  (b) cash or other assistance under Title IV–A of the Social Security Act;
  (c) housing assistance;
  (d) food stamps; and
  (e) other public assistance;
(6) the number of months the family has received benefits;
(7) the type of care in which the child was enrolled (family day care, home care, or center-based care);
(8) whether the provider was a relative;
(9) the cost of care; and
(10) the average hours per week of care.

No later than Dec. 31, 1997, and every six months thereafter, the State must submit the following aggregate data to HHS:

(1) the number of providers, separately identified by type, that received funding under this subchapter;

(2) the monthly cost of child care services and the portion of such cost paid with assistance from this Act, by type of care;

(3) the number of payments by the State in vouchers, contracts, cash, and disregards from public benefit programs, by type of care;

(4) the manner in which consumer education information was provided and the number of parents who received it; and

(5) total number (unduplicated) of children and families served.

Reasons for Change

This set of data elements, which is somewhat more detailed than report elements required under existing law, will provide a consistent set of data on Federally subsidized child care programs. This information is necessary for Congress and the public to judge the adequacy, effectiveness, and efficiency of the Child Care and Development Block Grant.

Effective Date

October 1, 1996.

12. Report by the Secretary

Present Law

The Secretary is required to prepare and submit an annual report, summarizing and analyzing information provided by States, to the House Education and Labor Committee and the Senate Labor and Human Resources Committee. This report must contain an assessment and, where appropriate, recommendations to Congress regarding efforts that should be taken to improve access of the public to quality and affordable child care. (Sec. 658L of the CCDBG Act)

Explanation of Provision

The proposal requires the Secretary to prepare and submit biennial reports, rather than annual reports, with the first report due no later than July 31, 1997. The reference to the House Education and Labor Committee is replaced with the House Economic and Educational Opportunities Committee.

Reasons for Change

Annual reports are unnecessary; reports every two years are sufficient to keep the Congress and the public informed of progress in use of child care funds.

Effective Date

October 1, 1996.

13. Allotments

Present Law

The Secretary must reserve no more than ½ of 1 percent of CCDBG appropriations for payment to Guam, American Samoa, the Virgin Islands, the Northern Marianas and the Trust Territory of the Pacific Islands. The Secretary also must reserve no more than 3 percent of CCDBG appropriations for payment to Indian tribes and tribal organizations with approved applications. Remaining funds are allocated to the States based on the States' proportion of children under age 5 and the number of children receiving free or reduced-price school lunches, as well as the States' per capita income. Any portion of a State's reallotment that the Secretary determines is not needed by the State to carry out its plan for the allotment period must be reallotted by the Secretary to the other States in the same proportion as the original allotments. (Sec. 658O of the CCDBG Act)

Explanation of Provision

Set-asides for the Territories, Indian tribes, and tribal organizations are maintained, except that the Trust Territory of the Pacific Islands is deleted from the set-aside for Territories. Indian tribes are provided with a 1 percent set-aside of all funds, both entitlement and discretionary, appropriated each year. Under some circumstances, and with approval from the Secretary, Indian tribes are authorized to use a portion of their funds for renovation and construction of child care facilities. Within the overall block grant for social programs provided to the Territories, each Territory is authorized to spend whatever portion they choose of their capped amount on child care (for additional details see item 79 of Title I). Allotments to States were described in Item 3 above.

Reasons for Change

The reason for this change in allocation to Indians is to assure that they receive a portion of mandatory as well as discretionary child care funding. Territories are provided with a child care block grant that is integrated with the other block grants so they will enjoy maximum flexibility in use of funds.

Effective Date

October 1, 1996.

14. Definitions

Present Law

The following terms are defined: caregiver, child care certificate, elementary school, eligible child, eligible child care provider, family child care provider, Indian tribe, lead agency, parent, secondary school, Secretary, sliding fee scale, State, and tribal organization. (Sec. 658P of the CCDBG Act)

Explanation of Provision

The proposal adds child care deposits as an allowable use of a child care certificate. The definition of "eligible child" is revised to one whose family income does not exceed 85 percent of the State median, instead of 75 percent. The definition of "relative child care provider" is revised by adding great grandchild and sibling (if the provider lives in a separate residence) to the list of eligible relative providers, and the requirement that relatives providing care must be registered is struck. Relative providers are required to comply with any applicable requirements governing child care provided by a relative, rather than State requirements. The definition for elementary and secondary school is eliminated. The Trust Territory of the Pacific Islands is dropped from the definition of "State." Native Hawaiian Organization is added to the definition of "tribal organization."

Reasons for Change

The Committee is concerned that many child care providers require parents to pay a deposit before their children can be enrolled for services. Such deposits can be a barrier to receiving services for poor families who lack the funds to pay a deposit. The Committee provision will eliminate this barrier by allowing States to use funds to pay these deposits when necessary. This section also expands the definition of who can be considered an eligible relative child care provider in order to remove barriers to providing child care services under this proposal.

Effective Date

October 1, 1996.

15. Repeals

Present Law

No provision.

Explanation of Provision

The proposal repeals the following programs: (1) Child Development Associate (CDA) Scholarship Assistance; (2) State Dependent Care Development Grants; (3) Programs of National Significance under Title X of the Elementary and Secondary Education Assistance Act of 1965 (child care related to Cultural Partnerships for At-Risk Children and Youth, and Urban and Rural Education Assistance); and (4) Native-Hawaiian Family-Based Education Centers.

Note: Title I of the proposal also repeals child care assistance provided under current law by Title IV–A of the Social Security Act. This assistance is provided under three programs known as AFDC Child Care, Transitional Child Care, and At-Risk Child Care. Thus, the total number of child care programs merged into the Child Care and Development Block Grant is seven.

Reasons for Change

The provision eliminates categorical, single purpose programs and provides maximum flexibility to States in their use of child care dollars by combining seven programs into a single block grant.

Effective Date

October 1, 1996.

16. Effective date

Present Law

No provision.

Explanation of Provision

This title and the amendments made by this title take effect on October 1, 1996; the authorization of appropriations and entitlement authority under section 803(a) take effect on the date of enactment.

Reasons for Change

States are given access to the block grant in the next fiscal year so they can begin enjoying the benefits of greater flexibility as soon as possible. In the meantime, however, entitlement funding for child care under existing programs continues.

CHAPTER 9—MISCELLANEOUS

1. Appropriation by state legislatures

Present Law

According to the National Conference of State Legislatures, there are six States in which under court rulings of interpretations of State constitutions, certain Federal funds are controlled by the Executive branch rather than the State legislature. (An example would be action on funds when the legislature is out of session.) These States are Arizona, Colorado, Connecticut, Delaware, New Mexico, and Oklahoma.

Explanation of Provision

The proposal stipulates that funds from certain Federal block grants to the States are to be appropriated through the State legislature in all States. This provision applies to the following block grants: temporary assistance to needy families block grant, the optional State food assistance block grant, and the child care block grant. Thus, in the States in which the Governor previously had exclusive control over Federal block grant funds, the State legislatures now would share control through the appropriations process. However, States would continue to spend Federal funds in accord with Federal law.

Reason for Change

The purpose of this provision is to ensure that Federal funds are spent in accord with the wishes of State legislatures as well as governors.

Effective Date

October 1, 1996.

2. Sanctioning for testing positive for controlled substances

Present Law

Eligibility and benefit status for most Federal welfare programs are not affected by a recipient's use of illegal drugs.

Explanation of Provision

States are not prohibited by the Federal Government from testing welfare recipients for use of controlled substances nor for sanctioning welfare recipients who test positive for the use of controlled substances.

Reason for Change

Research shows that a substantial number of adults on welfare use drugs. In the Aid to Families with Dependent Children Program, for example, research suggests that about 20 percent of mothers use illegal substances. The purpose of this provision is to clarify that States have the authority to test welfare recipients for

use of controlled substances and to sanction recipients, either by reducing their benefit or by taking other actions, if they believe sanctions are appropriate.

Effective Date

October 1, 1996.

3. Reduction in block grants to states for social services

Present Law

The Social Services Block Grant (Title XX) provides funds to States in order to provide a wide variety of social services, including child care, family planning, protective services for children and adults, services for children and adults in foster care, and employment services. States have wide discretion over how they use Social Services Block Grant funds. States set their own eligibility requirements and are allowed to transfer up to 10 percent of their allotment to certain Federal health block grants, and for low-income home energy assistance (LIHEAP). Funding for the Social Services Block Grant is permanently capped at $2.8 billion a year. (However, the fiscal year 1996 omnibus appropriations law, P.L. 104–134, amended the statute for fiscal year 1996 only so that $2.381 billion were authorized and appropriated for fiscal year 1996.) Funds are allocated among States according to the State's share of the total population. No State matching funds are required to receive Social Services Block Grant money.

Explanation of Provision

For fiscal years 1997 through 2002, the Social Services Block Grant is reduced by 20 percent, to $2.24 billion annually, from the permanent entitlement ceiling. In fiscal year 2003 and subsequent fiscal years, the permanent ceiling will be $2.38 billion.

Reasons for Change

Across the three block grants created by this legislation, States will receive about $3 billion more than they would receive under current law. In addition, States will have much greater flexibility in the use of these dollars and are limited in the amount of time they can keep adults on cash welfare. Thus, between the extra funds provided by the block grants, the flexibility to transfer funds across block grants, and the reduced eligibility for funds, States will have enough money to meet the needs of poor citizens. Under these circumstances, a reduction in the general purpose Title XX block grant is appropriate.

Effective Date

October 1, 1996.

4. Elimination of housing assistance with respect to fugitive felons and probation and parole violators

Present Law

No provision.

Explanation of Provision

Ends eligibility for public housing and Section 8 housing assistance of a person who is fleeing to avoid prosecution after conviction for a crime, or attempt to commit, a crime that is a felony where committed (or, in New Jersey) is a high misdemeanor), or who is violating a condition of probation or parole. The amendment States that the person's flight shall be cause for immediate termination of their housing aid.

Requires specified public housing agencies to furnish any law enforcement officer, upon the officer's request, with the current address, social security number, and photograph (if applicable) of an SSI recipient, if the officer furnishes the person's name and notifies the agency that the recipient is a fugitive felon (or in New Jersey a person fleeing because of a high misdemeanor) or a violator of probation or parole or that the person has information needed by the officer to conduct his official duties, and the location or apprehension of the recipient is within the officer's official duties.

Reason for Change

This reflects the Committee's interest to ensure all citizens can live safely in their homes.

5. Sense of the Senate regarding enterprise zones

Present Law

Under the Internal Revenue Code tax-exempt bonds are authorized for enterprise zone facilities. The law also offers certain tax incentives, including employment credits, for empowerment zones.

Explanation of Provision

Outlines some findings concerning urban centers and empowerment zones. Urges Congress to pass an enterprise zone bill that provides Federal tax incentives to increase formation and expansion of small businesses and to promote commercial revitalization; allows localities to request waivers to accomplish the objectives of enterprise zones; encourages resident management of public housing and home ownership of public housing; and authorizes pilot projects in designated enterprise zones to expand educational opportunities for elementary and secondary school children.

Reason for Change

This reflects the Committee's support for enterprise zones.

Effective Date

Not relevant.

6. Sense of the senate regarding the inability of the non-custodial parent to pay child support

Present Law

No provision.

Explanation of Provision

States that it is the sense of the Senate that States should pursue child support payments under all circumstances even if the noncustodial parent is unemployed or his or her whereabouts are unknown; and that States are encouraged to pursue pilot programs in which the parents of a minor non-custodial parent who refuses or is unable to pay child support contribute to the child support owed (on behalf of their grandchild.

7. Establishing goals to prevent teenage pregnancies

Present Law

Title XX of the Public Health Service Act established the Adolescent Family Life (AFL) program to encourage adolescents to delay sexual activity and to provide services to alleviate the problems surrounding adolescent parenthood. One-third of all funding for AFL program services go to projects that provide "prevention services."

Explanation of Provision

Requires the Secretary to establish and implement by January 1, 1997 a strategy to: (1) prevent out-of-wedlock teenage pregnancies and (2) assure that at least 25 percent of U.S. communities have in place programs to prevent teenage pregnancies. The Secretary is to report to Congress by June 30, 1998 on progress made toward the goals.

Reason for Change

The Committee recognizes the impact of teenage pregnancies on the various public assistance programs.

Effective Date

Upon enactment.

8. Sense of the Senate regarding enforcement of statutory rape laws

Present Law

No provision.

Explanation of Provision

It is the sense of the Senate that States and local jurisdictions should aggressively enforce statutory rape law.

Effective Date

Not relevant.

9. Abstinence education

Present Law

The Maternal and Child Health (MCH) block grant program offers grants to States and insular areas to fund a broad range of preventive health and primary care activities to improve health of mothers and children. Also, see preventive services provided by Adolescent Family Life program described above (item No. 7).

Explanation of Provision

Amends the Maternal and Child Health block grant program to set aside $75 million annually to provide abstinence education and to provide, at State option, mentoring, counseling and adult supervision to promote abstinence. Defines abstinence education as an educational or motivational program that has an exclusive purpose: teaching the social, psychological, and health gains to be realized by abstaining from sexual activity. Also increases the annual funding authorization for MACH to $761 million, beginning in fiscal year 1996.

Reason for Change

The Committee recognizes the importance of emphasizing abstinence education for adolescents.

Effective Date

Upon enactment.

10. Provisions to encourage electronic benefit transfer systems

Present Law

The Electronic Fund Transfer Act provides a basic framework for rights, liabilities, and responsibilities of participants in electronic fund transfer systems. To implement the Act, the Federal Reserve Board developed regulations, which are known collectively as "Regulation E. The most important Regulation E provision requires that lost/stolen benefits be restored; individuals with accounts are responsible only for the first $50 of any loss, when reported in a timely fashion. The Board has ruled that Regulation E, with minor modifications, will apply to electronic benefit transfer (EBT) systems for needs-tested government benefits, beginning in the spring of 1997. States and the Federal Government would pay the cost of any reported lost/stolen benefits and any associated administrative costs.

Explanation of Provision

The provision exempts from Regulation E any EBT system distributing needs-tested benefits established or administered by a State. This would not include most SSI payments.

Reason for Change

The Committee recognizes the value of EBT development in the efficient delivery of benefits.

Effective Date

Upon enactment.

11. Change test for disqualified income under earned income credit

Present Law

For taxable years beginning after December 31, 1995, an individual is not eligible for the earned income credit if the aggregate amount of "disqualified income" of the taxpayer for the taxable year exceeds $2,350. This threshold is not indexed. Disqualified income is the sum of:

(1) interest (taxable and tax-exempt),
(2) dividends, and
(3) net rent and royalty income (if greater than zero).

Reasons for Change

The Committee believes that individuals with substantial assets could use proceeds from the sale of those assets in place of the earned income credit to support consumption in times of low income. Transfer programs such as AFDC, food stamps, and Medicaid have asset tests for determining eligibility. Such programs also have caseworkers available to make determinations about the assets owned by a potential claimant. In the case of the earned income credit, the IRS does not have caseworkers to assess the balance sheets of millions of taxpayers, and it does not currently have information on most taxpayers' asset-holdings. Therefore, in order to apply a proxy for an asset-based test, the recently enacted disqualified income test concentrates on the returns generated by those assets. Interest, dividend, and net rental and royalty income represent flows of income from assets that represent wealth of the taxpayer. The Committee believes that net capital gains and other passive income represent other flows of income from assets that could be liquidated to support current consumption. The Committee also believes that this threshold should be set in inflation-adjusted dollars, so the bill indexes the threshold for inflation.

Explanation of Provision

For purposes of the disqualified income test under the earned income credit, the following items are added to the definition of disqualified income: capital gain net income and net passive income (if greater than zero) that is not self-employment income.

The threshold above which an individual is not eligible for the credit is reduced from $2,350 to $2,200, and the threshold is indexed for inflation after 1996.

Effective Date

The provision generally is effective for taxable years beginning after December 31, 1995. For individuals who, as of June 26, 1996, had made an election to receive the current-year credit on an advance basis, the provision is effective for taxable years beginning after December 31, 1996.

12. Modify definition of adjusted gross income used for phasing out the earned income credit

Present Law

For taxpayers with earned income (or AGI, if greater) in excess of the beginning of the phaseout range, the maximum earned income credit amount is reduced by the phaseout rate multiplied by the amount of earned income (or AGI, if greater) in excess of the beginning of the phaseout range. For taxpayers with earned income (or AGI, if greater) in excess of the end of the phaseout range, no credit is allowed.

Reasons for Change

The Committee believes it can improve the targeting of the credit by expanding the definition of income used in phasing out the credit. The Committee believes that the definition of AGI used currently in phasing out the credit is too narrow and disregards other components of ability-to-pay. Tax-exempt interest and nontaxable distributions from pensions, annuities and individual retirement arrangements increase individuals' ability-to-pay and reduce the need for a tax credit. Denying certain losses reported on Schedules C, D, E, and F would conform the income definition used for the phaseout more closely to the concept of "total positive income."

Explanation of Provision

The provision modifies the definition of AGI used for phasing out the earned income credit by including certain nontaxable income and by disregarding certain losses. The nontaxable items included are:

(1) tax-exempt interest, and

(2) nontaxable distributions from pensions, annuities, and individual retirement arrangements (but only if not rolled over into similar vehicles during the applicable rollover period).

The losses disregarded are:

(1) net capital losses (if greater than zero),

(2) net losses from trusts and estates,

(3) net losses from nonbusiness rents and royalties, and

(4) net losses from businesses, computed separately with respect to sole proprietorships (other than in farming), sole proprietorships in farming, and other businesses.

For purposes of item (4), above, amounts attributable to a business that consists of the performance of services by the taxpayer as an employee are not taken into account.

Effective Date

The provision generally is effective for taxable years beginning after December 31, 1995. For individuals who, as of June 26, 1996, had made an election to receive the current-year credit on an advance basis, the provision is effective for taxable years beginning after December 31, 1996.

13. Suspend inflation adjustments for individuals with no qualifying children

Present Law

To claim the earned income credit, an individual must either have a qualifying child or meet other requirements. In order to claim a credit without a qualifying child, an individual must not be a dependent and must be over age 24 and under age 65.

The earned income amount and the beginning of the phaseout range are indexed for inflation; because the end of the phaseout range depends on these amounts as well as the phaseout rate and the credit rate, the end of the phaseout range will also increase if there is inflation.

Reasons for Change

From the inception of the credit in 1975 through 1993, the credit was only available to taxpayers with qualifying children. A provision in the Omnibus Budget Reconciliation Act of 1993 extended the credit to certain individuals without qualifying children, for taxable years beginning after December 31, 1993. The Committee believes that the amount of credit given to individuals without qualifying children should be limited, and that the maximum credit and the phaseout ranges should not be set in inflation-adjusted dollars. Therefore, the bill suspends indexation of the dollar amounts for this portion of the credit.

Explanation of Provision

In the case of individuals with no qualifying children there will be no adjustment for inflation after 1996 to the earned income amount or the beginning of the phaseout range.

Effective Date

The provision is effective for taxable years beginning after December 31, 1996.

Subtitle B—Restructuring Medicaid

INTRODUCTION

The current Medicaid program (Title XIX of the Social Security Act) is an open-ended individual entitlement program which pays for health care and long-term care items and services on behalf of low-income persons who are aged, blind, disabled, or members of families with pregnant women or children. Each State designs and administers its Medicaid program within Federal restrictions. These restrictions include requirements that States must meet with respect to eligibility, covered services, provider payments and delivery systems.

Adopted 30 years ago as a relatively simple health care program to supplement cash assistance programs, the program has expanded beyond recognition to cover a vast array of population groups and services. As it has grown in coverage, so has it grown in complexity and in the degree of prescriptive Federal regulation and intervention.

Little of the Federal oversight has resulted in a better program. To the contrary, the result of 30 years of expanding Federal control and micromanagement has produced a dizzying array of more than 50 arbitrary eligibility categories that compel coverage for some whose needs are no greater and often are less than others for whom coverage is prohibited. It has built a system that constantly favors the most expensive institutional care while discouraging innovative service delivery and the development of more efficient means of meeting beneficiaries' needs. It purports to offer opportunities for States to experiment with new approaches under waivers, but surrounds the waiver processes with so many limitations and procedural hoops that the opportunity for real reform is more illusory than real.

The Committee recognizes the need for preserving a health care safety net for the most vulnerable segments of our society, for a commitment to high quality service paid for by public funds, and for continued contribution of State funds to accompany the Federal dollars that will be used to pay for health services under the new program. The Committee has developed a reform plan that is reasonable, credible, and workable. It contemplates a public role in developing a State's plan, and emphasizes quality assurance, but does not hamper those policy goals with the kind of Federal bureaucratic management that has produced the hopeless labyrinth that is today's program.

On February 6, 1996, the National Governors Association (NGA) adopted a proposal for restructuring the Medicaid program. This plan was adopted by a unanimous bipartisan vote. As such, the NGA agreement signaled the States' strong desire that the Medicaid program be reformed, despite apparent political obstacles, to

provide them the tools and flexibility to give more effective, responsive and efficient medical assistance to their vulnerable residents.

Under the Committee's proposal, founded on the principles unanimously endorsed by the bipartisan National Governors Association, the current Medicaid program will be replaced by a new, simplified program to provide payment for health and long-term care services on behalf of low-income Americans. States will be given much broader flexibility to determine how best to meet the needs of their low-income residents. The Federal government will remain a partner in financing States' efforts to address these needs.

The drive to reduce Federal Medicaid funding as part of a broader initiative to reduce the Federal deficit has triggered intense review of the Medicaid program structure. The present Medicaid program is seriously flawed and minor changes to the existing program are not sufficient to meet the severe problems in the present program.

1. Eligibility

Present Law

The Medicaid statute defines over 50 distinct population groups as potentially eligible, including those for which coverage is mandatory in all States and those that may be covered at a State's option. These generally fall into five basic groups: *current and some former recipients of cash assistance,* either Aid to Families with Dependent Children (AFDC) or Supplemental Security Income (SSI); *low-income pregnant women and children who do not qualify for AFDC; the medically needy,* persons who do not meet the financial standards for cash assistance programs but meet the categorical standards and have income and resources within special medically needy limits established by the States; *persons requiring institutional care* and covered under special eligibility rules; and *low-income Medicare beneficiaries,* for whom Medicaid pays required Medicare premiums, deductibles, and coinsurance. Applicants' income and other resources must be within program financial standards.

Explanation of Provision

Each participating State would be required to make medical assistance available for benefits in the guaranteed benefit package to individuals in the following groups:

A. Pregnant women with income below 133 percent of the poverty line.

B. Children under age 6 with family income not over 133 percent of the poverty line.

C. Children ages 6 to 12 with family income not over 100 percent of poverty.

D. Children ages 13 to 18, and born after September 30, 1983, with family income not over 100 percent of poverty.

E. Disabled individuals. At the option of the State, either disabled individuals who meet the income and resource standards established by the State; or individuals under age 65 who meet the standards for payment of Supplemental Security Income (SSI) benefits under Title XVI.

Before the beginning of each Federal fiscal year, each State would be required to specify how it would guarantee coverage of the disabled. States would elect to use either their own definitions of disability, or SSI standards. Unless changed before the beginning of the following fiscal year, the election would continue in effect for the subsequent fiscal year. A State opting to use its own definition would be required to set aside funds for disabled individuals; disabled individuals would not be taken into account in determining a supplemental umbrella allotment (see section 6, Federal Funding).

Each State that elects to use its own disability standards will be required to devote a minimum percentage of total program spending to services for low-income persons eligible on the basis of disability, including blindness. The specified minimum percentage would be 90 percent of the percentage of the State's FY 1995 Medicaid expenditures attributable to the disabled. States would calculate the minimum amounts excluding payments for emergency services to undocumented aliens.

A State that chose to use SSI standards for disability would not be subject to the set-aside requirement and would be eligible for a supplemental allotment based on an increase in the number of guaranteed and optional disabled individuals covered. States (known as 209 (b) States) that were using more restrictive eligibility standards for Medicaid than for SSI on January 1, 1972 could continue to apply their standards and use the spenddown process for allowing applicants to deduct medical expenses from income.

F. Elderly individuals who meet the income and resource standards for payment of SSI benefits under Title XVI.

G. Children who meet the requirements for receipt of foster care payments or adoption assistance under Title IV. A State would have the option of using the requirements in its State plan in effect under Part E of Title IV as of the date of enactment.

H. Individuals and members of families who meet the income, resource, and eligibility standards of the State's plan for its Aid to Families with Dependent Children (AFDC) program, or its foster care and adoption assistance program as in effect on May 1, 1996. A State that had AFDC income, resource, and eligibility standards above the national average of all States and the District of Columbia would have the option of substituting the national average standards. A State that maintained a link between medical assistance eligibility and eligibility under Title IV could elect to guarantee coverage to persons receiving assistance under Title IV instead of to all who meet the May 1, 1996 AFDC standards so long as the election would not result in increased Federal expenditures.

I. States would be required to provide medical assistance for 1 year for certain low-income families during the transition from welfare to work.

Each State would be required, as under current law, to pay Medicare premiums, coinsurance, and deductibles for certain low-income Medicare beneficiaries.

States would be permitted to continue to provide medical assistance to persons who were no longer eligible to receive benefits under Title IV because of hours of, or income from, employment.

Reason for Change

From its inception in 1965, Medicaid has become a complex program with a bewildering set of categorical boxes for eligibility. Today, Title XIX contains an amazing 50+ separate definitions of who is eligible to receive services. Potential Medicaid beneficiaries must fill out mind-boggling forms, and States must expend considerable resources on staff who make eligibility determinations.

A recitation of just some of the 70+ categories of eligibility would reveal the myriad opportunities for difficulty in eligibility determinations. Yet, there is no existing statutory authority to waive these complex eligibility categories. Although States have been permitted to expand eligibility to individuals not now eligible to be served by Medicaid, the Health Care Financing Administration (HCFA) does not have the authority to permit States to restrict existing mandatory eligibility categories, nor will the agency permit States to reduce their eligibility categories once a State has elected to expand coverage to optional groups. In fact, even though States have attempted to streamline the eligibility process through waivers and expand coverage to individuals based on income alone, HCFA still requires States to continue to make categorical eligibility determinations so that people can be "counted and tracked" in their proper boxes. It is clearly time to eliminate these costly and arcane eligibility categories and allow States to operate sensible health care programs for their low-income residents.

Effective Date

October 1, 1996.

2. Benefits

Present Law

All States are required to provide some services and permitted to provide others. Mandatory services for all groups except the medically needy and qualified Medicare beneficiaries (QMBs) include: inpatient and outpatient hospital services, nursing facility (NF) services for individuals 21 or older, physicians' services, laboratory and X-ray services, early and periodic screening, diagnostic and treatment (EPSDT) services for individuals under age 21, family planning services and supplies, home health services for any individual entitled to NF care, rural health clinic and Federally qualified health center (FQHC) services, and services of nurse-midwives, certified pediatric nurse practitioners, and certified family nurse practitioners. States may also offer any of a broad range of optional services. Among the most important, in terms of program expenditures, are prescribed drugs, dental and optical services, clinic services, and care in intermediate care facilities for the mentally retarded (ICFs/MR) and in institutions for mental diseases (IMDs).

The Vaccines for Children program was codified under Medicaid to provide for Federal purchase of vaccines for certain children.

Explanation of Provision

Each participating State would be required to make medical assistance available for benefits in the following guaranteed benefit package:

A. Inpatient and outpatient hospital services.
B. Physicians' surgical and medical services.
C. Laboratory and x-ray services.
D. Nursing facility services.
E. Home health care.
F. Federally qualified health center services and rural health clinic services.
G. Immunizations for children.
H. Prepregnancy family planning services and supplies.
I. Prenatal care.
J. Pediatric and family nurse practitioner services, physicians' assistant services, and nurse midwife services.
K. Early and periodic screening, diagnostic, and treatment (EPSDT) services for individuals under age 21. EPSDT services would be defined as under present law to include screening, vision, dental, and hearing services and other necessary care, diagnostic services, and treatment.

Each State would establish criteria for specifying the amount, duration, and scope of benefits provided. The amount, duration and scope of benefits specified must be sufficient to reasonably achieve the purpose of the benefit. A State may establish criteria, including medical necessity, utilization review, and cost effectiveness of alternative covered services, for purposes of limiting the amount, duration, and scope of benefits provided under the State plan.

This section carries over the current law requirements that States cover Medicare premiums, deductibles, and coinsurance for "qualified Medicare beneficiaries" (QMBs). These are aged and disabled Medicare beneficiaries whose income is below 100 percent of the Federal poverty level, and whose resources do not exceed twice the allowable amount under SSI. Also, States would be required to pay Medicare Part B premiums for individuals who would be QMBs except that their incomes are up to 120 percent of poverty. States would also be required to continue to pay Medicare Part A premiums, but no other expenses, for "qualified disabled and working individuals" (QDWIs), i.e., persons who formerly received Social Security disability benefits and hence Medicare, who have lost eligibility for both programs, but are permitted to continue to receive Medicare in return for payment of the Part A premium. Each State would be required to pay premiums for QDWIs who have incomes below 200 percent of poverty and resources no greater than twice the SSI standard. States could opt to pay HMO premiums for Medicare beneficiaries. A State may limit payment for Medicare cost-sharing to its medical assistance rates that would be paid for items or services furnished to eligible individuals who are not Medicare beneficiaries.

The bill prohibits the imposition of any treatment limits or financial requirements on mental illness services that are not imposed on services for other illnesses.

Each State would be required to describe its eligibility standards in its State plan along with the amount, duration, and scope of covered services and items including differences among eligible population groups.

Since its inception the Federal Medicaid program has covered the services provided by a Christian Science Sanitorium (nursing facility), a Christian Science Visiting Nurse Organization, or a Christian Science Nurse in a home setting. Nothing in this legislation is intended to preclude the States from including these services in their Medicaid plans.

Reason for Change

The current Medicaid statute is full of restrictions that deny States the opportunity to experiment in program design and the flexibility to develop programs best suited to their individual needs. Although adopted in the name of ensuring equal treatment of Medicaid beneficiaries, these restrictions, including "Statewideness" and "comparability" provisions, have proved to be unduly confining. Instead of broadening services, these requirements have been applied by the courts and by Federal bureaucrats to inhibit State program improvements. The opportunity to apply innovative medical interventions to assist special at-risk populations has been lost.

The first of these restrictions, Medicaid's "Statewideness" requirement, prevents States from covering divergent services in different areas of the State, thereby limiting experimentation within programs and preventing States from adapting their programs to geographic variations among their populations. Experimentation at the county or local level permits States to initiate innovative programs on a small scale, just as the division of our nation into States permits States to serve as laboratories for national programs. Small-scale experimentation permits program evaluation and adjustment before programs become too large to easily assess and improve.

In addition, the "Statewideness" requirement limits the States' ability to offer specialized services to their Medicaid populations if States or localities decide that resources should be devoted to providing a service only in geographic areas where it is most needed. For example, a Federal district court recently enjoined the manner in which California used Medicaid funds in connection with methadone maintenance treatment because the service was covered only in those counties that chose to allocate funds from their financially limited local drug abuse programs for methadone maintenance treatment.

A second detrimental restriction is the "comparability" requirement, which prohibits differentiation in the services provided to recipients within specific eligibility categories, and some aspects of differentiation in the services provided among eligibility categories. Under this restriction, States are largely restrained from tailoring benefits to the general characteristics and needs of distinct broad categories of Medicaid beneficiaries, such as the aged, the disabled and children. Even minor differentiation has been prevented by

this requirement, and HCFA has disapproved a number of State plan amendments that would have improved program administration. In 1992, for example, HCFA disapproved an Arkansas proposal to cover two more drug prescriptions per month for beneficiaries at risk of institutionalization than it would cover for beneficiaries not at risk, simply because the beneficiaries were in the same eligibility category.

The cost of these "equal treatment" restrictions are no longer affordable. Although waivers have been granted permitting State avoidance of these requirements in some instances, the waiver process has become too cumbersome and time-consuming to accommodate the needs of reform throughout the fifty States. In light of the realities of current cost constraints, these restrictions on State experimentation and flexibility of administration can no longer be permitted to prevent the States from developing and implementing critical reforms necessary to rationalize State Medicaid programs.

Effective Date

October 1, 1996, except that the Vaccines for Children program would be repealed effective with enactment.

3. Provider standards

Reason for Change

The Federal government's approach to quality over the 30 years of Medicaid's existence has been to focus on compliance review rather than quality review. The existing Medicaid quality assurance system, although extensive and staff intensive, tends to focus not on quality of care for beneficiaries but on control of the utilization of resources and compliance with Federal program requirements. While Federal utilization controls are understandable when the Federal financial obligation is open-ended, they are less relevant under a capped program.

The responsibility to address the quality assurance issue should be primarily on the States, who can make available the best resources for determining the quality of care that is being delivered, whether in managed care organizations, fee-for-service programs or institutional settings. States should bear the obligation to develop quality assurance programs and be given the flexibility to design programs that make the most sense in light of their particular health care needs and priorities. The State's plan will describe the essence of the State's quality assurance program, and serve as a public commitment to a quality service delivery system.

There are significant developments in the field of measuring and assuring quality in the actual delivery of health care services. These developments are helping to lay the foundation for more useful quality assurance efforts to assist beneficiaries in selecting providers, provide State agencies information to gauge performance of their contractors and assist health plans in improving their services. This approach, focusing on outcomes rather than Federally-imposed process requirements, carry the greatest potential for assuring true quality in the delivery of services to low income families and individuals.

A. Nursing facilities

Present Law

The Omnibus Budget Reconciliation Act of 1987 comprehensively revised Medicaid requirements for nursing homes participating in the program. These provisions, collectively referred to as the nursing home reform law, have three major parts: (1) requirements that nursing homes must meet in order to be certified to participate in Medicaid, including requirements about assessments of residents, available services, nurse staffing, nurse aide training, and resident rights; (2) provisions establishing an annual survey and certification process that State survey agencies must use for determining whether nursing homes comply with the requirements for participation; and (3) provisions that expand the range of sanctions and penalties that States and the Secretary of HHS may impose against nursing homes found to be out of compliance with the requirements for participation.

Explanation of Provision

With certain exceptions, the proposal follows current law for purposes of establishing requirements for participating nursing facilities, the survey process, and the enforcement authority available to States and the Secretary. Major changes include the following: The proposal would repeal provisions prohibiting facilities from admitting mentally ill and mentally retarded persons who had not first been determined by States as needing nursing facility services. States would be required to operate preadmission screening programs for mentally ill and mentally retarded persons admitted to nursing facilities to determine whether they required the level of care provided by the facilities, but would not be required to review such residents annually for the appropriate level of care needed. Residents of facilities would have the right to choose a personal attending physician, but States would not be precluded from requiring a resident to choose a personal attending physician who participates in a managed care network with which the State has a contract. Facilities would not be required to have written policies and procedures for advance directives. Under certain circumstances, States would be able to continue payments over a period of not more than 6 months to a noncompliant facility, while the facility takes actions to correct its deficiencies. Facilities prohibited from offering a nurse aide training program could be allowed by States to do so, if the State determines that there is no other program offered within a reasonable distance, assures that an adequate environment exists for the program, and provides notice and assurances of the approval to the State long-term care ombudsman.

The Secretary is required to report to Congress annually, beginning 2 years after enactment, on whether changes in reimbursement rates to nursing homes affect quality of care.

Effective Date

October 1, 1996.

B. *Managed care*

Present Law

States may enter into risk contracts with health maintenance organizations (HMOs) or comparable entities. Under a risk contract, the organization agrees to make available a specified set of medical services to an individual beneficiary in return for a fixed periodic payment (capitation) issued by the Medicaid program on the beneficiary's behalf. Certain restrictions apply to a "comprehensive" contract, under which the organization has agreed to accept risk for any three of the mandatory Medicaid services, or for inpatient hospital care and any other mandatory service. Generally, no more than 75 percent of the enrollees of a contractor may be Medicaid or Medicare beneficiaries, and beneficiaries must ordinarily be permitted to disenroll at any time. Premium rates must be established on an actuarially sound basis. The Secretary has provided by regulation that rates may not exceed the amount which the State would have spent to provide the set of services covered by the organization to an equivalent group of beneficiaries not enrolled in the organization and continuing to receive care on a fee-for-service basis.

Explanation of Provision

A State is prohibited from contracting with a full risk capitated health care organization *unless* the organization meets solvency standards established by the State for private health maintenance organizations. There is a 3-year exemption for full risk organizations currently contracting with State Medicaid programs. An organization not at full risk must meet solvency standards established under the State's plan for medical assistance. States must ensure health plans make adequate provision against the risk of insolvency.

The State must comply with minimum standards for managed care plans, including: offering a choice between two managed care plans or between a managed care plan and a primary case manager provided for those required to enroll in such plans and not requiring special needs children, the homeless, and migrant agricultural workers to enroll in managed care. States will be prohibited from automatically enrolling individuals who do not choose a plan into plans that are not in full compliance with standards. Managed care plans must make medically necessary services available 24 hours a day; contract with a sufficient number of primary and specialty care providers to meet the needs of enrollees; and are prohibited from discriminating in enrollment based on health status or need for care, from using false or misleading marketing information, and from affiliating with providers barred from Federal contracting. Each capitated health care organization providing medical assistance under the State plan is required to provide for an independent, external review of the quality of services provided by the organization on a yearly basis.

Effective Date

October 1, 1996.

C. Persons with developmental disabilities

Present Law

In order to participate in Medicaid and receive Medicaid reimbursement, ICFs/MR are required to meet certain requirements designed to ensure quality of care. Home and community based care service options, as well as community supported living arrangement services provided to persons with developmental disabilities, are designed to encourage community options to institutional care. The State must comply with both quality assurance and minimum protection provisions.

Explanation of Provision

The State plan must ensure that ICFs/MR, home and community-based services, and community-supported living arrangements comply with Federal health, safety, and welfare standards in regard to services they provide to persons with developmental disabilities. There must be arrangements ensuring the public, including consumers, family members, and the local community, participate in the development of the plan.

Treatment services for the developmentally disabled must be based on a personalized plan, with the goal of maximizing the potential and independence of such individuals.

Effective Date

October 1, 1996.

4. Recipient safeguards

A. Spousal impoverishment

Present Law

Current Medicaid law includes rules known as "spousal impoverishment protections" for the treatment of income and resources of married couples when one of the spouses requires nursing home care and the other remains in the community.

Explanation of Provision

S. 1795 carries current law rules over into Title XV to prevent impoverishment of the spouse remaining in the community.

The income eligibility rules do not permit income of community spouses to be used in determining the nursing home spouse's eligibility unless the income is actually made available to the institutionalized spouse. As in current law, after eligibility has been determined, States are required to set a minimum monthly maintenance needs allowance for living expenses of the community spouse according to statutory limits. (Currently, this minimum is $1,254 per month and the maximum is $1,918 per month. These amounts may be increased depending on the amount of the community spouse's actual shelter costs and other factors.)

From a couple's combined resources, an amount would be protected for the community spouse. This amount is be the greater of one-half of the couple's resources at the time the institutionalized

spouse enters the nursing home, up to a maximum, or a standard established by the State. (Currently, the State resource standard may be no lower than $15,348 and no greater than $76,740.)

Effective Date

October 1, 1996.

B. Family impoverishment

Present Law

Present Medicaid law provides that States must include reasonable standards for determining Medicaid eligibility that do not take into account the financial responsibility of any individual for any applicant or recipient of Medicaid unless the applicant or recipient is the individual's spouse, or child under age 21, or a child over age 21 who is blind or disabled. States generally are limited in the circumstances which permit them to place liens against property or seek other recovery from estates. Persons seeking Medicaid coverage of their institutional or home and community-based care are prohibited from transferring resources for less than fair market value during the 30-month period prior to their application for coverage, as are their spouses. Applicants will not be made ineligible if the transfer was to his or her spouse or to a child who was under age 21 or blind and permanently disabled.

Explanation of Provision

With respect to nursing facility or other long-term care services, a State is prohibited from requiring an adult child to contribute to the costs and from taking into account the financial responsibility of any individual other than the applicant or recipient of services unless the individual was the recipient or applicant's spouse, or a child who was under age 21 or disabled. The bill's provisions regarding the imposition of liens on property are identical to the provisions in current Medicaid law.

Effective Date

October 1, 1996.

C. Right of action

Present Law

The current Medicaid statute does not establish a private right of action for denials of benefits. Therefore, one may not sue a State or a State official, under the statute itself, in Federal or State court. In addition, the Eleventh Amendment to the United States Constitution, as construed by the Supreme Court, prohibits suits against a State in Federal court. It does not, however, prohibit suits against a State official in Federal court; and a Federal statute, 42 U.S.C. section 1983, authorizes such suits against State officials who, under color of State law deprive any person of rights under Federal law or the Federal Constitution.

If a person sues a State official and seeks a Federal court to order that the State official comply with a Federal statute, such an

order effectively operates against the State. Such an order, however, may operate prospectively only, because an award of past benefits wrongfully withheld "resembles far more closely the monetary award against the State itself . . . than it does the prospective injunctive relief" that is permitted notwithstanding the Eleventh Amendment. *Edelman v. Jordan*, 415 U.S. 651, 665 (1974).

Explanation of Provision

Each State is required to provide an administrative procedure with a hearing for an individual who alleged a denial of benefits guaranteed under the State plan, and for judicial review through a private right of action in a State court, with a right to petition the United States Supreme Court for review. There would be no State private right of action for a provider or health plan.

The Secretary of Health and Human Services may bring an action in Federal court against a State and on behalf of an individual regarding the provision of benefits guaranteed under the State plan. However, the Secretary may not be sued for failure to bring an action against a State or with regard to any action brought against a State. Other Federal causes of action against a State based on a failure to comply with any requirements in this Act are not permitted.

Effective Date

October 1, 1996.

D. Limitations on cost sharing

Present Law

States may impose "nominal" deductible and coinsurance requirements for services. Cost-sharing requirements may not apply to services to children, pregnancy-related services, or emergency, family planning, or hospice services; certain other restrictions apply. Premiums or enrollment fees are generally precluded except for the medically needy, for pregnant women and infants with income over 150 percent of poverty, or for certain families receiving work-transition coverage after loss of AFDC benefits. Providers may not deny service to beneficiaries based on their inability to pay a deductible or copayment at the time service is requested. Providers must accept the Medicaid reimbursement rate and allowed cost-sharing as payment in full.

Explanation of Provision

States are not permitted to impose cost-sharing on guaranteed or optional eligibles for any guaranteed benefit, except as provided under current law or under a waiver granted to any State by date of enactment. Cost-sharing for optional benefits may be imposed on optional eligibles on a sliding scale schedule. Cost-sharing may be designed to encourage primary and preventive care and discourage unnecessary or less economical care and inappropriate use of emergency services. Amounts could be scaled to reflect economic factors, employment status, family size, or availability of other health insurance. "Balance billing" for amounts greater than the Medicaid

reimbursement amount (and any required copayment) is prohibited. Providers may not deny care to beneficiaries based on their inability to pay cost-sharing payments at the time service is requested. However, the beneficiary remains liable for cost-sharing payment.

The Committee intends that nothing should prohibit a State from requiring a veteran to contribute part of a veterans pension, including the Aid and Attendance, and the Unusual Medical Expense components, to a State Veterans Home to help defray the cost of the veteran's care. Some veterans who reside in State Veterans Homes receive veterans pensions. Veterans pensions can consist of an Aid and Attendance component, an Unusual Medical Expense portion, and a pension component. Until recently, some States required veterans who reside in the State's Veterans Home who receive a veteran's pension to contribute the entire pension, after a disregard to meet a personal needs allowance, to the cost of their care in the Home. The Medicaid program then paid for the cost of the care not covered by the pension and any other countable income, such as Social Security. This policy was prohibited by the Health Care Financing Administration as a consequence of a settlement agreement, resulting from a case brought in the Ninth Circuit, *Perley/King v. Palmer v. Shalala.* The settlement agreement stipulated that neither the Aid and Attendance nor the Unusual Medical Expense portions of the Veterans Administration pension may be collected by a State Home.

Reason for Change

One of the major themes articulated throughout the recent debates about both welfare reform and health care reform is the concept that everyone, regardless of income and "status" should bear some personal responsibility for their own lives and the cost of their care. Yet today's Medicaid program violates that fundamental principle of reform.

Title XIX significantly restricts the use of co-payments—even for Medicaid beneficiaries at the higher end of the income scale. The prohibition against permitting co-payments for services provided through a managed care organization is an example of a good idea gone awry. As States have increasingly moved to managed care for their Medicaid beneficiaries, HCFA has been unwilling to waive the prohibition against requiring modest co-payments for some services provided through managed care organizations so that, for example, States cannot even assess a nominal $1–10 charge for the non-emergency use of emergency rooms. Nor can a health plan charge a 50-cent copayment on prescription drugs as a way of encouraging prudent purchasing on the part of a Medicaid enrollee.

Whether a Medicaid beneficiary is enrolled in managed care or continues to receive care through the old fee-for-service system, the inability of States to require nominal and reasonable co-payments is a major barrier to both the concept of personal responsibility and the incentive for beneficiaries to make the most rational and cost-effective choices of health care purchases possible.

Effective Date

October 1, 1996.

E. Pre-existing conditions exclusions

Present Law

No provision.

Explanation of Provision

A State is prohibited from denying or excluding coverage on the basis of a preexisting condition. If a State contracts with a capitated organization or other entity and allowed the organization to impose preexisting condition exclusions, the State must provide alternate coverage for any covered services denied as a result.

F. Access

Present Law

State plans must meet the general requirements of comparability (the services available to any categorically needy beneficiary in a State must generally be equal in amount, duration, and scope to those available to any other categorically needy beneficiary in the State) and Statewideness (generally, the amount, duration, and scope of coverage must be the same Statewide).

Explanation of Provision

The State plan must include a description of the State's goals related to access of care for children with special health care needs (as defined by the State). The State plan must assure that beneficiaries have access to nursing facilities and primary care services (within 50 and 30 miles of their residence, respectively, or within a "reasonable" distance in rural areas). States are encouraged to assure pregnant women and children access to appropriate levels of basic, specialty and subspecialty care.

The Committee has included a provision requiring that the State Medicaid plan include a description of the goals and objectives related to standards of care and access to services for children with special health care needs in that State. Children with special health care needs, those with serious chronic conditions or disabilities such as cerebral palsy, cystic fibrosis, cancer, or heart conditions represent approximately 2 percent of all children, but need special attention to make sure their needs are met. While managed care can offer all children and their families better access to care and better coordination of services, managed care plans often have not developed the expertise to treat children with special health care needs. Accordingly, the Committee intends that States outline in their plans how they will provide care to children with special health care needs.

Studies show that the high risk obstetrical and neonatal services provided at Level III regional specialty hospitals have contributed to the decline in U.S. infant mortality over the last 25 years. The Committee encourages the States to put in place protections so that pregnant women and babies receive the basic, specialty, and sub-

specialty care they need in the facility appropriate to their level of risk, including Level III regional specialty care, in keeping with *The Guidelines for Perinatal Care,* American Academy of Pediatrics/American College of Obstetricians and Gynecologists.

5. Delivery Systems

Present Law

Currently, the majority of Medicaid services are provided on a fee-for-service basis.

Under current law State plans must meet three general requirements: comparability (the services available to any categorically needy beneficiary in a State must generally be equal in amount, duration, and scope to those available to any other categorically needy beneficiary in the State); Statewideness (generally, the amount, duration, and scope of coverage must be the same Statewide); and freedom of choice (beneficiaries must be free to obtain services from any institution, agency, pharmacy, person, or organization that undertakes to provide the services and is qualified to perform the services).

States wishing to use Medicaid funds to target otherwise ineligible populations, or to use innovative methods for delivering or paying for Medicaid services may apply to the Secretary for waivers of Medicaid requirements. States wishing to require Medicaid beneficiaries to enroll in managed care plans must obtain one of two types of waivers from the HCFA. Section 1115(a) of the Social Security Act offers States the greatest flexibility, allowing HCFA to waive a broad range of Medicaid requirements. These waivers allow States to expand coverage to those not traditionally eligible, to impose premiums and copayments on those new eligibles, and to modify the Medicaid benefit package. A second kind of waiver, known as a "Freedom-of-Choice" waiver, is permitted by section 1915(b) of the Social Security Act. Section 1915(b) waivers allow States to waive specific requirements for a specific population or geographical area. States do not need waivers to contract with managed care companies; without a waiver, however, States must operate a voluntary system, allowing beneficiaries to choose between an HMO and traditional fee-for-service care.

States are permitted, under the 1915(c) and 1915(d) waiver authority of current law, to offer home and community-based care services to persons who would otherwise require nursing home or institutional care that would be covered by Medicaid.

Explanation of Provision

The State is required to include in its plan a description of the delivery method, such as use of vouchers, fee-for-service, or managed care arrangements. To the extent that medical assistance is furnished on a fee-for-service basis, the plan must describe how the State determines the qualifications of providers eligible to provide such assistance and the method used to determine reimbursement rates for such assistance. The State plan must also describe the extent to which eligible individuals have freedom of choice of providers. States have the option of submitting the State plans that they used under Title XIX (including a plan provided under 1115 waiv-

er), thereby maintaining their innovative programs, so long as the plan meets Title XV requirements including the guarantees under section 1501 and the funding provisions under section 1511. Title XV does not limit a State's ability to contract with managed care plans or individual providers on a capitated or other basis, to contract for case management or coordination services, or to set capitation rates on the basis of competition or negotiation.

The Secretary is authorized to waive Medicare and medical assistance requirements to allow States to conduct demonstration projects for individuals dually eligible for both programs. A State may restrict the time period during which participants may disenroll from capitated programs, but may not require a dually eligible individual to participate in such a demonstration project.

A project may not be approved unless the State shows that Federal expenditures would not exceed the expenditures that would have been made without the project. Any savings achieved under the project may be retained by the State to expand eligibility for low-income Medicare beneficiaries who were at risk of institutionalization and likely to qualify for Title XV benefits if institutionalized. Also, savings may be used to expand the scope of services under the project.

Demonstrations are limited to 10 projects conducted for initial periods of 5 years and extended indefinitely if successful. With 90 days notice, the Secretary may terminate any demonstration project that is not in substantial compliance with the terms of approval. Applications from a State, or a coalition of States, must be submitted to the Secretary who is then required to approve or deny such applications within 90 days of receipt.

The Secretary is required to establish quality standards for demonstration projects. The standards have to include reporting requirements which contain a description of the project; analysis of beneficiary satisfaction; analysis of the quality of services; and a description of the savings to the Medicare and Title XV programs.

In addition, a National Commission on Medicaid and State-Based Health Care Reform is established. The Commission shall study and make recommendations to the Congress, the President and the Secretary regarding the medical assistance provided under the Medicaid program, and modifications that may be made to encourage further State health reform relating to access, quality, and cost containment. The Commission shall specifically address the following: progress achieved with respect to performance objectives relating to access and quality; changes needed to ensure adequate access to health care and long term care for low-income individuals; promotion of quality care; deterrence of fraud and abuse; providing each State with additional flexibility in implementing the Medicaid program; causes and strategies for limiting Federal and State expenditures under such program; and enhancing the equity and fairness in the distribution of Federal expenditures and matching rates to States. The Commission shall submit a first report to the Congress by not later than June 1, 1997, with subsequent reports due by no later than December 31, 1997 and December 31, 1998. The Commission shall terminate on December 31, 1998.

Reason for Change

When it was enacted in 1965, the Medicaid program was conceived as a traditional indemnity-type insurance program for the prevailing fee-for-service, health care delivery system. Managed care was in its infancy and negligible percentages of the population participated in health maintenance organizations (HMOs). Over the last twenty years and, in particular, the last decade, the numbers of privately insured individuals participating in managed care organizations have grown rapidly as increasing numbers of employers have moved to find more efficient and effective coverage for their employees. In 1976 there were 6 million people receiving care in HMOs; by 1995 that number has risen to 56 million. Yet Medicaid remains a dinosaur—a behemoth out of place in today's health care delivery world.

Because Medicaid was designed to be a fee-for-service program, the barriers to the effective use of managed care permeate the statute. Some of the most difficult barriers include:

- **Freedom of Choice:** Federal law prescribes that all Medicaid beneficiaries be free to choose to receive their care from any doctor, clinic, or hospital that accepts Medicaid reimbursement. Beneficiaries are free to "doctor-shop," and to self-refer to expensive specialty care without regard to the cost effectiveness of any providers. Additionally, a State may not require that their Medicaid beneficiaries remain in an HMO for longer than 6 months, and then only if the HMO is Federally qualified. Under these restrictions, managed care organizations are reluctant to enroll Medicaid beneficiaries because of the administrative costs of these changes and the inability to develop long-term plans of care for beneficiaries.
- **Limitations on Managed Care Organizations:** Federal law prescribes that when a State seeks to purchase managed care services for Medicaid beneficiaries, it can only purchase from Federally or State qualified HMOs which draw at least 25 percent of their membership from privately insured beneficiaries (the "75/25" rule).
- **Limits on Co-Payments for Services:** Federal law and HCFA interpretations preclude a State or an HMO from assessing any co-payment, regardless of how nominal, for any service provided through an HMO to an enrolled Medicaid beneficiary.
- **Limitations on Service Coverage:** Federal law and HCFA interpretation preclude a State from buying a comprehensive package of services from a managed care entity and requiring that Medicaid beneficiaries be limited to receiving certain kinds of services from the managed care organization's network.
- **Limitations on Who Can Participate in Managed Care:** Federal law and HCFA interpretation preclude a State from enrolling those Medicaid beneficiaries who are also receiving Medicare into managed care organizations.
- **Limitations on Guaranteed Eligibility:** Federal law precludes States from certifying Medicaid beneficiaries as eligible for services for a specified period of time; instead, the law requires that States redetermine a beneficiary's eligibility every month, or at least once a quarter. This "on again, off again" approach to eligibility means that many managed care organizations won't enroll

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Medicaid beneficiaries because they are unable to plan and coordinate care for individuals who come on and off the rolls.

- **Impermanence of Waiver Projects:** "Freedom of choice" waivers are limited to a two year period, with additional application and approval required beyond the initial period. States currently have no option to convert freedom of choice waivers to State plan amendments.
- **Waiver Requirements for Primary Care Case Management (PCCM) Programs:** Non-capitated PCCM programs may only be operated through freedom of choice waivers, not through State plan amendments.

Some of these provisions may be waived by the Federal government through Section 1915(b) or Section 1115 of the Social Security Act. The authority to waive various provisions of Title XIX in order to facilitate State research and demonstration projects was little used until 1993, in part because it was such a cumbersome, unfriendly, and lengthy process. In early 1993, in response to requests for genuine flexibility in Medicaid from the nation's Governors, the 1115 waiver process was made more accessible to States. HCFA committed to a 120-day review and approval process and agreed to only require States to answer one set of questions instead of the typical three or four. However, the promised flexibility never materialized.

Today it can take well over a year for HCFA to process a waiver application, even where the State proposal is not radically different from those that have been previously been considered. It took 582 days to approve Oregon's waiver application. Florida's application took 218 days. Ohio's took 321 days. Massachusetts' took 374 days; Oklahoma, more than 270 days. Minnesota's and Delaware's took 274 and 292 days respectively. Among those States currently awaiting waiver approval, New York has been waiting over 15 months. Increasingly, Federal bureaucracy has forced States to adjust their program design to avoid even further delays in processing. And approval of the project does not mean that implementation may begin. The terms and conditions built in at the least adds another several months of submissions and review before the actual project may begin.

The terms and conditions of waiver projects have also become increasingly numerous, restrictive, and burdensome. HCFA has, in effect, replaced existing Medicaid laws with substitute provisions that continue to give the Federal government the real say in how the programs are implemented. The early promise of true reform that accompanied the approvals of the first waiver programs in Oregon, Hawaii, and Tennessee has been eclipsed by the highly regulatory terms and conditions that have been attached to demonstration waivers approved more recently. In fact, Tennessee was asked to accept new terms and conditions a year into their waiver.

Finally, the demonstration waiver authority has not been used by the Secretary to deal with some of the core areas of the fundamentally fee-for-service Medicaid program that must be reformed before States can exercise the full extent of their purchasing power. In numerous demonstration projects that have been approved in the last two years, the Secretary has declined to:

• Relieve States from any aspect of the Boren Amendment, covering provider reimbursement rates and procedures.
• Permit any reduction or limitation in coverage for any categorically eligible Medicaid beneficiary. This has made it extremely difficult to reform the Medicaid program because Medicaid coverage is so much greater than that provided to most privately insured people.
• Permit the use of cost-sharing for Medical eligibles enrolled in managed care, even when everyone else in the plan is responsible for some nominal co-payments.
• Permit States to require those Medicaid beneficiaries who are also receiving Medicare to enroll in managed care. This means that the sickest and most expensive beneficiaries must continue to be served in the fee-for-service Medicaid program.

The Section 1115 waiver process is not the answer to the need for true program innovation and reform. States need to be freed from the stifling oversight of the Federal government that is unavoidable under the present program. Both waiver processes have become so complex, time consuming, and user-unfriendly, that waivers are clearly not the appropriate approach to allowing States to utilize a cost-effective service delivery model that is routinely used by employers, including State governments.

Managed care techniques have already saved States money in a variety of ways—by decreasing the use of expensive emergency department services, by emphasizing preventive care and early intervention to prevent illness and, providing a degree of predictability to a notoriously volatile program.

States must be empowered to utilize the force of the market place to buy the same kind of high-quality, cost-effective care enjoyed by so many privately insured citizens for their Medicaid beneficiaries. Tinkering around the edges of a fee-for-service Medicaid structure will not afford them that opportunity.

Home and community-based care

During the late 1960s and the 1970s the number of individuals residing in institutions—psychiatric facilities, nursing homes, and intermediate care facilities for the mentally retarded—grew dramatically since States received Medicaid reimbursement for long term care services only by institutionalizing people. Ultimately, however, States began to feel the impact of the high costs of providing care in these institutional settings. In early 1982, in response to the cost pressures of a cap in the rate of growth in the Federal share of the Medicaid program, Congress provided the Department of Health and Human Services limited authority to grant waivers that would enable States to provide care for disabled and elderly individuals in home and community-based settings and still receive Medicaid reimbursement. However, the waiver authority under Section 1915(c) of the Social Security Act came with strings that continued to support the institutional bias of the program.

The purported rationale for these restrictions is that to provide Medicaid reimbursement for home and community-based services without the current ties to institutional status will create a "woodwork" effect in that individuals being cared for by family and friends will seek services from providers who will bill Medicaid.

But times have changed and so has the technology of providing cost-efficient and effective services to people in their homes and communities that will prevent expensive entitlements that have been extended to institutional providers. Only statutory modifications will enable States to move beyond these statutory and bureaucratic barriers. States will be able to design and implement cost-effective health care programs only when they are freed from the strictures of the current Title XIX.

6. Federal funding

Reason for Change

Medicaid is the third largest social spending program in the Federal budget and has become one of the fastest-growing components of both Federal and State budgets. At present, Medicaid is the first or second largest piece of every State's budget, totaling about 20 percent of States' budgets, on average. Federal Medicaid spending has grown from less than $3 billion in 1970, to $15 billion in 1980, to $41 billion in 1990. According to the Congressional Budget Office, Federal spending on Medicaid will total almost $95.7 billion dollars in FY 1996. By 2002, Federal spending will total almost $166.6 billion. This means that Medicaid is expected to grow approximately 10 percent per year into the foreseeable future.

Placed in broader context, the Medicaid program's average annual rate of growth since 1990 has been four times that of private sector health care costs. Medicaid's extraordinary rate of growth has made it the single largest item in many State budgets. According to the testimony of the many Governors and Medicaid officials who have appeared before the Committee, States have been compelled by the program's cost to restrict investment in other critical human services, including child welfare, education, mental health and public safety. Clearly, this growth is not sustainable.

Limiting the growth in Federal Medicaid spending requires limiting the amount of Federal Medicaid matching funds each State receives. Currently, wide disparities in Federal Medicaid funding exist across States, resulting in unequal access to health care for the poor. If the Federal government were to lock in States' current spending on Medicaid, it would have the effect of freezing in place historical spending patterns across States. The Committee believes that moving to a needs-based formula will reduce the disparities between States over time by eliminating incentives to maintain extraordinarily high spending in high effort States.

A. Allotments of funds among States

Present Law

Medicaid services and associated administrative costs are jointly financed by the Federal government and the States. Payments to each State are equal to the State's spending times the applicable Federal medical assistance percentage (FMAP). The FMAP is inversely related to a State's *per capita* income. Adjusted annually, the FMAP can range from 50 percent to 83 percent. The Federal share of administrative costs is 50 percent for all States, though higher rates are applicable for specific items. Federal matching

payments for States and the District of Columbia are open-ended; that is, there is no limit on the amount a State may receive for expenditures that are allowable under its approved Medicaid State plan. For the commonwealths and territories, the Federal matching rate is 50 percent up to annual maximums fixed in statute.

Explanation of Provision

The new program is financed jointly by the Federal government and the States under a formula that provides a fixed allotment to each State, commonwealth, or territory.

(1) Allotments. Beginning with FY1997, the Secretary will compute each State's obligation and outlay allotment under the new program. (Obligations are binding agreements to make Federal payments, immediately or in the future. Outlays are actual payments to liquidate obligations.) For a fiscal year, obligations to any State would be limited to the sum of the State's base obligation allotment (subsection (c) below), any supplemental allotment for emergency health services to certain illegal aliens (subsection (f) below), and any supplemental per beneficiary umbrella allotment (subsection (g) below). The sum of the base obligation allotments for all States may not exceed the aggregate limit on base obligation authority for a fiscal year. The *aggregate limit* is defined as the *base pool amount* (the statutory amount available for medical assistance for each fiscal year) divided by a payout adjustment factor; the *payout adjustment factor* is set at .950 for FY1997, .986 for FY1998, and .998 for a subsequent fiscal year.

A State is permitted to carry over a particular year's unspent obligation allotment into the following year unless the State receives a supplemental umbrella allotment in the particular year. No carryover is permitted of supplemental allotments for services to illegal aliens. Any carryovers of base obligation allotments or changes in allotments due to election of an alternative growth formula (subsection (c) below) is not included in the aggregate limit or base obligation authority.

A State's base obligation amount for FY1997 will be reduced by Title XIX obligations entered into for the State for the year. FY1997 allotments to a State will not affect obligations for any prior fiscal year. The amount established to be obligated to a State for a quarter beginning during or after FY1997 will be treated as the amount obligated to the State as of the first day of the quarter.

The Federal Government's obligations for payments under Title XV is limited as Stated above, and subject to adjustment based on guaranteed eligibility and benefits only as provided under the provisions on supplemental umbrella allotments.

For each of the 50 States and the District of Columbia, a fiscal year's base obligation allotment will be an amount that bears the same ratio to the State's base outlay allotment as the ratio of the aggregate limit on base obligation authority to the base pool amount for the year. For each of the commonwealths and territories, a fiscal year's base obligation allotment will be the base outlay allotment for the year divided by the payout adjustment factor for the year. (These configurations are in recognition of the fact that once an obligation is entered into, an outlay must be made in the same year or in a subsequent year; outlays cannot be limited

in the same way that obligations can be limited.) For any jurisdiction for FY1997, the obligation amount will be its base outlay allotment adjusted for title XIX obligations for which the Federal Government has not made payment to the jurisdiction, divided by .950 (the payout adjustment factor for FY1997). By November 1, 1996, the Secretary is required to estimate the adjustment amounts for each State and publish them in the *Federal Register*. The total of the amounts must equal $12 billion, the amount by which the FY1997 pool will be reduced to account for title XIX obligations.

(2) Base pool of available funds. Allotments are made from a fixed pool of available funds. For FY1997, the pool amount will be reduced to account for obligations incurred, but for which Federal payment has not been made, under Title XIX before the beginning of FY1997. The base pool amount for FY1997 will be $103.4 billion (this represents outlay allotments to the States and the District plus allotments to commonwealths and territories). The pool will be $108.4 billion for FY1998 $113.7 billion for FY1999, $119.1 billion for FY2000, $124.9 billion for FY2001, and $130.9 billion for FY2002. For later years, the pool amount will be the previous year's amount increased by the lesser of 4.82 percent or the annual percentage increase in the gross domestic product for the 12-month period ending in June before the start of the year in question. The increase in the base pool amount over that for the preceding year is designated the "national growth percentage" (NGP).

(3) *State Base Outlay Allotments.*—The FY1996 base outlay allotment for each of the 50 States and the District of Columbia is shown on a statutory table. For FY1997 and later years, the outlay allotment will be based on a formula allocation from the fixed pool of total medical assistance funds.

For FY1997 and later years, each State's base outlay allotment from the pool equals a needs-based amount times an adjustment factor, subject to certain floors and ceilings. The needs-based amount for a State is the product of its aggregate need and its old Federal medical assistance percentage (FMAP) for the previous year. The adjustment factor is a constant multiplier for all States used to ensure that floor and ceiling provisions, along with the allotments for commonwealths and territories, do not cause total allotments to exceed the pool amount.

Beginning in FY1998, a higher floor will apply for certain States based on the one-time increase in the State's allotment from FY1996 to FY1997. For a State whose FY1996–97 increase is greater than 95 percent of the FY1997 NGP, the floor will be 90 percent of the NGP for the fiscal year.

A State's outlay allotment for a fiscal year is limited to the product of the State's allotment for the preceding year and an applicable percent, generally 126.98 percent for FY1997 and 133 percent of the NGP for subsequent fiscal years. However, for the 10 States with the lowest Federal spending per resident-in-poverty rates, the applicable percent is 150 percent of the NGP for the fiscal year. The Federal spending per resident-in-poverty rate is the State's outlay allotment for the previous fiscal year divided by the average annual number of residents in the State with family incomes not over the poverty threshold as defined by the Office of Management and Budget.

For Louisiana, the outlay allotment for each of fiscal years 1997–2000 is $2.622 billion except that the amount is to be increased by $37,048,207 for FY1997. To receive the full amount, the State must spend at least $355 million in State funds for medical assistance in a fiscal year before 2000 plus the percentage of difference between that minimum and the amount necessary to qualify for the full allotment. The State may apply to the Secretary for the allotment otherwise determined for a fiscal year if the State notifies the Secretary by the preceding March 1 that it will be able to spend enough to qualify for the allotment.

Nevada's allotment is increased by $90,000,000 for each of fiscal years 1997–1999.

To reduce variations in increases in outlay allotments over time, any State or the District may elect an alternative growth rate formula. A portion of the State's allotment for FY1996 may be deferred and applied to increase its allotment for one or more subsequent years, so long as the total of the increases does not exceed the amount deferred previously. (Obligation allotments for the State will be adjusted accordingly.)

(4) *State Aggregate Expenditure Need Determined.*—As stated above, a State's base outlay allotment is based, in part, on its *aggregate need.* The State's aggregate need is the product of four factors: program need, a health care cost index, projected inflation according to a consumer price index increase factor, and national average spending per resident in poverty. Program need is subject to floors and ceilings and based on a State's mix of population groups—individuals who are at least age 60 but under 85, over 85, disabled, children, and others—and for those groups, the number of needy and the average per recipient expenditures. The health care cost index is based on the annual average wages for hospital employees in the State. National average spending per resident in poverty is computed for FY1997 using FY1994 data; for FY1998 and later years, the figure will be increased by the NGP.

(5) *Publication of Obligation and Outlay Allotments.*—The Secretary must publish preliminary allotments for each fiscal year by April 1 of the preceding fiscal year. The General Accounting Office (GAO) must report to Congress by May 15 on the extent to which the allotments comply with statutory requirements. The Secretary will then publish final allotments by July 1, taking into account the GAO analysis and explaining any changes from the preliminary allotments; the Secretary may not modify allotments thereafter. By August 1, GAO is to report to Congress on the statutory compliance of the final allotments. Deadlines may be extended according to the date of enactment of title XV.

(6) *Supplemental Allotment for Certain Health Care Services to Certain Aliens.*—Supplemental allotments for emergency health care services to certain aliens would go to the 15 States with the highest number of undocumented alien residents as a percentage of total State population. For the 5-year period FY1998 to 2002, pool amounts are $389.8 million for FY1998, $489.8 million for FY1999, $589.8 million for FY2000, $689.8 million for FY2001, and $789.8 million for FY2002.

(7) *Supplemental Per Beneficiary Umbrella Allotment for States with Excess Growth in Certain Population Groups.*—The bill pro-

vides for *supplemental umbrella allotments* to be available to States that experience unanticipated growth in certain population groups, viz., poor pregnant women, poor children, poor disabled individuals (only if the State has elected to use SSI standards for the disabled), poor elderly individuals, certain Medicare beneficiaries, and other poor adults who are guaranteed coverage under section 1501. Beginning with FY1997, a State's outlay allotment will increase by an amount based on the excess number of individuals, the applicable per beneficiary amount, and the State's old Federal medical assistance percentage (i.e., current law FMAP). The excess number of individuals is equal to the amount by which the number of individuals in the population group for the fiscal year exceeds the number anticipated for the State in the fiscal year. The anticipated number would be the number of individuals in the group in the preceding year increased by a percentage increase factor related to the State's percentage growth factor (a measure of the increase in State outlays). The percentage increase factor for a fiscal year, if greater than zero, is the number of percentage points by which the State's growth factor exceeded the percentage increase in the consumer price index for all urban consumers during the 12-month period beginning with July before the beginning of the fiscal year. The per beneficiary amount for a supplemental allotment population group is based on the State's expenditures for the group (excluding expenditures for disproportionate share hospital payments and payments for Medicare cost-sharing) for which Federal financial participation was provided.

To receive a supplemental umbrella allotment, a State must provide assurances that it will obligate the full amount of the allotment and any carryover from a previous year during the fiscal year. Also, the State is required to submit periodic reports to the Secretary on the numbers of individuals within each supplemental allotment population group, and assure the Secretary that it can collect such data. The amount of the supplemental umbrella allotment to a State will be reduced for a less-than-anticipated number of individuals in a population group.

(8) *Allotment for Medical Assistance for Services Provided in Indian Health Service and Related Facilities.*—The United States government maintains by virtue of treaties, statutes, court decisions and executive orders, a special trust relationship with more than 550 Federally-recognized Indian tribes throughout the country. This relationship has been reaffirmed by Congress in the enactment of the Indian Self-Determination and Education Assistance Act (P.L. 93–638) and the Indian Health Care Improvement Act (P.L. 94–437).

The Committee recognizes that, in enacting these laws, Congress has acknowledged the severely depressed health conditions existing within the Indian population. Native Americans have the highest rates of diabetes, tuberculosis, and fetal alcohol syndrome of any segment of the U.S. population. Moreover, the Indian Health Service (IHS) which serves as the agency through which the Federal government fulfills its responsibility to provide health care to American Indians and Alaska Natives has historically been underfunded to meet demand.

The legislation seeks to preserve and enhance the current Medicaid mechanism for reimbursement of health care to eligible Native Americans. Pursuant to the Indian Health Care Improvement Act of 1976, Congress authorized Federal reimbursement for Medicaid eligible Native Americans served at IHS facilities and programs. The Act specifically provides that Medicaid funds be used "exclusively for the purpose of making improvements in the IHS facilities" in order to improve the quality of health care for American Indians. For most IHS facilities and related programs, Medicaid dollars provide vital supplemental funds that allow these facilities to remain open.

The Committee language preserves these arrangements. Moreover, beginning in Fiscal Year 1998 a Federal Indian Allocation is established to fund Medicaid reimbursement, at 100 percent FMAP levels, for a five year period. Health services provided by IHS facilities or by tribally-owned and operated or urban Indian organizations will be eligible for such reimbursement. The Indian Allocation is funded at a level of $2.4 billion over fiscal years 1998 through 2002. With the advent of Medicaid reform, the language preserves the Federal government's historical commitment to Indian tribal governments in the provision of health care to Medicaid eligible Native Americans.

Effective Date

October 1, 1996.

B. Payments to States

Present Law

Payment to each State is equal to the State's spending times the applicable Federal medical assistance percentage (FMAP). The Federal share of administrative costs is 50 percent for all States, though higher rates are applicable for specific items. Federal matching payments for States and the District of Columbia are open-ended; that is, there is no limit on the amount a State may receive for expenditures that are allowable under its approved Medicaid State plan. For family planning services the FMAP is 90 percent; for services furnished by facilities of the Indian Health service the FMAP is 100 percent. For the commonwealths and territories, the Federal matching rate is 50 percent up to annual maximums fixed in statute.

Explanation of Provision

Subject to the allotment limits, payments to States for medical assistance and medically-related services will equal the State's spending for the services times the applicable FMAP. This is the greater of the old FMAP, computed as under current law, or a new FMAP, (or, if less, the old FMAP plus 10 percentage points). The new FMAP equals 100 percent minus the product of (a) 0.39 and (b) the ratio of the total taxable resources (TTR) ratio for the State to the aggregate expenditure need ratio for the State. The TTR ratio would be the ratio of the most recent 3-year average of the State's TTR, as determined by the Secretary of the Treasury, to the

sum of the average TTRs for all States (for the District of Columbia, a per capita income ratio would be substituted). The aggregate expenditure need ratio is the ratio of the State's aggregate expenditure need (as determined in computing the State's allotment; see above) to the sum of the aggregate expenditure needs for all States. The new FMAP may not be less than 60 percent or greater than 83 percent. The FMAP for commonwealths and territories is 50 percent. For administrative services, the Federal matching percentage is generally 50 percent, with enhanced matching for specified expenditures as under current law. Provisions of current Medicaid law relating to periodic payments to States and treatment of overpayments and disallowances is retained.

Payments to States may be adjusted to reflect over-estimations and under-estimations of supplemental umbrella allotments.

For the commonwealths and territories, the old and new FMAPs are 50 percent. Special rules apply to determination of the FMAP for Alaska. The FMAP is 100 percent for services provided by an Indian Health Service facility, an Indian health program operated by and Indian tribe or tribal organization, or an urban Indian health program. No State match is required for emergency services provided to unlawful aliens.

Effective Date

October 1, 1996.

C. Inter-governmental fund transfers, provider taxes and donations, and payments to disproportionate share hospitals

Present Law

Participating States are responsible for the non-Federal share of Medicaid payments. Although States are required to pay 40 percent of the non-Federal share, States may require local governments to share a part of the cost or allow other public entities to share in Medicaid financing. For example, local funds may be transferred to the State in support of Medicaid. Treated as a part of Medicaid, transferred funds may be matched by Federal dollars. In some States, funds were transferred from Medicaid providers such as State hospitals. The State would then repay the transferred funds to the provider along with the matching Federal funds without having spent State revenues. Similarly, some States have used funds donated by health care providers or taxes paid by providers to draw greater Federal matching payments. For example, hospitals might donate funds to a State which then uses those funds as the State share of Medicaid spending. The State receives Federal matching funds, then repays the hospitals their donations plus the Federal funds. Similar increases in Federal funds have been generated through taxes or mandatory assessments on providers. Legislation passed in 1991 capped Federal matching payments for State Medicaid spending financed with revenues from provider donations or taxes, prohibited the use of provider donations after 1992, and limited the use of taxes imposed specifically on Medicaid providers. The Secretary is prohibited from restricting States' use of funds transferred between governmental units within a State.

Closely related to the provider donation and tax issue in the early part of this decade was the growth in State payments to hospitals serving a disproportionate share of Medicaid and uninsured patients. States are required to make special payments to "disproportionate share hospitals" (DSHs), those that serve a higher than average number of Medicaid and other low-income patients; the Secretary is prohibited from limiting such payments. The same 1991 legislation that limited the use of provider donations and taxes limited national aggregate spending for DSH payments to 12 percent of total Medicaid program spending. States with DSH payments already exceeding 12 percent of the State's spending are not permitted to increase their payments. Other States may increase their DSH payments subject to the national cap.

Explanation of Provision

States would be permitted to use local funds to meet the non-Federal share of medical assistance up to 40 percent of the total non-Federal share. Inter-governmental fund transfers would be permitted and public funds may be considered as the State's share. The term "public funds" includes funds appropriated to the State or transferred from public agencies. Such funds may be Federal funds authorized by Federal law to be used to match other Federal funds.

Current law restrictions on provider-related donations and health care related taxes are retained.

States are prohibited from supplanting present State health funding with Medicaid base allotment funding.

The State must include in the State plan a description of provisions made for expenditures for items and services furnished by DSH hospitals and covered under the plan. The Committee believes the focus of the DSH program should be returned to the original intent of providing assistance to the nation's "safety-net" hospitals—those that provide services to a high proportion of low-income patients.

Effective Date

October 1, 1996.

7. Accountability

Reason for Change

In countless ways, the Federal bureaucracy has applied the Medicaid law in intrusive, highly technical and nonsensical ways, which has interfered with the proper flow of Federal funds to the States and has added materially to the burden of program administration.

In numerous instances, HCFA has attempted to disallow State claims for Federal match money because of alleged technical flaws in plan documents. Although the HHS Departmental Appeals Board and the Federal courts have in many instances overturned these disallowance determinations, particularly where the substance of the State operation was in compliance with the general purpose of the law and the emphasis of "form over substance," the

appeal process is not always successful and adds unnecessary costs and burdens to program administration.

HCFA has also disapproved amendments to reimbursement rates set forth in State plans on numerous occasions because the State failed to meet rigid regulatory public notice requirements, even where all affected interests were fully on notice of the changes.

The constant interruption of Federal funding caused by these unreasonable regulatory actions, and the burden put on the States that have to respond to and oppose them, is not necessary to protect the Federal fiscal integrity. Such "oversight" does not lead to improved services for recipients—nor is it meant to. Rather, this type of Federal intervention merely serves to perpetuate a Federal bureaucracy that is too large, too focused on finding fault, however technical and insubstantial, and too far removed from the significant problems of program administration.

It is time to do away with this kind of regulatory oversight, and instead empower States to run their programs with only those Federal provisions that are truly necessary to assure that program funds are used for purposes intended by the broad aims of the program.

A. State plans and plan amendments

Present Law

Each State is required to have a State plan approved by the Secretary of the Department of Health and Human Services (HHS). The plan describes the State's basic eligibility, coverage, reimbursement, and administrative policies and is updated periodically to reflect changes.

Explanation of Provision

Each State is required to have a State plan. Each State plan is required to include a description of the process under which the plan was developed. Unless the Secretary finds that a plan is in substantial noncompliance with the requirements of Title XV, the plan will be approved and be effective beginning with the date specified in the plan, but no earlier than 60 days after the plan is submitted. A State has the option of submitting the State plan that they used under Title XIX (including a plan provided under 1115 waiver, thus allowing States to maintain their innovative programs) so long as the plan meets Title XV requirements including the guarantees for eligibility and benefits, and the funding provisions.

A State is permitted to submit an amendment to its State plan at any time. However, any amendment that eliminates or restricts eligibility or benefits under the plan may not take effect unless the State certifies that there was prior or contemporaneous public notice of the change, as provided under State law. Nor may it be effective for longer than a 60-day period unless the amendment has been transmitted to the Secretary before the end of the period. Any other amendment may not remain in effect after the end of a State fiscal year (or if later, the end of the 90-day period on which it becomes effective) unless the amendment has been transmitted to the Secretary. These requirements do not apply to an amendment sub-

mitted on a timely basis in response to an order of a court or the Secretary.

Before submitting a plan or amendment to the Secretary, each State is required to provide a public notice with a description of the plan or amendment, a means for the public to inspect or obtain a copy of the plan or amendment, and an opportunity for submittal and consideration of public comments. In the public notice process, States are required to include proposed payment rates and methodologies for all providers, including institutional providers. States are required to publish final payment rates, methodologies, and justifications for such rates. Such justifications may take in account public comments received by the State (if any). In addition, the State is required to provide for consultation with one or more advisory committees established by the State.

The Secretary is required to promptly review State plans and plan amendments to determine if they substantially comply with requirements. If the Secretary determines that a plan or plan amendment substantially violates the requirements and, within 30 days of submittal, provides written notice to the State, the Secretary is required to issue an order specifying that the plan or amendment will not be effective at the end of the 30-day period (or 120 days in the case of the initial submission of the State plan). Before making such a determination, the Secretary is required to consult with the State and consider any clarifications and additional information submitted. The Secretary is required to explain and justify any determination inconsistent with any previous determination. A plan or amendment is considered to substantially violate a requirement if a provision was material and substantial in nature and effect, and was inconsistent with an express requirement. Failure to meet a strategic objective or performance goal is not to be considered a substantial violation. A State may appeal the Secretary's determination through administrative and judicial procedures. Any order to withhold funds from a State may relate only to the portions of the State plan or administration which substantially violate a requirement of Title XV. The Secretary may suspend withholding of funds during reconsideration or administrative and judicial review.

The Secretary is required to provide for a process under which an individual may complain of a State's failure to comply with the requirements of Title XV or the State plan.

The Secretary is permitted to negotiate a satisfactory resolution to any dispute concerning the approval of a plan or the compliance of a plan. The Secretary is prohibited from delegating authority for approval of plans other than to the Administrator of the Health Care Financing Administration. The Administrator is prohibited from making any further delegation of such authority. The Secretary is required to administer the program only through a prospective formal rulemaking process, including issuing notices of proposed rule making, publishing proposed rules or modifications to rules in the Federal Register, and soliciting public comment.

A State may rescind its plan and discontinue participation in the program at any time after providing 90 days prior notice to the public and to the Secretary. Such discontinuation will not apply to Federal payments to States for expenditures made for items and

services furnished under the plan before the effective date of the discontinuation. In case of withdrawal other than at the end of a Federal fiscal year, the Secretary will prorate allotments.

Each State is required to include in its State plan a description of its strategic objectives and performance goals for providing health care services, and the manner in which the plan is designed to meet the objectives and goals. State plans must include goals and objectives related to rates of childhood immunizations, reductions in infant mortality and morbidity, and to standards of care and access to services for children with special health care needs. With regard to other objectives and goals, the State may consider factors such as priorities for providing assistance to low-income populations, priorities for general public health and health status for low-income populations, the State's financial resources and economic conditions, and the adequacy of the State's health care infrastructure. To the extent practicable, a State is required to establish one or more performance goals for each strategic objective and describe how performance will be measured and compared against goals. Strategic objectives are required to cover a period of at least 5 years and must be updated and revised at least every 3 years. Performance goals must be established for dates not more than 3 years apart.

Effective Date

October 1, 1996.

B. Annual Reports

Present Law

States are required to make such reports as the Secretary may require, and comply with provisions to assure the correctness and verification of such reports.

Explanation of Provision

By March 31, each State with a State plan in effect for the preceding fiscal year is required to submit a report to the Secretary and the Congress on program activities and performance for the previous Federal fiscal year. Each report is required to include: a summary of medical assistance expenditures and beneficiaries by eligibility category; statistics on the utilization of services, including summary statistics, for each category of eligible individuals, of items and services provided on a fee-for-service basis and a summary of data reported by capitated health care organizations; a report on achievement of performance goals including actions to be taken in case a goal was not met; a summary of program evaluations; a description of fraud and abuse and quality control activities; a description of plan administration, including a description of the roles and responsibilities of State entities responsible for administering the program and organization charts for each, a description of any interstate compact entered into, and citations to State law and rules governing the State's activities under the program; and detailed information on how the State is complying with set-aside requirements for FQHCs and RHCs.

Effective Date

October 1, 1996.

C. Evaluations and audits

Present Law

Regulations state that the HHS Office of Inspector General (OIG) periodically audit State operations in order to determine whether (1) the program is being operated in a cost-efficient manner, and (2) funds are being properly expended for the purposes for which they were appropriated. The OIG releases audit reports simultaneously to officials of the State and HHS.

Explanation of Provision

During FY1999 and at least every third year thereafter, each State is required to provide for evaluation of the operation of its State plan, conducted by an entity that is responsible neither for submission of the State plan nor for administering any activity under the plan.

Each State plan is required to provide for an annual audit of the State's medical assistance expenditures in compliance with Chapter 75 of Title 31, United States Code. If the Secretary determines that a State's audit was performed in substantial violation of the Chapter 75 provision, the Secretary may conduct a verification audit or require that the State do so. Within 30 days of completion of an audit or verification audit, the State is required to provide a copy of the audit report to the Secretary along with the State's response to the auditor's recommendation. The State also is required to make the audit report available for public inspection.

Each State is required to maintain fiscal controls, accounting procedures, and data processing safeguards that are reasonably necessary to assure the fiscal integrity of the State's activities. The State's controls and procedures are required to be generally consistent with generally accepted accounting principles as recognized by the Governmental Accounting Standards Board or the Comptroller General.

Each State plan is required to provide that the records of any provider may be audited to ensure that proper payments were made under the plan.

Effective Date

October 1, 1996.

D. Fraud and abuse

Present Law

States are required to operate systems for the detection of fraud. Where fraud is found, the law provides for civil and criminal penalties. The law includes details on the information reporting requirements respecting sanctions taken against practitioners and providers by State licensing authorities.

Each State is required to have a Medicaid fraud control unit, independent of the State Medicaid agency, unless the State dem-

onstrates that operation of such a unit would not be cost-effective because minimal fraud exists, and beneficiaries will be protected from abuse and neglect without such a unit. Each unit is required to submit an annual report to the Secretary.

At each eligibility determination, an applicant, as a condition of eligibility, must assign to the State any rights to medical support and payment.

Explanation of Provision

To detect fraud and abuse by beneficiaries, providers, and others, each State plan is required to have a program that includes the following. Certain program contractors and providers are required to disclose ownership and control information to State agencies in accordance with Sections 1124 and 1124(a) of the Social Security Act. An entity (other than an individual practitioner or a group of practitioners) is required to supply information on ownership, controlling interests, and conviction of certain offenses upon request by the Secretary or the State agency. A State may exclude a provider from participation in the State plan on its own initiative, and is required to exclude any entity when required to do so by the Secretary pursuant to Section 1128 or 1128A of the Act. Whenever a provider is terminated, suspended, sanctioned, or prohibited from participating under a State's plan, the State agency is required to notify the Secretary and, in the case of a physician, the State medical licensing board. States are required to provide information and access to information respecting sanctions taken against practitioners and providers by State licensing authorities.

As under current law, each State is required to have in effect a system for reporting and providing access to information for use by the Secretary and other officials concerning licensing revocations and other sanctions taken against providers and practitioners by State licensing authorities, peer review organizations, or accreditation entities. A State is required to report any adverse action taken, whether a provider had surrendered a license or left the State, any other loss of license, and any negative action taken by a reviewing authority. The State is required to provide the Secretary with access to whatever documents the Secretary needs to determine the facts and circumstances concerning the actions taken. Such information must be provided under arrangements made by the Secretary in the form the Secretary determines to be appropriate to (1) provide for the Secretary's activities, and (2) provide information to other specified authorities in order to protect their programs and services.

The Secretary is required to safeguard the confidentiality of information furnished. However, any party authorized to disclose information is permitted to do so. In implementing this section, the Secretary is required to provide for maximum coordination of Section 422 of the Health Care Quality Improvement Act of 1986.

Each State is required to provide for a State fraud control unit (FCU) unless the State demonstrates that such a unit would not be cost-effective because minimal fraud exists, and that beneficiaries are protected from abuse and neglect without such a unit. The FCU is required to be separate and distinct from the State agency responsible for the operation and administration of the

State's medical assistance plan. It must be a part of the State Attorney General's office or coordinate with that office. It must have Statewide prosecutorial authority or the ability to refer to local prosecutors. The FCU is to investigate and prosecute violations of State fraud laws, and review and prosecute cases involving neglect or abuse of beneficiaries in nursing homes and other facilities. It is required to provide for the collection of any overpayments it discovers were made to health care providers. It is required to employ auditors, attorneys, investigators, and other necessary personnel.

Effective Date

October 1, 1996.

E. Third party liability and collections

Present Law

States are required to ascertain the potential third party liability for payment of a beneficiary's medical claims and, where legal liability exists, seek reimbursement from the third party unless it would not be cost-effective to do so. States generally are limited in the circumstances which permit them to place liens against property or seek other recovery from estates.

Explanation of Provision

Each State is required to ascertain the potential third party liability for payment of a beneficiary's medical claims and, where legal liability exists, seek reimbursement from the third party unless it would not be cost-effective to do so. States are required to prohibit a provider from refusing to furnish a covered service to a beneficiary because of a third party's potential liability for the service, and from trying to collect payment from a beneficiary that exceeds payment that would be made under the plan. For violation of the collection provision, a State may provide for a payment reduction up to 3 times the amount sought to be collected.

States are required to prohibit any health insurer, in enrolling an individual or in making payments for benefits, from taking into account that the individual was eligible for or was provided medical assistance under the State's plan.

A State is required to have laws in effect under which the State is considered to have acquired the rights of an individual to payments by a party that is liable for the individual's health care items and services. Each State is required to provide for mandatory assignment of rights of payment for medical support and care to beneficiaries.

Each State is required to have in effect laws relating to medical child support. Each State must prohibit an insurer from denying enrollment of a child because the child was born out of wedlock, was not claimed as a dependent on the parent's Federal income tax return, or did not reside with the parent or in the insurer's area. In a case in which a parent was required by a court or administrative order to provide health coverage for a child, and the parent was eligible for family health coverage, State laws must require the employer and insurer to permit the parent to enroll the child upon

application by either parent or by the State child support agency and limit the circumstances under which the insurer could disenroll such a child. State laws are required to prohibit an insurer from imposing requirements on a State agency that has been assigned the rights of an individual that are different from requirements applicable to an agent of any other covered individual; require an insurer, in the case of a child who has health coverage through the insurer of a non-custodial parent, to provide information to the custodial parent; permit the custodial parent to submit claims for covered services without the approval of the non-custodial parent, and make payment on claims to the custodial parent, the provider, or the State agency; permit the State agency to garnish the employment income of, and require withholding amounts from State tax refunds to, any person who is required by court or administrative order to cover the medical costs of a child who is eligible for medical assistance, has received payment from a third party for the costs of the child's services, and has not used the payment to reimburse the appropriate party.

A State is permitted to take appropriate action to adjust or recover from an individual or the individual's estate any amoun paid as medical assistance under a State plan. Such action may include the imposition of liens against the property or estate of an individual to the extent consistent with policies discussed above. A State may not impose a lien on the family farm owned by an individual that is the principal residence of such individual as a condition of the individual's spouse receiving nursing facility or long-term care benefits under the State plan. In addition, no lien may be imposed on a trust established for an individual under age 65 who is disabled until the death of the individual. At the time of death, the State will receive all amounts remaining in the trust up to the amount equal to the total medical assistance paid on behalf of the individual under the State plan.

As a condition of eligibility for medical assistance under a State's plan, an individual is required to assign to the State any rights to medical support and payment for medical care from any third party of the individual or any other person who is eligible and on whose behalf the individual has the legal authority to execute an assignment of such rights. An individual is required to cooperate with the State agency in establishing paternity of a child born out of wedlock and in obtaining support and payments for the individual and child unless the individual was a pregnant woman or was found to have good cause for refusing to cooperate as determined by the State. An individual is required to cooperate with the State in identifying and providing information to assist the State to pursue any liable third party unless the individual has good cause for refusing to cooperate as determined by the State. The State is required to provide for entering into cooperative arrangements (including financial arrangements) with any appropriate agency of any State and with appropriate courts and law enforcement officials, to assist the agency or agencies administering the State plan with respect to the enforcement and collection of rights to support or payment that had been assigned.

Any amount collected by the State under an assignment may be retained by the State to reimburse it for payments made on behalf

of an individual with respect to whom the assignment was executed (with appropriate reimbursement to the Federal government of its share of the payment). The remainder of such amount collected will be paid to the individual.

Effective Date

October 1, 1996.

F. Limitations of use of funds

Present Law

Federal funds are available for expenditures made in accordance with the approved State plan. A State may exclude a provider on its own or in response to action by the Secretary; if the Secretary excludes a provider from Medicare, the State must exclude the provider from Medicaid. Payment for medically-related services that do not meet the definition of medical assistance is generally not permitted. There is no restriction on total State spending for administration. Federal matching payments are not available for services that would have been paid for by a private insurer but for a provision of the insurance contract making the insurer secondary to Medicaid. In order to receive Medicaid payments for outpatient prescription drugs, the manufacturer must provide cash rebates to Medicaid programs for the products Medicaid purchases. Manufacturers must also comply with section 8126 of Title 38 of the United States Code (relating to prices of drugs procured by the Department of Veterans Affairs and other agencies), including entering into a master agreement with the Secretary of Veterans Affairs. Payments may be made for services to illegal aliens only in the case of emergency services. Federal funds may be used for payment for abortion services cases of rape or incest, or when necessary to save the life of the mother, subject to limitations provided under the annual appropriations process.

Explanation of Provision

States may use Federal funds only to carry out the purposes of Title XV. Federal payments may not be made to a State for non-emergency services provided or ordered by providers excluded under the maternal and child health or social services block grant or Medicare. Spending for medically-related services may not exceed 5 percent of total spending under the State's plan. Spending for administration may not exceed the sum of $20 million plus 10 percent of total expenditures. This limit does not apply to spending for quality assurance; the development and operation of the certification program for nursing facilities and intermediate care facilities for the mentally retarded; utilization review activities; inspection and oversight of providers; anti-fraud activities; independent evaluations; or activities needed to comply with reporting requirements. As under current law, Federal matching is not available for services that would have been paid for by a private insurer but for a provision of the insurance contract making the insurer secondary to medical assistance. Payments for medical assistance to non-lawful aliens who are otherwise eligible for medical assistance is lim-

ited to expenditures for emergency services not related to an organ transplant procedure, and at the option of the State, prenatal care. Payment may not be made for prescription drugs unless the manufacturer has entered into a master rebate agreement with the Secretary (see below) and is in compliance with current requirements of section 8126 of Title 38, including those for a master agreement with the Secretary of Veterans Affairs.

No payment is allowed for abortions, or for coverage that includes abortions, except in the case of a pregnancy resulting from rape or incest, or in case of life endangerment of the mother. No payment may be made for coverage of any drug, product, or service furnished for assisting with death or suicide.

Effective Date

October 1, 1996.

8. Drug rebates

Present Law

Federal reimbursement to States for covered outpatient prescription drugs is available only for products of a manufacturer that has agreed to grant rebates to Medicaid programs for the manufacturer's products that they purchase. A drug manufacturer must comply with the provisions of section 8126 of Title 38 of the U.S. Code (relating to prices of drugs procured by the Department of Veterans Affairs and other Federal agencies), including entering into a master agreement with the Secretary of Veterans Affairs. In addition, current Medicaid law requires a drug manufacturer to comply with provisions of section 340B of the Public Health Service (PHS) Act which limits the prices that specified PHS entities pay for outpatient drugs.

Explanation of Provision

No Federal funds will be available to a State for covered outpatient drugs unless the drug's manufacturer has entered into a master rebate agreement with the Secretary and is complying with the provisions of Section 8126 of Title 38 of the United States Code, including entering into a master agreement with the Secretary of Veterans Affairs.

States are not required to participate in the master rebate agreement. States are permitted to enter into rebate agreements on their own. States may opt to cover drugs for which there is no rebate agreement in effect. If a State has a rebate agreement already in effect which provides for a minimum rebate equal to or greater than the minimum rebate that would be paid under the master agreement, then at the State's option the agreement will be considered to meet the requirements of the master rebate agreement and the State will be considered to have elected to participate in the master agreement.

Under the master agreement, a drug manufacturer is required to provide a rebate to each State not later than 30 days after receipt of certain information from the State. Not later than 60 days after the end of a rebate period, each State participating in the master

rebate agreement is required to report to each manufacturer, with a copy to the Secretary, information on the drugs for which the State made payment during the period. A manufacturer is permitted to audit the State's information. Adjustments may be made as necessary.

Not later than 30 days after the end of a rebate period, each manufacturer subject to the master agreement is required to report to the Secretary on the average manufacturer price (AMP) and the best price of each of the manufacturer's covered products. In addition, within 30 days of entering into the agreement, the manufacturer must report the AMP as of October 1, 1990. The Secretary is permitted to verify the manufacturer's prices and impose a civil monetary penalty of up to $10,000 for refusal of the Secretary's request for information. For failure to provide timely information, the penalty is $10,000 paid to the Treasury for each day information is not provided. After 90 days, the agreement is suspended until the information is reported. For the provision of false information, a civil money penalty of up to $100,000 may be imposed in addition to other penalties. Information disclosed by manufacturers or wholesalers is confidential. The Secretaries of HHS and Veterans Affairs and State agencies or contractors are prohibited from disclosing information in a form that discloses the identity of a specific manufacturer or wholesaler or their prices except as the Secretary determines appropriate, and to permit review by the Comptroller General and the Congressional Budget Office.

Unless terminated, a master rebate agreement will be effective for at least 1 year and automatically renewed for 1 year. The Secretary may terminate an agreement for violation of requirements or for good cause. A manufacturer may terminate participation for any reason. In case of termination, another agreement may not be entered into with that manufacturer for at least 1 calendar quarter, unless the Secretary finds good cause for earlier reinstatement.

The provision provides for a basic rebate and an additional rebate. The basic rebate is based on the number of products paid for by the State during the period, and the greater of (1) the minimum rebate percentage, or (2) the difference between the AMP and the best price. The minimum rebate percentage is 15.1 percent of the AMP. The best price is the lowest price available from the manufacturer during the rebate period. The additional rebate amount is based on the amount, if any, by which the AMP of a product exceeds the product's AMP as of July 1, 1990, increased by the increase in consumer price index for all urban consumers since September 1990.

For certain drugs, including a brand name drug that a physician has certified as "medically necessary," the minimum rebate amount is 11 percent of the AMP. The Secretary may, upon request of a manufacturer, limit the rebate amounts of covered products of which most were dispensed to inpatients of nursing facilities.

A State that participates in the master rebate agreement is permitted to subject a product to prior authorization controls that meet specified requirements, exclude or restrict coverage of specified drugs or classes of drugs that are updated periodically by the Secretary, establish formularies that meet specified requirements, and impose minimum and maximum quantities on prescriptions

and refills. A State's Drug Use Review Committee may be appointed by the Governor to develop any drug formulary to be used by the State's medical assistance program.

A State is permitted to operate a drug use review program under standards established by the State. The Secretary is required to encourage each State to establish a point-of-sale electronic system for processing claims for covered outpatient drugs. The Secretary is required to submit annual reports on the drug rebate program to the Senate Committee on Finance, the House Committee on Commerce, and the Senate Committee on Aging.

The requirements of the master rebate agreement do not apply to covered outpatient drugs dispensed by a capitated health care organization or a hospital or nursing facility that uses a formulary. Amounts paid by such entities may be included in the determination of best price.

If the plan of a State participating in the master rebate agreement includes coverage of drugs that may be sold without a prescription (known as over-the-counter drugs), those drugs are to be regarded as covered outpatient drugs for purposes of the State's participation in the agreement.

Reason for Change

The Medicaid drug rebate program was first enacted in 1990 in order to constrain the costs of pharmaceuticals by guaranteeing State Medicaid programs access to the "best price" or a certain minimum discount for pharmaceuticals. At that time, Medicaid was primarily a fee-for-service program. Because of the growing move toward the use of managed care within the Medicaid program, the drug rebate program has become less important as a price control mechanism, since States have the ability to negotiate the prices that will be paid for drugs through managed care contracts. This, in large part, obviates the need for the rebate structure. The Committee is concerned that rebates are anti-competitive and constrain the ability of hospitals, HMOs, and other private sector purchasers of prescription drugs to negotiate discounts from pharmaceutical manufacturers. In addition, overly-high rebates can act as a disincentive to provider participation in Medicaid. For this reason, the bill precludes State supplemental rebates.

Effective Date

October 1, 1996.

9. Reimbursement

Present Law

In general, States develop their own methods and standards for reimbursement of Medicaid services. However, two Federal statutory provisions have had a significant effect on program spending: the so-called "Boren amendment," which requires that payments to hospitals and nursing facilities be "reasonable and adequate" to meet the cost of "efficiently and economically operated" facilities, and requirements for payment adjustments to disproportionate share hospitals. States are also required to pay FQHCs and RHCs

100 percent of the costs that are reasonable and related to the costs of furnishing services. The Federal matching rate is 100 percent for services furnished by facilities of the Indian Health Service and 90 percent for family planning services and supplies.

Under current law, premium rates for managed care organizations must be established on an actuarially sound basis. The Secretary has provided by regulation that rates may not exceed the amount which the State would have spent to provide the set of services covered by the organization to an equivalent group of beneficiaries not enrolled in the organization and continuing to receive care on a fee-for-service basis.

Explanation of Provision

The Federal matching rate to any State for all services is the State's FMAP except that the FMAP is 100 percent for medical assistance services provided by an Indian Health Service facility or an Indian Health program, and there is no State matching required for emergency services furnished to undocumented aliens. No Federal payments may be made for abortion unless the life of the mother would be endangered without the procedure, or the pregnancy resulted from rape or incest. No Federal payment may be made for amounts spent for any drug, product, or service furnished for the purpose of causing or assisting in death, suicide, euthanasia, or mercy killing.

States are required to establish two set-asides: one each for FQHC and RHC services. Each set-aside equals to 95 percent of all of a State's Medicaid payments to FQHCs and RHCs in a base year—FY 1995 or FY 1996, the year in which the State's payments to the entities were the greatest. Each State's set-aside grows annually at the same rate as the Federal base allotment for that State. No waivers of these set-asides are allowed. States have flexibility in determining the payment methodology to be used in distributing the set-asides to FQHCs and RHCs in the State. The definition of "FQHC services" includes the ambulatory services which the State chooses to include in the State's Medicaid benefit package, as in current law.

The Committee believes that States and FQHCs and RHCs must work together to integrate FQHCs and RHCs into the restructured Medicaid program. States are required to describe in the State plan methods for implementing the set-aside requirement. Annual reports must detail compliance with the set-aside requirement.

FQHCs and RHCs are encouraged to form networks among themselves and with other providers, and to compete actively in the Medicaid marketplace. Health center grant funds may not be used for this purpose and there are no funds available under current law which would assist FQHC and RHC networks to form. States are permitted to set standards for networks of FQHCs and RHCs and other providers that are appropriate for this type of provider network, thereby encouraging the development of innovative delivery systems. The alternative standards developed by the State must be adequate to protect against the risk of network insolvency.

States are permitted to make supplemental payments to FQHCs and RHCs to augment capitation payments. These supplemental payments provide incentive for them to participate as managed

care plans. If a State chooses to provide supplemental payments to augment capitation payments, the supplemental payments may be counted as qualified Medicaid expenditures and States may receive Federal matching payments (within the State's base allotment) for these supplemental payments.

In a required public notice process for State plans and plan amendments, States must include proposed payment rates and methodologies for all providers, including institutional providers. States are then required to publish final payment rates, methodologies, and justifications for such rates. Such justifications may take into account public comments received by the State (if any).

If a State contracts with HMOs or similar entities on a risk basis for a package of services including at least inpatient hospital and physician care, the State's plan must describe (a) the use of actuarial science in projecting expenditures and utilization for enrollees and setting capitation payment rates; (b) required qualifications for participating organizations; (c) a process for disseminating actuarial information to organizations on capitation rates, historical fee-for-service cost, and utilization. The State must also provide for public notice and an opportunity to comment on this information before each contract year; the notice must include the amounts of capitation payments made under the Medicaid plan in the preceding year and expected to be made in the coming year (unless exempt from disclosure under State law).

Reason for Change

Current Medicaid payment standards were intended to serve as cost stabilizing mechanisms to counter the inflationary pressures of "cost-based" reimbursement. But this purpose has been subverted by the courts, and the payment provisions have instead been made into traps for unwary States, while spawning expensive and burdensome litigation with Medicaid providers and exposing the States to broad judicial interference with their efforts at Medicaid cost containment.

The most problematic payment provision has been the "Boren Amendment," which covers payments to institutional providers such as hospitals and nursing homes. The "Boren Amendment" is widely recognized as a failure and a cause of program distortion. Even the Clinton Administration has called for elimination of the "Boren Amendment."

The ambiguity of the "Boren Amendment" has proven unworkable, and has repeatedly been used by State and Federal courts to micro-manage the development of State reimbursement systems. Frequently, court involvement has centered on the method a State uses to establish rates, often without any judicial inquiry whatsoever into the overall adequacy of a State's rates. After costly and time-consuming litigation, courts have invalidated institutional payment provisions in many States, simply because the States did not demonstrate to the court's satisfaction that they had followed these procedural requirements, and without ever considering the bottom line of provider reimbursement. This focus on the States' "decision-making" processes has forced States to justify their rate setting methods in increasingly complex litigation against judicially

developed procedural requirements of which they have had little or no advanced warning.

The development of judicially created procedural hurdles stemming from unclear statutory provisions has led to costly and unpredictable litigation for the States. The net effect of such litigation has been that State efforts to modernize reimbursement and incorporate efficiency incentives have been delayed for years. The payment standard provisions which have caused so much trouble under the current system have no place in a new medical assistance program.

While recognizing the need to give States greater flexibility to determine payment rates to providers, the Committee also recognizes that over 1,000 community health centers and 2,500 rural health clinics play a unique role in the health care delivery system, and as such should receive sufficient funding.

Federally-qualified health centers (FQHCs) and rural health clinics (RHCs) do an excellent job of providing comprehensive primary and preventive care to more than 4.6 million Medicaid beneficiaries (16 percent of all Medicaid beneficiaries), to low-income Medicare patients, and to 5 million individuals without health insurance.

FQHCs and RHCs are distinctive types of providers, based upon the profiles of individuals they serve, their sources of revenue, and the areas which they serve. FQHCs are located in medically underserved areas (MUAs) and RHCs in either MUAs or health professional shortage areas (HPSAs). FQHCs and RHCs are essential to these communities because, without the centers and clinics, the communities traditionally have had difficulty attracting and retaining clinicians. As a result, Medicaid beneficiaries in these communities have had special problems accessing health care. FQHCs and RHCs form the medical safety net for individuals in these areas. The continued existence of FQHCs and RHCs in these communities is important for both publicly insured and uninsured patients. For this reason, the Committee intends that FQHCs and RHCs be integrated into the restructured Medicaid system.

States have used managed care to improve the efficiency of care received by Medicaid beneficiaries, but FQHCs and RHCs have often received payment levels from managed care plans which are significantly less than what is needed to cover the cost of caring for these beneficiaries. Because FQHCs and RHCs do not have a large base of commercial patients, they do not have the ability to make up losses that occur when payments from Medicaid managed care plans are lower than required to care for beneficiaries.

CONGRESSIONAL BUDGET OFFICE ESTIMATES OF COMMITTEE RECOMMENDATIONS

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

June E O'Neill
Director

July 10, 1996

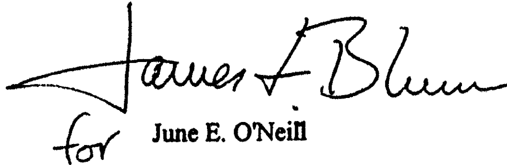
Honorable William V. Roth, Jr.
Chairman
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The Congressional Budget Office has prepared the enclosed cost estimate for federal, state and local, and private sector cost estimates for the reconciliation recommendations of the Senate Committee on Finance, as ordered reported on June 26, 1996. Enactment of the bill would affect direct spending and receipts; therefore, pay-as-you-go procedures would apply.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,



for June E. O'Neill

Enclosure

cc: Honorable Daniel Patrick Moynihan
Ranking Minority Member

CONGRESSIONAL BUDGET OFFICE

FEDERAL COST ESTIMATE

July 10, 1996

1. BILL NUMBER: Not yet assigned.

2. BILL TITLE: Not yet assigned.

3. BILL STATUS:

As ordered reported by the Senate Committee on Finance on June 26, 1996.

4. BILL PURPOSE:

The bill would reform and restructure the welfare and Medicaid programs and provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 1997.

5. ESTIMATED COST TO THE FEDERAL GOVERNMENT:

The bill would reduce outlays by $98.6 billion and increase revenues by $0.8 billion over the 1997-2002 period (See Table 1). Subtitle A of the bill contains changes in benefit programs primarily designed for persons with low income. Subtitle B specifies a restructuring of the Medicaid program, a program jointly funded by federal and state governments providing access to health services for the low-income population.

FEDERAL BUDGET EFFECTS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY ACT OF 1996
AS ORDERED REPORTED BY THE COMMITTEE ON FINANCE ON JUNE 26, 1996

Assumes enactment date of October 1, 1996.

(by fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	7 year Total
PROJECTED DIRECT SPENDING UNDER CURRENT LAW								
Family Support Payments a/	18,371	18,805	19,307	19,935	20,557	21,245	21,937	
Food Stamp Program b/	26,220	28,094	29,702	31,092	32,476	33,847	35,283	
Supplemental Security Income	24,017	27,904	30,210	32,576	37,995	34,515	40,348	
Medicaid	96,086	105,081	115,438	126,366	138,154	151,512	166,444	
Child Nutrition c/	8,428	8,898	9,450	10,012	10,580	11,166	11,767	
Old-Age, Survivors and Disability Insurance	348,186	365,403	383,402	402,351	422,412	444,081	466,767	
Foster Care d/	3,840	4,285	4,687	5,083	5,506	5,960	6,433	
Social Services Block Grant	2,880	3,010	3,050	3,000	2,920	2,870	2,840	
Earned Income Tax Credit e/	18,440	20,191	20,894	21,691	22,586	23,412	24,157	
Total	546,468	581,671	616,140	652,106	693,186	728,608	775,976	
PROPOSED CHANGES								
Family Support Payments a/	0	648	849	746	595	279	-828	2,288
Food Stamp Program b/	0	-299	-350	-183	81	235	422	-94
Supplemental Security Income	0	-593	-3,676	-4,305	-4,824	-4,344	-4,958	-22,700
Medicaid	0	501	-1,376	-7,145	-13,151	-20,360	-28,846	-70,377
Child Nutrition c/	0	0	0	-15	-75	-110	-120	-320
Old-Age, Survivors and Disability Insurance	0	-5	-10	-15	-15	-20	-20	-85
Foster Care d/	0	66	14	10	25	35	45	195
Social Services Block Grant	0	-505	-560	-560	-560	-560	-560	-3,305
Earned Income Tax Credit e/	0	-583	-631	-659	-705	-771	-832	-4,180
Total	0	-770	-5,740	-12,126	-18,629	-25,616	-35,697	-98,578
PROJECTED DIRECT SPENDING UNDER PROPOSAL								
Family Support Payments a/	18,371	19,453	20,156	20,681	21,152	21,524	21,109	
Food Stamp Program b/	26,220	27,795	29,352	30,909	32,557	34,082	35,705	
Supplemental Security Income	24,017	27,311	26,534	28,271	33,171	30,171	35,390	
Medicaid	96,086	105,582	114,062	119,221	125,003	131,152	137,598	
Child Nutrition c/	8,428	8,898	9,450	9,997	10,505	11,056	11,647	
Old-Age, Survivors and Disability Insurance	348,186	365,398	383,392	402,336	422,397	444,061	466,747	
Foster Care d/	3,840	4,351	4,701	5,093	5,531	5,995	6,478	
Social Services Block Grant	2,880	2,505	2,490	2,440	2,360	2,310	2,280	
Earned Income Tax Credit e/	18,440	19,608	20,263	21,032	21,881	22,641	23,325	
Total	546,468	580,901	610,400	639,980	674,557	702,992	740,279	
REVENUES								
PROPOSED CHANGES IN REVENUES e/	0	87	107	126	138	155	174	787

Notes

Details may not add to totals because of rounding.

a/ Under current law, Family Support Payments includes spending on Aid to Families with Dependent Children (AFDC), AFDC-related child care, administrative costs for child support enforcement, net federal savings from child support collections, and the Job Opportunities and Basic Skills Training program (JOBS). Under proposed law, Family Support Payments would include spending on the Temporary Assistance for Needy Families Block Grant, administrative costs for child support enforcement, the Child Care Block Grant, and net federal savings from child support collections.

b/ Food Stamps includes Nutrition Assistance for Puerto Rico under both current law and proposed law.

c/ Child Nutrition Programs refer to direct spending authorized by the National School Lunch Act and the Child Nutrition Act.

d/ Under current and proposed law, Foster Care includes Foster Care, Adoption Assistance, Independent Living, and Family Preservation and Support.

e/ Revenue and outlay estimates prepared by the Joint Committee on Taxation.

6. BASIS OF ESTIMATE

SUBTITLE A--WELFARE REFORM

The following description of the proposed changes focuses on direct spending and revenues. No discussion of the changes in Chapters 5 and 6 appears because they would have no direct budgetary effects.

Chapter 1: Temporary Assistance for Needy Families Block Grant

Chapter 1 of Subtitle A would alter the method by which the federal government shares in the cost of providing cash and training assistance to low-income families with children. It would combine current entitlement programs--Aid to Families with Dependent Children (AFDC), Emergency Assistance, and the Job Opportunities and Basic Skills Training program (JOBS)--into a single block grant with a fixed funding level.

In 1997, CBO projects that under current law the federal government would spend $15.9 billion on AFDC benefits, AFDC administration, AFDC emergency assistance and the JOBS program, or $0.5 billion less than the federal government would spend under Chapter 1 (not including the repeal of child care). By 2002, projected spending under current law ($18.3 billion) would exceed projected spending under Chapter 1 (not including the repeal of child care) by $1.0 billion (See Table A-1).

Effect of the block grant on cash and training assistance. The new Temporary Assistance for Needy Families Block Grant (TANF) would replace federal participation for AFDC benefit payments, AFDC administrative costs, AFDC emergency assistance benefits, and the JOBS program. The bill would fix the base level of the block grant at $16.4 billion annually through 2001. CBO assumes the block grant would continue at the same level in 2002, although the level is not specified in the bill. Each state would be entitled to a portion of the grant based on its recent spending in the AFDC and JOBS programs. States could operate under the current law AFDC and JOBS programs until July 1, 1997, but would be subject to the financing limitations of the block grant as of October 1, 1996.

A state could qualify to receive more than the basic block grant amount in four ways. First, a state that meets specified criteria related to its poverty level and population growth would receive a supplemental grant in 1998 equal to 2.5 percent of federal 1994 payments to the state for AFDC, Emergency Assistance, and JOBS. In each successive year that the state meets the criteria, the supplemental grant would increase. However, the total amount of additional funding for these supplemental

grants would be capped at $800 million. Supplemental grants would be available from 1998 through 2001. A state that did not meet the qualifying criteria in 1998 would not be eligible to qualify in any later year. CBO estimates that eighteen states would receive supplemental grants of $87 million in 1998 growing to $278 million by 2001.

Second, a state's block grant could increase by up to 10 percent of the block grant amount if the state experiences a decline in its illegitimacy ratio. The illegitimacy ratio is defined as the number of out-of-wedlock births divided by the total number of births. A state would not eligible for such a grant in a year that its abortion rate is higher than its 1995 rate. CBO estimates that only a few states would qualify and that extra funds would amount to $25 million in each fiscal year 1998-2002.

Third, a state that meets criteria set by the Secretary for high performing states could receive a bonus of up to 5 percent of its block grant each year. High Performance bonuses are capped at $175 million each year for 1999-2002.

Fourth, the bill would establish a fund (called the Contingency Fund for State Welfare Programs) of $2.0 billion for use in fiscal years 1998-2001 by states with high and increasing unemployment rates or growth in food stamp caseloads.[1] A state could receive an annual maximum of 20 percent of its block grant amount if it was an eligible state in each month of the year. States would be required to match federal payments at the current-law federal medical assistance percentage. CBO estimates that states would draw down about $180 million from the contingency fund in 1998 and would use about $1.2 billion from the fund over the 1998-2001 period.

The bill would authorize the Secretary of HHS to make loans to states to use for welfare programs. States could borrow up to 10 percent of their family assistance grant and would have to repay borrowed amounts, with interest, within three years. Any state could borrow from the loan fund in any year regardless of particular economic circumstances. CBO estimates the creation of the loan authority would not generate additional outlays. Although up to $1.7 billion would be made available to states for loans, CBO assumes that every state borrowing funds would repay its loans with interest. Therefore, the program would involve no long-run loss to the federal government, and under the credit reform provisions of the Congressional Budget Act, it would have no cost.

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1. A state that experiences an unemployment rate for the most recent quarter greater than or equal to 6 5 percent <u>and</u> 10 percent or more higher than the unemployment rate for either of the corresponding quarters in the two previous years would be eligible to draw from the contingency fund. Also, a state that experiences an increase in participation in the Food Stamp program of at least 10 percent over the 1994 or 1995 participation (adjusted for the impact of this bill had it been in effect in those years) would be eligible. A state would be eligible in any month it meets these criteria and in the following month.

The bill would provide additional federal funds for a study by the Census Bureau ($10 million a year), research, evaluations, and national studies ($15 million per year), and grants for Indian tribes that received JOBS funds in 1995 ($7.6 million a year over the 1997-2000 period). Also, the bill would allow states that are operating demonstration projects under waivers to discontinue those projects. The states would not be required to pay the federal government for any accrued federal costs of those waivers. CBO estimates this would cost the federal government $50 million in 1997. In addition, CBO has estimated that penalties of $50 million for failure to meet the bill's work participation requirements would be applied in each fiscal year 1999-2002. Finally, the bill would raise the amounts of money available to territories for assistance programs and provide greater flexibility in how the money is spent. The new $111 million cap on payments to the territories represents an increase of about $6 million over current-law amounts.

Criteria for state participation in the block grant. To participate in the block grant program, states would present an assistance plan to the Department of Health and Human Services and would ensure that block grant funds would be spent only on needy families with minor children. States would be required to continue to spend some of their own resources in order to receive their full block grant allotment. The federal grant would be reduced one dollar for every dollar that state spending fell below 80 percent of historical state spending levels. In addition, states would have to satisfy other conditions. Notably, states would be prohibited from providing federal dollars to most families who have received cash assistance for more than 5 years since the effective date of the block grant program (July 1, 1997, or earlier at state option). At their option, states could choose a shorter time limit and could grant hardship exemptions for up to 20 percent of all families. Although no family could encounter a 5-year time limit until October 1, 2001, the limit's effect on welfare participation could be noticed sooner if recipients shortened their stays on welfare or delayed childbearing in order to preserve access to the system in future years. CBO estimates that the full effect of such a limit would not be realized until 2004 or later. Eventually, under current demographic assumptions, this provision could reduce cash assistance rolls by 30 percent to 40 percent. The actual effect of the time limit on families is uncertain, however, because the bill would permit states and localities to provide cash assistance to such groups using their own resources. The inclusion of the time limit in the legislation does not affect the CBO estimate of federal costs because it would not directly change the amount of block grant funds disbursed to the states.

Work and training requirements under the block grant. Chapter 1 would require states to provide work and training activities for an increasing percentage of recipients of

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Temporary Assistance to Needy Families (TANF) or face penalties of up to 5 percent of the state's share of the block grant. States would face three separate requirements, each becoming increasingly difficult to satisfy over time.

First, the bill requires that, in 1997, states have 25 percent of certain families receiving cash assistance in work activities. The participation rates rise by 5 percentage points a year through 2002. Participants would be required to work 20 hours a week through 1998, 25 hours in 1999, 30 hours in 2000 and 2001, and 35 hours in 2002 and after. Families with no adult recipient or with a recipient experiencing a sanction for non-participation (for up to 3 months) are not included in the participation calculation. Families in which the youngest child is less than one year old would be exempt at state option. A state could exempt a family for a maximum of one year.

States would have to show on a monthly basis that individuals in 50 percent of all non-exempt families are participating in work activities in 2002. CBO estimates that this would require participation of 1.7 million families. By contrast, program data for 1994 indicate that, in an average month, approximately 450,000 individuals participated in the JOBS program. (The bill limits the number of individuals in education and training programs that could be counted as participants, so many of these individuals would not qualify as participants under the new program.) Most states would be unlikely to satisfy this requirement for several reasons. The costs of administering such a large scale work and training program would be high, and federal funding would be frozen at historic levels. Because the pay-off for such programs has been shown to be low in terms of reductions in the welfare caseload, states may be reluctant to commit their own funds to employment programs. Moreover, although states may succeed in reducing their caseloads through other measures, which would in turn free up federal funds for training, the requirements would still be difficult to meet because the remaining caseload would likely consist of individuals who would be the most difficult and expensive to train.

Second, while tracking the work requirement for all families, states simultaneously would track a separate guideline for the smaller number of non-exempt families with two parents participating in the AFDC-Unemployed Parent (AFDC-UP) program. By 2002, the bill would require that 90 percent of such families have an adult participate in work-related activities at least 35 hours per week. In addition, if the family used federal funds to pay for child care, the spouse would have to participate in work activities at least 20 hours per week. In 1994, states attempted to implement a requirement that 40 percent of AFDC-UP families participate, and roughly 40 states failed the requirement.

Finally, states would have to ensure that all parents who have received cash assistance for more than two years would engage in work activities. CBO estimates that approximately 70 percent of all parents on the cash assistance rolls in 2002 would have received such assistance for two years or more since the bill's effective date. The experience of the JOBS program to date suggests that such a requirement is well outside the states' abilities to implement.

In sum, each work requirement would represent a significant challenge to states. Given the costs and administrative complexities involved, CBO assumes that most states would simply accept penalties rather than implement the requirements. Although the bill would authorize penalties of up to 5 percent of the block grant amount, CBO assumes--consistent with current practice--that the Secretary of Health and Human Services would impose small penalties (less than one-half of one percent of the block grant) on non-complying states.

Effect of the block grant on the Food Stamp program. The federal savings estimated from the block grant conversion were reduced to account for higher estimated spending in the Food Stamp program. CBO estimates that enactment of the block grant for family support would result in families receiving lower average cash payments relative to current law and consequently, higher food stamp benefits. Under current rules, each dollar lost in cash would increase a participating family's food stamp benefits by an estimated 33 cents. Under the Food Stamp block grant option recommended by the Committee on Agriculture, Nutrition, and Forestry, however, dollars lost in cash to participating families would not affect the level of federal benefits provided in states choosing the block grant. CBO assumes that by 1999, states containing 7.5 percent of the families receiving Food Stamps would opt for the block grant, and the estimated Food Stamp costs of these provisions has been reduced accordingly. CBO estimates the incomes of AFDC families would decline relative to current projections by $2.4 billion in 2002, generating a food stamp cost in that year of nearly $650 million. This estimate assumes that by 2002 states--on average--would spend 10 percent less on cash benefits than their 1995 levels. Should states decide to spend more or less than this amount, the costs of the food stamp program would be smaller or greater than the estimate.

Effect of the block grant on the foster care program. Although the bill does not directly amend foster care maintenance payments, which would remain an open-ended entitlement with state expenditures matched by the federal government, the bill could affect foster care spending. By retaining the foster care benefits as a matched entitlement, the bill would create an incentive for states to shift AFDC children who are also eligible for foster care benefits into the foster care program. AFDC administrative data for 1993 suggest that roughly 500,000 children (5 percent of all

children on AFDC) fall into this category because they live in a household without a parent. CBO assumes a number of legal and financial barriers would prevent states from transferring a large share of such children and estimates states would collect an additional $10 million in foster care payments in 1999, rising to $45 million in 2002.

Chapter 2: Supplemental Security Income

The bulk of the savings in Chapter 2 would stem from imposing tighter eligibility criteria for children seeking benefits in the Supplemental Security Income (SSI) program. Chapter 2 would also make a variety of other changes. It would reduce the amount of the benefit in the first month for new SSI applicants, require the disbursement of large retroactive payments in installments rather than in a single lump, and offer payments to prison officials who help to identify ineligible SSI recipients in their institutions. Net savings, which reflect additional Food Stamp spending, are estimated to equal $2.0 billion in 2002 and $8.4 billion over the 1997-2002 period (see Table A-2). Of this six-year total, $85 million of the saving occurs in the Old-Age, Survivors, and Disability Insurance programs, which receive special consideration under budget scorekeeping rules.

Disabled children. The SSI program, run by the Social Security Administration (SSA), pays benefits to certain low-income aged and disabled people. The bill would revamp the SSI program for disabled children. Under current law, low-income children can qualify for the SSI program and its federal cash benefits of up to $470 a month in two ways. Their condition may match one of the medical listings (a catalogue of specific impairments, with accompanying clinical findings), or they may be evaluated under an individualized functional assessment (IFA) that determines whether an unlisted impairment seriously limits a child from performing activities normal for his or her age. Both methods are spelled out in regulation. Until the Supreme Court's decision in the Zebley case in 1990, the medical listings were the sole path to eligibility for children. Adults, in contrast, could receive an assessment of their functional and vocational capacities even if they did not meet the listings. The court ruled that sole reliance on the listings did not comport with the law's requirement to gauge whether children's disorders were of "comparable severity" to impairments that would disable adults.

The bill would eliminate childhood IFAs and their statutory underpinning, the "comparable severity" rule, as a basis for receipt of benefits. Many children on the rolls as a result of an IFA (roughly a quarter of children now on SSI) would be terminated, and future awards based on an IFA would be barred. Thus, the program would be restricted to those who met or equaled the listings. The bill would also remove the reference to maladaptive behavior--behavior that is destructive to oneself,

others, property, or animals--from the personal/behavioral domain of the medical regulations, thereby barring its consideration as a basis for award.

Even as it repeals the "comparable severity" language, the bill would create a new statutory definition of childhood disability. It states that a child would be considered disabled if he or she has "a medically determinable physical or mental impairment which results in marked and severe functional limitations [and can be expected to last 12 months or lead to death]." That language is intended to preserve SSI eligibility for some of the most severely impaired children who now qualify by way of an IFA because they do not happen to match one of the medical listings.

CBO estimated the savings from these changes by judging how many present and future child recipients would likely qualify under the new criteria. CBO relied extensively on SSA program data and on analyses conducted by the General Accounting Office and the Inspector General of the Department of Health and Human Services. Approximately 1.0 million children now collect SSI benefits, and CBO projects that the number would reach 1.4 million in 2002 if policies were unchanged. CBO assumed that most children who qualify through an IFA would be rendered ineligible under the proposed criteria--specifically, those who fail to rate a "marked" or "extreme" impairment in at least two areas of functioning. CBO also assumes that the provisions on maladaptive behavior would bar a small percentage of children from eligibility for benefits. Overall, CBO judges that approximately 22 percent of children who would collect benefits under current law would be rendered ineligible.

CBO estimates the savings in cash benefits relative to current law by multiplying the number of children assumed to lose benefits by the average benefit. That average benefit was about $430 a month in December 1995 and--because it is indexed to inflation--would grow to an estimated $528 in 2002. New awards would be affected immediately. Children already on the rolls would be reviewed under the new criteria within a year of enactment. Total savings in cash benefits would equal $0.1 billion in 1997 and $2.0 billion in 2002.

The proposed cutbacks in children's SSI benefits would affect spending in other programs. Food Stamp outlays would automatically increase to replace a portion of the cash income lost by the children's families. The extra Food Stamp costs exceed $0.2 billion a year after 1998.[2] Effects on two other programs, however, are omitted from CBO's estimate. Under current law, about half of the disabled children losing SSI benefits would be likely to end up on the AFDC program; but because that

2. Food stamp costs are estimated assuming the Agricultural Reconciliation Act of 1996 is also enacted.

program would be abolished in Chapter 1 and replaced by a fixed block grant to the states, no extra spending would result. (The extra AFDC costs would otherwise total about $60 million a year for the federal government.) Under current law, eligibility for SSI benefits generally confers eligibility for Medicaid as well. However, the bill would also replace Medicaid with a block grant. Therefore, no Medicaid effects are included in CBO's estimate. (If Medicaid were not revised, CBO would estimate savings in Medicaid of roughly $50 million a year from the provisions affecting disabled children. That amount is relatively small, because most of the children dropped from SSI would still qualify for Medicaid based on their participation in AFDC or their poverty status).

The bill would make several other changes to the SSI program for disabled children. One would set the benefit at $30 a month for children who are hospitalized and whose bill is partly or fully covered by private insurance. A similar provision already applies to SSI recipients who are hospitalized and whose care is covered by Medicaid. CBO assumes the proposal would trim benefits for about 10,000 children in a typical month, with savings of $55 to $70 million a year after 1997. The bill would also make a number of changes in the responsibility of representative payees (people who administer benefits for children or other recipients who are incapable of managing funds). CBO does not estimate significant budgetary effects from any of those changes. The bill also mandates several studies of disability issues.

SSA would face very heavy one-time costs for reviewing its current caseload of disabled children under the new, tighter criteria proposed in the bill. CBO estimates that SSA would have to collect detailed medical and functional information for 300,000 to 400,000 disabled children on the rolls at enactment, at a total cost of about $300 million. In addition, under restrictions proposed in Chapter 4, SSA would have to review the continued eligibility of about 1.4 million recipients who are recorded as aliens or whose citizenship is unknown. Most of the cost would be incurred in 1997 and early 1998. For that reason, the bill proposes a special appropriation of $300 million to cover SSA's one-time costs. CBO judges that, without such funding, SSA would be unable to comply with the timetable established by the bill, and benefit savings would be less.

Pro-rated benefits in month of application. More than 800,000 people are newly awarded SSI benefits every year. Under current law, they eventually receive a pro-rated benefit for their month of application. A person who applied on the 15th of the month, for example, could receive two weeks of benefits for that month. (The typical applicant does not get that money immediately, because it may take several months for SSA to process his or her application.) The bill proposes instead to compute benefits beginning on the first day of the month following the date of application.

CBO estimated the savings by multiplying the annual volume of awards by an assumed loss of two weeks' benefits for the average person affected. The provision would affect only applications filed after enactment, and savings would equal $150 million a year or more when it is fully effective.

Installment payments of retroactive benefits. Another provision of the bill would change the method for disbursing large amounts of retroactive benefits. Under current law, retroactive benefits--which occasionally amount to thousands of dollars, if the period they cover is a long one--are paid all at once. Under the bill, any retroactive payment that exceeded 12 times the maximum monthly benefit--about $5,600, in 1996 dollars--would be paid in installments at 6-month intervals, with each installment equaling up to 12 times the maximum benefit. Exemptions would be granted to recipients suffering from terminal illnesses or other special hardships. The vast majority of recipients would still get their retroactive benefits in a single check, but a minority (chiefly those whose awards were decided after long appeals) would get them in 2 or 3 installments. The proposal would save money principally in the first year. Based on the relatively small number of people who get very large retroactive payments, CBO estimated that about $200 million of payments would shift from 1997 into 1998. Savings after that would be much smaller.

Enforcement of restrictions on prisoners' benefits. Current law sets strict limits on payment of SSI benefits to incarcerated people, and somewhat milder limits on such payments in the Old-Age, Survivors, and Disability Insurance (OASDI) program. SSI recipients who are in prison for a full month--regardless of whether they are convicted--are to have their benefits suspended. OASDI recipients who have been convicted of an offense carrying a maximum sentence of 1 year or more are to have their benefits suspended. Those who are convicted of lesser crimes, and those who are in jail while awaiting trial, may still collect benefits. Currently, those provisions are enforced chiefly by an exchange of computerized data between the Social Security Administration and the Federal Bureau of Prisons, state prisons, and some county jails. According to SSA's Office of the Inspector General, agreements now cover roughly 73 percent of inmates--all federal and state prisoners but only about 15 percent of county prisoners. Those agreements are voluntary and involve no payments to the institutions.

This bill proposes to compensate correctional institutions that provide data to SSA. It proposes to provide correctional institutions as much as $400 if they report information to SSA that leads to identification of an ineligible SSI recipient within 30 days of incarceration, and $200 if they report within 30 to 90 days.

Information on prisoners who collect benefits is poor. Inmates may know or suspect that their benefits are illegal and thus hide them, and may misreport such crucial identifying information as Social Security numbers. For its estimate, CBO assumes that between 4 and 5 percent of inmates are collecting OASDI or SSI when they enter prison. That figure appears in a Justice Department survey of prisoners in 1991 and in a recent report by SSA's Office of Inspector General. CBO assumes that the recipient population consists roughly half-and-half of OASDI and SSI recipients. At any one time, about 70 percent of prisoners are in state or federal prisons and the rest in county jails, where spells of incarceration are much shorter and turnover rates are very high.

CBO assumes that the proposal would have two principal budgetary effects. First, the payments to prison officials would spark greater participation in matching agreements. CBO assumed that state prison officials--who now often let matching agreements lapse for several months at renewal--would renew them more promptly, that a majority of counties would sign up, and that data would be submitted with a shorter lag. From a budgetary standpoint, those changes would lead to savings in benefit payments and offsetting costs for the payments to penal institutions. The bill proposes that payments be made only to those institutions that assist in tagging ineligible SSI recipients. Nevertheless, in the course of matching Social Security numbers and other identifying information, SSA would find that some of the inmates collect OASDI. Therefore, benefit savings in both programs--SSI and OASDI--would result. Second, the proposal would add to the workload of SSA. Even if data are submitted electronically, SSA must follow up manually when it appears that an inmate may be receiving benefits. In many cases, SSA may find that the Social Security number is inaccurate or the inmate has already left the jail, leading to little or no saving in benefits from that particular investigation.

CBO assumed that the provision would yield little benefit savings in fiscal year 1997 because of the necessary lag in drafting regulations and setting up procedures. Thereafter, benefit savings would take another year or two to be fully realized as word spread among state and local correctional officials and as they became more attuned to the specific information (such as accurate Social Security numbers) they would need to provide. CBO assumes that SSA would start making payments (averaging $300) fairly soon to jurisdictions that already have matching agreements, and later to new jurisdictions that sign up. Over the 1997-2002 period, benefit savings are expected by CBO to equal $130 million and payments to jurisdictions to cost $30 million, for a net savings of $100 million; the OASDI component of the benefit savings is $85 million. SSA's extra administrative costs--which, in contrast to those two items, would require Congressional appropriation--are estimated at $70 million.

State maintenance of effort requirements. The bill would repeal the requirement (Section 1618 of the Social Security Act) that states which supplement the incomes of SSI recipients keep up that effort. All but a few states now pay such supplements. They go to almost 3 million recipients, and total nearly $4 billion per year.

The principal effect of repealing the state maintenance-of-effort requirement would be on state budgets, with relatively small and indirect effects on the federal budget. If states chose to lower their supplements, for example, the federal government would automatically pay greater Food Stamp benefits. CBO's best judgment is that those effects on the federal budget would be relatively small, but are too speculative to estimate reliably.

California poses a particularly knotty issue. It pays relatively generous supplements--accounting for nearly half of the $4 billion paid nationwide--and has special permission to offer no food stamps to its SSI recipients. California's supplements are decreed, by law, to include a "cashout" of the relatively small food stamp benefits that SSI recipients could otherwise get. If section 1618 were repealed, the legal basis of that cashout option would become tenuous, and lawsuits would almost surely result. It is not clear if and when California might be required to start giving food stamps to its SSI recipients, and--if it did--what the implications for federal food stamp costs would be. Certainly, many of the 1.0 million or so SSI recipients in California would begin to collect food stamps, but some who live in mixed households that already contain a food stamp recipient might find that the inclusion of their income actually diminishes the household's food stamp benefit. State officials in California have expressed interest in the repeal of the maintenance-of-effort requirement, but also the hope that the state would retain its cashout status in order to avoid the state's 50-percent share of any administrative costs resulting from a possible jump in food stamp caseloads. For the near term, the dollar implications from a federal standpoint appear to be small because California currently contemplates only a modest cutback in its supplements. In the longer term, CBO has great difficulty attaching a dollar figure to the food stamp cashout question, because that requires CBO to speculate about future actions by federal courts, California's governor, and the California legislature.

Administrative costs. Several provisions of the bill would affect the administrative costs of the SSI program. Some of the extra costs would be temporary and others permanent.

As already noted, the bill includes a special appropriation of $300 million to help meet the one-time costs of reviewing disabled children and aliens under new, sterner criteria. That effort would be substantially complete by early 1998, although a trickle of appeals would continue after that. Even after those initial reviews, the bill would require that children be rescreened regularly to see whether their medical condition

has improved. CBO estimates that cost at about $100 million a year beginning in 1998. The Contract with America Advancement Act (Public Law 104-121), enacted in March 1996, established a procedure under which the caps on discretionary spending may be adjusted upward in the future to finance Continuing Disability Reviews (CDRs) on recipients of SSI and Social Security disability benefits. The annual cost of about $100 million a year for periodic reviews of disabled children could be accommodated within that cap adjustment, if the Congress chooses.

CBO judges that the studies and commissions called for in the bill would cost approximately $10 million in the 1997-1998 period. And, as mentioned before, CBO estimates the extra administrative costs for SSA of following up reports on prisoners at about $70 million over the 1997-2002 period.

Chapter 3: Child Support Enforcement

Chapter 3 would change many aspects of the operation and financing of the federal and state child support enforcement system. CBO estimates that relative to current law the chapter would save $39 million in fiscal year 1997 and cost $138 million in 2002. The key provisions of Chapter 3 would mandate the use of new enforcement techniques with a potential to increase collections, eliminate a current $50 payment to welfare recipients for whom child support is collected, allow former public assistance recipients to keep a greater share of their child support collections, and authorize new spending on automated systems.

New enforcement techniques. Based on reports on the performance of various enforcement strategies at the state level, CBO estimates that child support collections received for families on cash assistance in 2002 would increase under the bill by roughly 18 percent over current projections (from $3.6 billion to $4.2 billion). Most of the improvement would result from the creation of a new-hire registry (designed to speed the receipt of earnings information on noncustodial parents) and provisions that would expedite the process by which states seize the assets of noncustodial parents who are delinquent in their child support payments. Some states have already applied the proposed enforcement techniques, thereby reducing the potential of improving collections further. CBO projects that the additional collections would result in savings of roughly $230 million in 2002 to the federal government through shared child support collections, as well as reduced spending in Food Stamps.

Elimination of the $50 passthrough. Additional federal savings would be generated by eliminating the current $50 passthrough. Under current law, amounts up to the first $50 in monthly child support collected are paid to the family receiving cash assistance without affecting the level of the welfare benefit. Thus, families for whom noncustodial parents contribute child support get as much as $50 more a month than

do otherwise identical families for whom such contributions are not made. Under current law, eight states pay families on public assistance on whose behalf the state receives child support payments a supplemental payment ("gap payment") based on the amount of the support collected and a standard of need. The proposal would give these states the option of continuing to provide these additional benefits to families. CBO assumes four of the eight states would exercise the option. Eliminating the $50 child support passthrough beginning in 1997 while excluding gap payments from the distribution rules would save the federal government between $100 million and $165 million annually.

Lost AFDC collections due to reduced cases funded by the block grant. Similar to current law, the bill would require that states share with the federal government child support collected on behalf of families who receive cash assistance through the Temporary Assistance for Needy Families Block Grant. CBO assumes that by 2002, 20 percent of states would significantly reduce the number of families served under the block grant. CBO estimates that this reduction would result in a lower federal share of child support collections of $224 million by 2002. States that reduce the number of families served under the block grant may still provide benefits to those families out of the state's own resources.

Distribution of additional child support to former AFDC recipients. The provision would require states to share more child support collections with former recipients of public assistance, reducing federal and state recoupment of prior benefit payments. When someone ceases to receive public assistance, states continue to collect and enforce the family's child support order. All amounts of child support collected on time are sent directly to the family. If a state collects past-due child support, however, it may either send the amount to the family or use the collection to reimburse itself and the federal government for past AFDC payments. The proposal would require states to send a larger share of arrearage collections to families, which would reduce recoupment by federal and state governments. The new distribution rules would phase in starting in 1998 and states would have the option of applying the new distribution rules earlier. CBO estimates that this provision would cost the federal government $51 million in 1998 and $150 million in 2002.

Hold states harmless for lower child support collections. A hold-harmless provision guarantees each state that its share of child support collections will not fall below the amount it retained in 1995. CBO assumes that 20 percent of states would make caseload reductions significant enough to trigger the hold-harmless provision at a federal cost of $29 million in 2002.

Additional provisions with budgetary implications. The bill would also increase federal spending on several other activities including automated data processing

development, operation, and maintenance, technical assistance to states, reviews and audits, and grants to states for visitation. Total federal spending for these other provisions would be about $130 million in fiscal year 2002 and over $1 billion over the 1997 to 2002 period.

Chapter 4: Noncitizens

Chapter 4 would limit the eligibility of legal aliens for public assistance programs. It would explicitly make most immigrants ineligible for SSI and Food Stamp benefits. Savings would also materialize in other programs that are not mentioned by name.

Supplemental Security Income. In general, legal aliens are now eligible for SSI and other benefits administered by the federal government. Few aliens, other than refugees, collect SSI during their first few years in the U.S., because administrators must deem a portion of a sponsor's income to the alien during that period when determining the alien's eligibility. The bill would eliminate SSI benefits altogether for most legal aliens. Exceptions would be made for groups that together make up about one-quarter of aliens on the SSI rolls: refugees who have been in the country for less than 5 years, aliens who have a solid work history in the United States (as evidenced by 40 or more quarters of employment covered by Social Security), and veterans or active-duty members of the U.S. military. All other legal aliens now on SSI would be reviewed within a year and removed from the rolls.

CBO bases its estimate of savings on administrative records for the SSI program. Those data suggested that there were about 785,000 non-citizen beneficiaries in December 1995, or 13 percent of all recipients of federal SSI payments in that month, and that their numbers might be expected to climb in the absence of a change in policy. Those records, though, are of uncertain quality. They rarely reflect changes in citizenship status (such as naturalization) that may have occurred since the recipient first began collecting benefits. It has not been important for government agencies to keep citizenship status up-to-date so long as they have verified that the recipient is legally eligible. That problem is thought to be common to all programs but particularly acute for SSI, where some beneficiaries identified as aliens have been on the program for many years. Recognizing this problem, CBO assumes that 15 percent of SSI beneficiaries recorded as aliens are in fact naturalized citizens.

CBO estimates the number of noncitizen recipients who would be removed from the SSI rolls by projecting the future caseload in the absence of policy change and subtracting the groups (chiefly certain refugees and Social Security recipients) exempted under the bill. CBO then assumes that some of the remainder will be spurred to become naturalized. The rest, estimated by CBO at approximately one-half million legal aliens, would be cut from the SSI rolls. Multiplying by the average

benefits paid to such aliens--assumed to equal nearly $400 a month in 1997, with subsequent cost-of-living adjustments--yields annual federal budgetary savings of between $2 billion and $3 billion a year after 1997.

These estimates, and other CBO estimates concerning legal aliens, are rife with uncertainties. First, administrative data in all programs are of uncertain quality. Citizenship status is not recorded at all for about 8 percent of SSI recipients, and--as previously noted--some persons coded as aliens are certainly naturalized citizens by now. Second, it is hard to judge how many noncitizens would react to the legislation by becoming citizens. At least 80 percent of legal aliens now on the SSI rolls are eligible to become citizens; the fact that they have not been naturalized may be attributable, in part, to the lack of a strong financial incentive. After all, legal immigrants are not now barred from most jobs, from eligibility for benefits, or from most other privileges except voting. Because the naturalization process takes time and effort, CBO assumes that only about one-third of those whose benefits would otherwise be eliminated will become citizens by the year 2000.

Food Stamps. The bill proposes the same curbs on Food Stamp payments to legal aliens as on SSI. Therefore, aliens could not receive food stamps unless they fell in one of the exempted groups--chiefly refugees who have been here for less than 5 years or aliens with substantial work (defined as 40 quarters) in the United States.

CBO assumes that, under current policies, the number of legal aliens receiving Food Stamp benefits would climb gradually from about 1.8 million now to 2.0 million in 2002. Around 800,000 would fall in one of the exempt categories. The rest would lose benefits unless they became naturalized. Again, CBO assumed that some of the aliens targeted for the cutoff would be spurred to become citizens. Savings of about $0.6 billion a year after 1997 would result.

Earned Income Tax Credit. The bill would deny eligibility for the Earned Income Tax Credit (EITC) to workers who are not authorized to be employed in the U.S. In practice, that provision would require valid Social Security numbers to be filed for the primary and secondary taxpayers on returns that claim the EITC. A similar provision was contained in President Clinton's 1997 budget proposal and in last fall's reconciliation bill. The Joint Committee on Taxation (JCT) estimates that the provision would reduce the deficit by approximately $0.3 billion a year.

Other programs. Other programs are not mentioned by name in Chapter 4 but would be affected by general language governing aliens' eligibility for federal benefit programs.

Although the bill would specifically exempt the child nutrition program from any restrictions on payments to legal aliens, it would subject it to a general ban on benefits to illegal aliens. Currently, schoolchildren who are illegal aliens can participate in the school lunch program. The bill would require that they be denied subsidized lunches. Because the bill provides a period of 18 months for the adoption of regulations and another 24 months for states to comply, CBO estimates no savings in the child nutrition program until 1999, with full implementation in fiscal year 2001. By then, annual savings would be about $0.1 billion. Although the bill is silent on this point, CBO assumes that illegal alien schoolchildren would still count for the purposes of the small cash and commodity subsidy that is paid on behalf of every schoolchild who buys a full-price meal and for which parents need not apply separately. Otherwise, the task of verifying citizenship status for every child could drive some school districts out of the lunch program entirely.

Both the family support program and the Medicaid program would come under general language in the bill, which explicitly gives states the option to decide whether to cover legal aliens under the two programs. That option would be subject to certain exemptions (such as protections for refugees here less than 5 years) and restrictions (such as an outright ban on coverage for future nonrefugee entrants during their first 5 years in the United States). However, both the AFDC and Medicaid programs would be turned into virtually unrestricted grants elsewhere in the bill, and their funding would not depend significantly on the coverage of aliens or any other specific group. The provisions in Chapter 4 restricting benefits to aliens would therefore produce no additional savings in these programs.

Chapter 7: Technical Amendments Relating to Child Protection Programs

Chapter 7 would extend the enhanced match for the purchase of computer equipment for foster care data collection systems. Under current law, the federal match for these types of purchases is 75 percent through the end of fiscal year 1996, and will decrease to 50 percent beginning in fiscal year 1997. This provision would continue the 75 percent match for one more year through the end of fiscal year 1997. CBO estimates that this change would increase budget authority by $80 million in fiscal year 1997 and outlays by $66 million in 1997 and $14 million in 1998. This estimate was developed in consultation with analysts at the Department of Health and Human Services and is based on states' estimates of their expenditures under current law and expectations of increased spending if the higher match rate were extended.

Chapter 8: Child Care

The recommendations of the Committee on Finance in Chapter 8 would create a new mandatory block grant to states for the provision of child care to low-income people. Individual states would be entitled to what they received for AFDC Work-Related Child Care, Transitional Child Care, and At-Risk Child Care in 1994, 1995, or the average of 1992-94, whichever is greatest. States that maintain the higher of their 1994 or 1995 spending on these programs would be able to draw down an additional amount at the Medicaid match rate. Further, the chapter contains a provision that would allow funds to be redistributed to states that have higher child care needs.

The budget authority for this block grant, as stated in the bill, would be $1.967 billion in fiscal year 1997 and would total $13.9 billion over the 1997-2002 period. CBO estimates that states would not draw down all of this money, and that outlays for the 1997-2002 period would be $12.8 billion.

CBO assumes that the block grant would not be completely drawn down for several reasons. The block grant levels are over $4 billion, or nearly 50 percent, higher than what CBO estimates would be spent on the child care programs they are replacing. Discussions with state officials and national experts in the field, as well as an examination of how much states would be able to increase spending on working poor families, pointed to CBO's conclusion that states would not be able to use all of the child care money.

The net impact of repealing current law child care programs (in Chapter 1) and creating a new block grant under this chapter would be to increase federal outlays by $0.3 billion in 1997 and $3.5 billion over the 1997-2002 period.

Chapter 9: Miscellaneous

This chapter of the bill includes reductions in the Social Services Block Grant and the Earned Income Tax Credit to achieve total budget savings (including the revenue effect) of $923 million in 1997 and $6.7 billion during the 1997-2002 period.

Social Services Block Grant. Under Title XX of the Social Security Act, funds in the form of a block grant are made available to states for them to provide a variety of social services to low-income families and individuals. Among the services covered are home-based services (such as homemaker, home health, and home maintenance), day care for children and adults, special services for the disabled, social support, prevention and intervention services, family planning, as well as many other services. The Social Services Block Grant has a permanent authorization of $2.8 billion.

Chapter 9 would reduce this amount by 20 percent resulting in outlay savings of $505 million in 1997 and $3.3 billion over six years.

Earned Income Tax Credit. The Earned Income Tax Credit (EITC) is a refundable tax credit directed toward relatively low-income workers. The refundable portion of the credit has estimated outlays of $18.4 billion in 1996. Under current law, income tax filers with two or more children are eligible for an EITC of 40 percent of earnings in 1996 with a maximum credit of $3,556. The credit is phased out based on the maximum of earnings or adjusted gross income over the range $11,610 to $28,495. The maximum credit for a return with one child is $2,152, and it is phased out at incomes between $11,610 and $25,078. Finally, a maximum credit of $323 is available for filers without children, which is phased out over the $5,280-$9,500 range. Chapter 9 contains three changes to the EITC.

Section 2911 would require that the EITC be denied in cases where the tax filer had disqualified income. Under current law, tax filers with more than $2,350 in taxable investment income are disqualified from the use of the EITC. The bill would lower the limit to $2,200 and would expand the definition of investment income to include the positive capital gains and passive income. This change, which would be effective for tax years beginning after December 31, 1995, would reduce outlays by $170 million in 1997 and $948 million over the 1997-2002 period. The related revenue increases are $26 million and $150 million, respectively.

Section 2912 would modify the definition of adjusted gross income (AGI) for the calculation of the EITC. Income from tax-exempt interest, nontaxable distributions from pensions, annuities, and Individual Retirement Accounts, and certain child support payments would be included in modified AGI. Certain losses--such as from rent and royalties, capital losses, and other business or investment losses--would not be allowed in modified AGI for the calculations of the EITC. The refundable component (outlays) for the EITC would be reduced by $214 million in 1997 and $1.5 million over six years. Revenues would be higher by $35 million in 1997 and by $212 million over the 1997-2002 period.

Section 2913 would modify the EITC by suspending the inflation adjustments only for individuals with no qualifying children. The JCT estimates that this section would reduce the deficit by $1 million in 1997 and $664 billion over six years.

Because of interactions between the various EITC provisions, the total estimated effects of the changes to the EITC differs from the sum of the individual estimates over six years.

SUBTITLE B: RESTRUCTURING MEDICAID

Subtitle B of the bill contains the changes in the Medicaid program. The estimated budgetary effects assume that the reconciliation bill will be enacted by October 1, 1996; the estimate could change if the bill is enacted later. More detail on the budget estimates appears in Table B.

The Medicaid Restructuring Act would repeal Title XIX of the Social Security Act (Grants to States for Medical Assistance) and replace it with a new program that would provide funds to states to pay for medical assistance for low-income individuals. The bill would limit the amount of federal funds available to states as matching grants for their medical assistance programs while requiring that state plans guarantee coverage for certain individuals. It would also increase states' flexibility to administer their programs. The bill would authorize supplemental payments to states with changes in enrollment that exceed thresholds set in the bill as well as supplemental payments for illegal aliens and Native Americans. In addition, the bill includes changes to the formula that determines the federal matching share. Finally, this title, as well as Subtitle A, contains provisions limiting Medicaid benefits for legal aliens. Because of the limits in this title on federal Medicaid spending, however, the provisions regarding aliens would have no budgetary effects. The estimated federal savings in Medicaid from these changes total $70.4 billion over the 1997-2002 period; the bill would increase federal spending by an estimated $0.5 billion in 1997.

Funding limits and state allocation. The bill would limit federal Medicaid obligations in total and for each state, with the aim of achieving specified outlay targets (called pool amounts). The proposal would authorize a pool of funds to be distributed among states for the purpose of providing medical assistance to low-income individuals. The bill specifies the pool amounts for 1997 through 2002. After 2002, the pool amounts would be increased by the lesser of 4.82 percent or the annual percentage increase in the gross domestic product. The bill also establishes a procedure for computing the obligation limitations for each year based on the specified limits on outlays.

States would continue to pay for medical assistance for eligible individuals and would collect the federal share of those payments from the federal government. The federal government would pay each state at the federal matching rate up to a limit determined by an allocation formula in the bill. The allocation formula would distribute the pool of funds by inflating the specified 1996 Medicaid payments for each state, adjusting for case-mix, medical costs, and the number of individuals in poverty in each state, and calibrating each state's amount so that the sum of all the allocations did not exceed the total in the pool. After 1997, a state's needs-based allocation would be modified through the use of minimum and maximum growth rates for federal

expenditures. These limits create ceilings and floors for payments to a particular state.

Even with the constraints imposed by the ceilings and floors, states would experience significantly different growth rates in federal contributions, both absolutely and relative to their projected federal contributions under current law. Two features of the resulting allocation among the states are worthy of note. First, because the size of a state's poverty population is a component of the needs formula, states with rapidly growing poverty populations would probably increase their share of federal Medicaid expenditures over time. Second, because states would be sharing a limited pool of federal Medicaid funds, increases in allocations for some states would result in reductions in allocations for others.

Guarantees and supplemental payments. Under the proposal, states would be required to make medical assistance available for certain guaranteed benefits to the following groups: children under age 6 and pregnant women with family incomes below the 133 percent of the poverty level; children ages 6 through 18 born after September 30, 1983, in families with incomes below 100 percent of the poverty level; certain low-income disabled and elderly individuals; children receiving foster care or adoption assistance under title IV of the Social Security Act; and certain other low-income families.

Guaranteed benefits generally include, but are not identical to mandatory benefits under current law. Services of Federally Qualified Health Centers (FQHCs) and Rural Health Centers (RHCs) are guaranteed benefits, and states must meet a set-aside of 95 percent of all medical assistance payments for all services provided at FQHCs or RHCs in the base year (1995). Although not a guaranteed benefit, the bill expands the definition of inpatient mental hospital services to include coverage of adults for acute care in state-operated mental hospitals. Under current law, individuals ages 21-65 in these facilities are not eligible for Medicaid. The proposal also includes a provision prohibiting a Medicaid plan from imposing treatment limits or financial requirements on services for mental illness that are not imposed on services for other illnesses, but allows states to make determinations of medical necessity for coverage of mental health services. CBO assumes the intent of this provision is not to mandate coverage of mental health services, but to require parity in cases where mental health services are covered. In states that continued to cover mental health services, parity for inpatient mental hospital services could be costly. Because of the ambiguity in defining mental health parity, however, and because states have a great deal of flexibility in setting treatment limits on a variety of services, the impact on outpatient services is less clear. Unlike private insurance, Medicaid has traditionally covered a wide range of outpatient mental health services so mandating parity would probably only affect inpatient spending in many states.

The bill would provide supplemental umbrella allotments for states with excess growth in certain population groups with guaranteed coverage. States with enrollment above a specified threshold would be eligible to receive a per beneficiary payment for all beneficiaries over the threshold. The threshold measures the increase in beneficiaries by population group over the previous year. The payment would equal 1995 per capita expenditures for each group, inflated by the Consumer Price Index. Total payments would be adjusted to reflect slower than anticipated growth in a particular population group. Excess beneficiaries in one year would be included in the base against which enrollment growth is measured to determine whether a state qualified for a supplemental payment in subsequent years. CBO estimates that the umbrella allotments will cost $26 billion over the seven-year period. Some states would also be eligible for supplemental payments for treatment of illegal aliens and/or Native Americans. The bill provides for $2.9 billion for illegal aliens and $2.4 billion for Native Americans.

Increased flexibility and changes in state matching requirements. The Medicaid Restructuring Act would provide states with greater flexibility to administer their medical assistance programs. States would no longer be constrained to provide the same level of medical assistance statewide, nor would comparability of coverage among beneficiaries be required. In addition, they would be allowed to determine (without a federal waiver) the delivery mode of health care to beneficiaries including, for example, mandatory enrollment in risk-based managed care plans provided that beneficiaries have a choice of health plans and FQHC and RHC set-aside requirements were met. States would also have greater flexibility in determining provider reimbursement levels, because the proposal would repeal the Boren Amendment. The proposal would maintain several aspects of the current Medicaid program including regulations to prevent spousal and family impoverishment and restrictions on the use of donations from providers and provider-specific taxes to generate state matching funds.

The bill would prohibit states from supplanting state funds expended for the provision of health services as of June 1, 1996, with federal funds provided under the Medicaid Restructuring Act. Based on verbal communication with Senate staff, CBO assumes the intent of this provision is to prevent states from reducing state-only funds. Unless the term "state funds" is clarified, however, this provision may conflict with other provisions in the bill for some states. For example, the bill changes the federal matching share formula that, in some cases, would have enabled states to decrease their state share of spending on medical assistance. In addition, federal tracking of total state health spending would be very difficult.

States might need to change their programs or increase state spending to adapt to the new federal spending limits; however, the guarantees in the proposal would place

some constraints on the extent to which benefits and enrollment could be reduced. Some potential changes might include: forgoing extensions of coverage to new groups of beneficiaries; curtailing expansions of benefits; and reducing payments to providers. If those measures did not achieve enough savings, states might turn to scaling back eligibility and services and increasing cost-sharing for beneficiaries, although cost-sharing options are limited. In addition, some states might reduce spending for such activities as quality assurance, database development, and program oversight.

Under the current Medicaid program, every dollar that a state spends produces at least a dollar in federal support, providing a strong incentive for states to expand their programs. The proposal would reduce that incentive in two ways. Federal support would end once a state had reached its cap, eliminating, at the margin, the financial incentive for states to continue spending their own funds. In addition, the proposal would raise the minimum federal matching rate from its current level of 50 percent to 60 percent, an increase that would benefit almost half the states. (In 1995, 22 states had federal matching rates of less than 60 percent.) With higher federal matching rates, states would draw down federal funds more quickly, and would reach their allocation caps with lower state expenditures.

Transitional issues. Although the proposal would become effective in October 1996, the federal government and the states would remain liable for claims resulting from Medicaid obligations incurred prior to the enactment of the proposal. The formula for allocating Medicaid obligations in 1997 would reflect the estimated payment of claims under the old Title XIX. The proposal specifies the total estimated amount of Medicaid outlays in 1997, and the Secretary of Health and Human Services (HHS) would allocate the total among the states. Providers and states would have until April 1, 1997, to submit claims incurred under Title XIX prior to enactment of the proposal, and the federal government would pay all valid claims submitted, whether they exceeded or fell short of the Secretary's estimate. Benefits under Title XIX would cease to be an individual entitlement upon the enactment of the proposal, and obligations under Title XIX after enactment would be included in the obligation limit under the new title for 1997.

To participate in the new Medicaid program, state plans would have to be submitted to, and approved by the Secretary of HHS. States would have the option to submit plans that had been approved under Title XIX if those plans met the new requirements. States choosing to develop new plans might also need to develop new systems for establishing eligibility, delivering medical services, reimbursing providers, and collecting program data. Such changes might require state legislative action, and could therefore take time to put in place.

7. PAY-AS-YOU-GO CONSIDERATIONS:

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enactment of the Welfare and Medicaid Reform Act of 1996 would affect direct spending and receipts. Therefore, pay-as-you-go procedures would apply to the bill. The pay-as-you-go scorecard excludes costs or savings in the OASDI program.

PAY-AS-YOU-GO IMPLICATIONS OF THE RECONCILIATION RECOMMENDATIONS AS ORDERED REPORTED BY THE COMMITTEE ON FINANCE ON JUNE 26, 1996

	(by fiscal years, in millions of dollars)		
	1996	1997	1998
Change in Outlays	0	-765	-5,730
Change in Revenues	0	87	107

8. ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS:

See attached statement on state, local, and tribal government mandates.

9. ESTIMATED IMPACT ON THE PRIVATE SECTOR:

See attached statement on private sector mandates.

10. PREVIOUS CBO ESTIMATE:

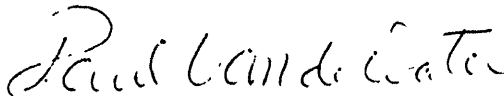
On June 26, 1996, CBO sent a letter to the Chairman and Ranking Minority Member of the House Committee on Budget containing CBO's estimates of reconciliation language reported by House committees with jurisdiction over welfare programs, nutrition programs, and Medicaid. This bill has many provisions in common with that bill, but is narrower in scope because it does not address the Food Stamp and Child Nutrition programs. Instead, provisions affecting those programs were reported separately by the Senate Committee on Agriculture, Nutrition, and Forestry, and were analyzed by CBO on July 3. Apart from this difference in the scope of the two bills,

the estimates for this bill strongly resemble those contained in CBO's letter of June 26.

11. ESTIMATE PREPARED BY:

Sheila Dacey (226-2820), Jean Hearne (226-9010), Justin Latus (226-2820), Dorothy Rosenbaum (226-2820), Robin Rudowitz (226-9010), and Kathy Ruffing (226-2820).

12. ESTIMATE APPROVED BY:



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CONGRESSIONAL BUDGET OFFICE

ESTIMATED COST OF INTERGOVERNMENTAL MANDATES

July 10, 1996

1. BILL NUMBER: Not yet assigned.

2. BILL TITLE: Not yet assigned.

3. BILL STATUS:

As ordered reported by the Senate Committee on Finance on June 26, 1996.

4. BILL PURPOSE:

The bill would restructure or modify the federal welfare programs and Medicaid by reducing federal spending and granting states greater authority in operating many of these programs.

5. INTERGOVERNMENTAL MANDATES CONTAINED IN BILL:

The bill contains a number of new mandates as defined under the Unfunded Mandates Reform Act of 1995, Public Law 104-4, and repeals a number of existing mandates.

Block Grants for Temporary Assistance for Needy Families. The bill would eliminate a mandate by allowing states to lower their payment levels for cash assistance. Current law requires states to maintain their AFDC payment levels at or above their levels on May 1, 1988, as a condition for having their Medicaid plans approved, and at or above their levels on July 1, 1987, as a condition for receiving some Medicaid funds for pregnant women and children. This bill would repeal those requirements but would replace it with the new requirement that states maintain their overall level of expenditures for needy families at 80 percent of their historical level.

Supplemental Security Income (SSI). SSI is a federal program, but most states supplement the federal program. Current federal law requires states to either maintain their supplemental payment levels at or above 1983 levels or maintain their annual expenditures at a level at least equal to the level from the previous year. Once a state elects to supplement SSI, federal law requires it to continue in order to remain eligible for Medicaid payments. This bill would eliminate that mandate.

Child Support. The bill would mandate changes in the operation and financing of the state child enforcement system. The primary changes include using new enforcement techniques, eliminating a current $50 payment to welfare recipients for whom child support is collected, and allowing former public assistance recipients to keep a greater share of their child support collections.

Restricting Welfare and Public Benefits for Aliens. Future legal entrants to the United States would be banned, with some exceptions, from receiving federal benefits until they have resided in the country for five years. Thereafter, the bill would require states to use deeming (including a sponsor or spouse's income as part of the alien's) when determining financial eligibility for federal means-tested benefits. The bill would also require states to implement an alien verification system for determining eligibility for federal benefit programs that they administer. The requirements associated with applying deeming in these programs and implementing verification systems could result in costs to some states. However, the flexibility afforded states in determining eligibility and benefit levels reduces the likelihood that these requirements would represent mandates as defined by Public Law 104-4.

6. ESTIMATED DIRECT COSTS OF MANDATES TO STATE, LOCAL, AND TRIBAL GOVERNMENTS:

(a) Is the $50 Million Threshold Exceeded? No.

(b) Total Direct Costs of Mandates:

On balance, spending by state and local governments on federally mandated activities could be reduced by billions of dollars over the next five years as a result of enactment of this bill, although states are not likely to take full advantage of this new flexibility to reduce spending. While the new mandates imposed by the bill would result in additional costs to some states, the repeal of existing mandates and the additional flexibility provided are likely to reduce spending by more than the additional costs. (Other aspects of the bill that do not relate to mandates could be very costly to state and local governments. These impacts are discussed in the "other impacts" section of this estimate.)

Block Grants for Temporary Assistance for Needy Families. The bill would grant states additional flexibility in maintaining their spending for needy families. This flexibility could save states a significant amount of money;

however, CBO is unable to estimate the magnitude of such savings at this time.

Supplemental Security Income. Eliminating the current maintenance of effort requirement on state supplements to SSI could reduce spending for federally mandated activities by nearly $4 billion annually.

Child Support. The mandates in the child support portion of the bill would produce a net saving to states. CBO estimates that the direct savings from increasing child support collections retained by the states and eliminating the $50 pass through would outweigh the additional costs of improving the child support enforcement system and allowing former public assistance recipients to keep a greater share of their child support collections.

The table below summarizes the costs and savings associated with the child support portion of the bill. In total, CBO estimates that states would save over $163 million in 1997 and $1.9 billion over the 1997-2002 period.

TABLE. CHANGES IN SPENDING BY STATES ON CHILD SUPPORT ENFORCEMENT
(By fiscal year, outlays in millions of dollars)

	1997	1998	1999	2000	2001	2002
Enforcement and Data Processing[a]	62	-5	50	60	40	48
Direct Savings from Enforcement	-20	-45	-127	-216	-302	-380
Elimination of $50 Pass Through	-206	-221	-244	-267	-292	-315
Modifying Distribution of Payments	0	47	52	58	112	138
Total	-163	-223	-269	-364	-442	-510

a. Net of technical assistance provided by the Secretary of Health and Human Services.

(c) Estimate of Necessary Budget Authority: None.

7. BASIS OF ESTIMATE:

Supplemental Security Income

States annually supplement federal SSI payments with nearly $4 billion of their own funds. Even though some states supplement SSI beyond what is required by the federally mandated levels, most of the $4 billion can be attributed to the mandate to maintain spending levels. While CBO would not expect states to cut their supplement programs drastically, they would no longer be required by federal law to spend these amounts.

Child Support

Enforcement and Data Processing Costs. The new system for child support enforcement would focus on matching Social Security numbers in the states' registries of child support orders and directories of new hires. The states would track down non-cooperative parents and insure that support payments would be withheld from their pay checks.

Much of the costs of improving the system would involve automated data processing. The bill would require states to develop computer systems so that information can be processed electronically. The federal government would pay for 80 percent to 90 percent of these costs. Other mandates include suspending a variety of licenses of parents who are not paying child support and providing enforcement services to recipients of Temporary Assistance for Needy Families, Foster Care, and Medicaid and anyone else who requests assistance. The federal government would pay 66 percent of these costs. The numbers in the table in the previous section reflect only the states' share of these costs.

Direct Savings from Enforcement. Under current law, states can recoup some of the costs of supporting welfare recipients by requiring child support payments to be assigned to the state. As child support enforcement improves, state and federal collections would increase. In addition, by strengthening enforcement and increasing collections, states would achieve other savings, such as a reduction in the number of people eligible for Medicaid.

Elimination of the $50 Passthrough. Under current law, the first $50 in monthly child support collections is paid to welfare families receiving cash assistance. The rest is retained by the state and federal government. Because states and the federal

government would be allowed to keep the first $50 if this bill is enacted, states would annually save between $200 million and $300 million.

Modifying Distribution of Payments. Under current law, when someone ceases to receive public assistance, states continue to collect and enforce the family's child support order. All amounts that are collected on time are sent directly to the family. If states collect past-due child support, however, they may either send the amount to the family or use the amount to reimburse themselves and the federal government for past AFDC payments. Under this bill, after a transition period, payments of past-due child support would first be used to pay off arrearages to the family accrued when the family was not on welfare. The bill would thus result in a loss of collections that otherwise would be recouped by the states.

Restricting Welfare and Public Benefits for Aliens

The bill would afford states broad flexibility to offset any additional costs associated with the deeming and verification requirements. Because in general states would have sufficient flexibility to make reductions in most of the affected programs, the new requirements would not be mandates as defined in Public Law 104-4. (Additional requirements imposed on states as part of large entitlement programs are not considered mandates under Public Law 104-4 if the states have the flexibility under the program to reduce their own programmatic and financial responsibilities.) Deeming requirements and verification procedures would thus constitute mandates only in those states where such flexibility does not exits. Furthermore, any additional costs would be at least partially offset by reduced caseloads in some programs. On balance, CBO estimates that the net cost of these requirements would not exceed the $50 million annual threshold established in Public Law 104-4.

8. APPROPRIATION OR OTHER FEDERAL FINANCIAL ASSISTANCE PROVIDED IN BILL TO COVER MANDATE COSTS:

The federal government would provide 66 percent to 90 percent of the costs of improving the child support enforcement system. The costs reflected in this estimate are just the share of the costs imposed on the states.

9. OTHER IMPACTS ON STATE, LOCAL, AND TRIBAL GOVERNMENTS:

The bill would have many other impacts on the budgets of state, local, and tribal governments, especially the loss of federal funding to the states or their residents.

This loss of funding would not be considered a mandate under Public Law 104-4, however, because states would retain a significant amount of flexibility to offset the loss with reductions in the affected programs. Under Public Law 104-4, an increase in the stringency of conditions of assistance or a reduction in federal funding for an entitlement program under which the federal government spends more than $500 million annually is a mandate only if state, local, or tribal governments lack authority under that program to amend their own financial or programmatic responsibilities.

Block Grants for Temporary Assistance for Needy Families

The bill would convert Aid to Families with Dependent Children (AFDC), Emergency Assistance, and Job Opportunities and Basic Skills Training (JOBS) into a block grant under which states would have a lot of freedom to develop their own programs for needy families. The bill, however, would impose several requirements and restrictions on states, most importantly work requirements. By fiscal year 2002, the bill would require states to have 50 percent of certain families that are receiving cash assistance in work activities. CBO estimates that the cost of achieving these targets would be $10 billion in fiscal year 2002. CBO assumes that, rather than achieving the targets, most states would opt to pay the penalty for not meeting these requirements.

The federal government's contribution to assistance to needy families would be capped. By fiscal year 2002, annual contributions for assistance (excluding child care) would be about $1 billion less than what is expected under current law. In order to deal with the shrinking federal support and the requirements discussed above, the states would have the option of cutting benefit levels or restricting eligibility. Some state and local governments could decide to offset partially or completely the loss of federal funds with their own funds.

Supplemental Security Income

The bill would reduce SSI benefits (net of increases in food stamp benefits) by about $2 billion annually by fiscal year 2002. Some state and local governments may choose to replace some or all of these lost benefits.

Child Protection and Foster Care

The bill would maintain the current open-ended entitlement to states for foster care and adoption assistance and the block grant to states for Independent Living. The bill

would also extend funding to states for certain computer purchases at an enhanced rate for one year.

Child Care

The bill would authorize the appropriation of $1 billion in each of fiscal years 1996 through 2002 for the Child Care and Development Block Grant. The appropriation for the block grant for fiscal year 1996 is $935 million.

In addition, the bill would provide between $2.0 billion and $2.7 billion between 1997 and 2002 in mandatory funding for child care on top of the $1 billion authorization. This mandatory spending would replace AFDC work-related child care--an open ended entitlement program--Transitional Child Care, and At-Risk Child Care. By fiscal year 2002, annual mandatory spending for child care under the bill would be about $800 million higher than federal spending for current child care programs is currently projected to be.

Miscellaneous

This bill would reduce funding of the Social Services Block Grant to States by $560 million annually between fiscal years 1997 and 2002.

Medicaid

The new Medicaid program would be primarily funded by a capped grant rather than an open entitlement to the states as under current law. But the availability of an "umbrella" fund would allow states to receive additional federal funds in the event of certain unanticipated increases in enrollment. In addition, some states would be eligible for supplemental payments for treatment of illegal aliens and Native Americans. Compared to current levels, the annual federal contribution to Medicaid would drop by $29 billion by fiscal year 2002. Some states may decide to offset the loss of federal funds with additional state funds rather than reduce benefits, restrict eligibility, or reduce payments to providers. In addition, to the extent that public hospitals and clinics decide to serve individuals who lose Medicaid benefits, state and local government spending would increase.

Increased Flexibility for States. The bill would restructure the Medicaid program by granting states greater control over the program. For example, the bill would allow states to operate their programs under a managed care structure without receiving a

federal waiver. In addition, states would no longer be constrained to provide the same level of medical assistance statewide, nor would comparability of coverage among beneficiaries be required. States would also have greater flexibility in determining provider reimbursement levels, because the proposal would repeal the Boren amendment.

Limits on Flexibility for States. The bill would prohibit states from supplanting state funds expended for health services with federal funds provided under this bill. As currently written, this provision is not clear. Based on verbal communications with Senate staff, CBO assumes that the intent of this provision is to prevent states from reducing spending for health services that do not qualify for federal matching under Medicaid. If the term "state funds" includes the states' share of Medicaid, however, this provision may conflict with the proposed increase in the federal matching rate for some states.

In addition, the bill would limit the new flexibility to use managed care without a waiver. If states mandate enrollment in managed care, they would have to provide beneficiaries with a choice of at least two health plans. States would also have to set aside funds for Federally Qualified Health Clinics and Rural Health Clinics. The set-aside for each state would equal 95 percent of that state's expenditures for these clinics in fiscal year 1995.

Finally, the bill would prohibit Medicaid plans from imposing treatment limits or financial requirements on services for mental illnesses that are not imposed on services for other illnesses. Similar language for health insurance plans is included in H.R. 3103, the Health Reform Act of 1996, as passed by the Senate on April 23, 1996. Based on our interpretation of the provision in H.R. 3103, we assume that the intent of the Medicaid provision is not to mandate mental health services but to require parity if states provide any mental health services. If states choose to provide mental health services, parity for inpatient hospital services would be costly. Current law prohibits states from using Medicaid funds to provide inpatient care at psychiatric institutions for individuals who are between the ages of 21 and 65. Although not a guaranteed benefit, the bill would expand the definition of inpatient mental health services to include coverage of these individuals for acute care. Therefore, if a state provides any mental health services, the parity provision would require the state to provide these individuals with acute inpatient care without restrictions that differ from other inpatient services.

If the parity provision is interpreted to mandate mental health services, states with the least flexibility in their Medicaid program may not be able to offset the costs of this requirement by decreasing their responsibilities in other parts of the program. In those states, this provision could thus result in a mandate with costs that could exceed the $50 million annual threshold established in Public Law 104-4.

Drug Rebate Program. The bill would also restructure the drug rebate program so that states would keep the entire rebate, rather than share it with the federal government.

10. PREVIOUS CBO ESTIMATE:

On June 26, 1996, CBO transmitted an intergovernmental mandates statement for the Welfare and Medicaid Reform Act of 1996, as ordered reported by the House Committee on the Budget on June 18, 1996. The House and Senate bills are similar; however the House bill includes child nutrition and food stamp provisions which are not included in this Senate bill. In addition, the House bill does not include the provision requiring mental health parity under the Medicaid program.

11. ESTIMATE PREPARED BY: John Patterson, Marc Nicole, and Leo Lex (225-3220)

12. ESTIMATE APPROVED BY:

Paul N. Van de Water
Assistant Director
for Budget Analysis

CONGRESSIONAL BUDGET OFFICE

ESTIMATE OF COST OF PRIVATE SECTOR MANDATES

July 10, 1996

1. BILL NUMBER: Not yet assigned.

2. BILL TITLE: Not yet assigned.

3. BILL STATUS:

As ordered reported by the Senate Committee on Finance on June 26, 1996.

4. BILL PURPOSE:

The bill would reform and restructure the welfare and Medicaid programs and provide for reconciliation pursuant to section 202 (a) of the concurrent resolution on the budget for fiscal year 1997.

5. PRIVATE SECTOR MANDATES CONTAINED IN THE BILL:

Subtitle A contains several private-sector mandates as defined in Public Law 104-4. Chapter 3 would require employers to provide information on all new employees to new-hire directories maintained by the states, generally within 20 days of hiring the workers. This requirement could be satisfied by submitting a copy of the employee's W-4 form.

Chapter 4 would impose new requirements on individuals who sign affidavits of support for legal immigrants. Under current law, any new immigrant who is expected to become a public charge must obtain a financial sponsor who signs an affidavit promising, as necessary, to support the immigrant for up to three years. The affidavit is not legally binding, however. During this three-year period, a portion of the sponsor's income is counted as being available to the immigrant, and is used to reduce the amount of certain welfare benefits for which the immigrant may be eligible. After the three-year period, immigrants are eligible for welfare benefits on the same basis as U.S. citizens.

The bill would make the affidavit of support legally binding on sponsors of new immigrants, either until those immigrants became citizens or until they had worked in the U.S. for at least 10 years. This requirement would impose

an enforceable duty on the sponsors to provide, as necessary, at least a minimum amount of assistance to the new immigrants. The bill would also make most new immigrants completely ineligible for welfare benefits for a period of five years. In addition, the bill would require sponsors to report any change in their own address to a state agency.

Chapters 4 and 9 include changes in the Earned Income Credit that would raise private-sector costs. Specific changes include modifying the definition of adjusted gross income used for calculation of the credit, altering provisions related to disqualifying income, denying eligibility to workers not authorized to be employed in the U.S., and suspending the inflation adjustment for individuals with no qualifying children.

6. ESTIMATED DIRECT COST TO THE PRIVATE SECTOR:

CBO estimates that the direct cost of the private sector mandates in the bill would be $92 million in fiscal year 1997 and would total about $1.3 billion over the five-year period from 1997 through 2001, as shown in the following table.

	Fiscal Year (dollars in millions)				
	1997	1998	1999	2000	2001
Requirement on Employers	--	10	10	10	10
Requirements on Sponsors of New Immigrants	5	20	55	195	400
Changes in the Earned Income Credit	87	107	126	138	155

The mandate requiring employers to provide information on new employees to new-hire directories maintained by the states would impose a direct cost on private sector employers of approximately $10 million per year once it becomes effective in 1998. Based on data from the Bureau of the Census, CBO estimates that private employers hire over 30 million new workers each year. Even so, the cost to private employers of complying with this mandate

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would be expected to be relatively small. Many states already require some or all employers to provide this information, so that a federal mandate would only impose additional costs on a subset of employers. In addition, employers could comply with the mandate by simply mailing or faxing a copy of the worker's W-4 form to the state agency, or by transmitting the information electronically.

The mandate to make future affidavits of support legally binding on sponsors of new immigrants would impose an estimated direct cost on the sponsors of $5 million in 1997, rising to $400 million in 2001. These estimates represent the additional costs to sponsors of providing the support to immigrants that would be required under the bill. The added costs are larger after the first three years because of the new responsibility sponsors would have to provide support after the three-year deeming period.

The Joint Committee on Taxation estimates that the direct mandate cost of the changes in the Earned Income Credit in the bill would be $87 million in 1997, rising to $155 million in 2001. These estimates include only the revenue effect of the changes in the credit, and not the effect on federal outlays.

CBO estimates that the other mandates in the bill would impose minimal costs on private sector entities.

7. APPROPRIATIONS OR OTHER FEDERAL FINANCIAL ASSISTANCE:

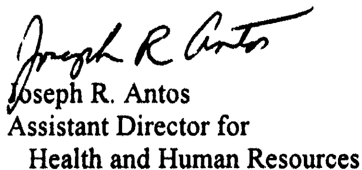
None.

8. PREVIOUS CBO ESTIMATE:

On June 26, 1996, CBO prepared a private-sector mandates statement for the Welfare and Medicaid Reform Act of 1996, as ordered reported by the House Committee on the Budget. The House bill and this bill contain many of the same mandates on the private sector.

9. ESTIMATE PREPARED BY: Daniel Mont (226-2672), Linda Bilheimer (226-2663), and Stephanie Weiner (226-2720).

10. ESTIMATE APPROVED BY:



Joseph R. Antos
Assistant Director for
Health and Human Resources

TABLE A-1
FEDERAL BUDGET EFFECTS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY ACT OF 1996 07/10/96
CHAPTER 1 -- TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT
As ordered reported by the Committee on Finance on June 26, 1996

Assumed date of enactment: October 1, 1996.
(by fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	7-year total
DIRECT SPENDING								
Repeal AFDC, Emergency Assistance, and JOBS								
Family Support Payments								
Budget Authority	—	-8,021	-16,550	-17,003	-17,439	-17,893	-18,342	-95,247
Outlays	—	-7,925	-16,510	-16,973	-17,409	-17,863	-18,322	-95,001
Repeal of Child Care Programs								
Family Support Payments								
Budget Authority	—	-1,405	-1,480	-1,540	-1,595	-1,655	-1,715	-9,390
Outlays	—	-1,345	-1,475	-1,535	-1,590	-1,650	-1,710	-9,305
Authorize Temporary Family Assistance Block Grant /a								
Family Support Payments								
Budget Authority	—	8,329	16,350	16,350	16,350	16,350	16,350	90,077
Outlays	—	8,261	16,350	16,350	16,350	16,350	16,350	90,009
Population and Poverty Adjustment to the Temporary Family Assistance Block Grant								
Family Support Payments								
Budget Authority	—	0	87	174	261	278	0	800
Outlays	—	0	87	174	261	278	0	800
Food Stamp Program								
Budget Authority	—	0	-5	-10	-15	-15	0	-45
Outlays	—	0	-5	-10	-15	-15	0	-45
Contingency Fund								
Family Support Payments								
Budget Authority	—	0	180	270	335	405	0	1,190
Outlays	—	0	180	270	335	405	0	1,190
Food Stamp Program								
Budget Authority	—	0	-10	-15	-20	-25	0	-70
Outlays	—	0	-10	-15	-20	-25	0	-70
Study by the Bureau of the Census								
Family Support Payments								
Budget Authority	—	0	10	10	10	10	10	50
Outlays	—	0	2	10	10	10	10	42
Research, Evaluations, and National Studies								
Family Support Payments								
Budget Authority	—	0	15	15	15	15	0	60
Outlays	—	0	3	15	15	15	12	60
Grants to Indian Tribes that received JOBS Funds /a								
Family Support Payments								
Budget Authority	—	8	8	8	8	8	8	46
Outlays	—	6	8	8	8	8	8	44

(Continued)

TABLE A-1
FEDERAL BUDGET EFFECTS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY ACT OF 1996 07/10/96
CHAPTER 1 -- TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT
As ordered reported by the Committee on Finance on June 26, 1996

Assumed date of enactment: October 1, 1996.
(by fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	7-year total
Grants to Territories								
Family Support Payments								
Budget Authority	--	111	111	111	111	111	111	666
Outlays	--	111	111	111	111	111	111	666
Penalties for State Failure to Meet Work Requirements								
Family Support Payments								
Budget Authority	--	0	0	-50	-50	-50	-50	-200
Outlays	--	0	0	-50	-50	-50	-50	-200
Grants to States that Reduce Out-of Wedlock Births								
Family Support Payments								
Budget Authority	--	0	25	25	25	25	25	125
Outlays	--	0	25	25	25	25	25	125
Bonus to Reward High Performance States								
Family Support Payments								
Budget Authority	--	0	0	175	175	175	175	700
Outlays	--	0	0	175	175	175	175	700
Hold States Harmless for Cost-Neutrality Liabilities								
Family Support Payments								
Budget Authority	--	50	0	0	0	0	0	50
Outlays	--	50	0	0	0	0	0	50
Establish Rainy Day Loan Fund								
Family Support Payments								
Budget Authority	--	0	0	0	0	0	0	0
Outlays	--	0	0	0	0	0	0	0
Effect of the Temporary Assistance Block Grant on the Food Stamp Program								
Food Stamp Program								
Budget Authority	--	40	85	160	400	520	645	1,850
Outlays	--	40	85	160	400	520	645	1,850
Effect of the Temporary Assistance Block Grant on the Foster Care Program								
Foster Care Program								
Budget Authority	--	0	0	10	25	35	45	115
Outlays	--	0	0	10	25	35	45	115
Effect of the Temporary Assistance Block Grant on the Medicaid Program								
Medicaid								
Budget Authority	--	b/	b/	b/	b/	b/	b/	b/
Outlays	--	b/	b/	b/	b/	b/	b/	b/

(Continued)

TABLE A-1
FEDERAL BUDGET EFFECTS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY ACT OF 1996 — 07/10/96
CHAPTER 1 -- TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT
As ordered reported by the Committee on Finance on June 26, 1996

Assumed date of enactment: October 1, 1996.
(by fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	7-year total
TOTAL DIRECT SPENDING, CHAPTER 1, BY ACCOUNT								
Family Support Payments								
Budget Authority	—	-929	-1,244	-1,456	-1,794	-2,221	-3,428	-11,073
Outlays	—	-842	-1,219	-1,421	-1,759	-2,186	-3,391	-10,819
Food Stamp Program								
Budget Authority	—	40	70	135	365	480	645	1,735
Outlays	—	40	70	135	365	480	645	1,735
Foster Care Program								
Budget Authority	—	0	0	10	25	35	45	115
Outlays	—	0	0	10	25	35	45	115
Medicaid								
Budget Authority	—	a/	a/	a/	a/	a/	a/	a/
Outlays	—	a/	a/	a/	a/	a/	a/	a/
DIRECT SPENDING TOTAL, ALL ACCOUNTS								
Budget Authority	—	-889	-1,174	-1,311	-1,404	-1,706	-2,738	-9,223
Outlays	—	-802	-1,149	-1,276	-1,369	-1,671	-2,701	-8,969

Notes: CBO's estimates for FY 2002 assume that the level of the temporary assistance for needy families block grant will remain the same as in FY 2001. Includes interactions with other food stamp recommendations of the Committee on Agriculture, Nutrition, and Forestry.

a\ The bill appropriates funds for FY 1996 for the Temporary Assistance for Needy Families Block Grant and for Grants to Indian Tribes that received JOBS funds. Because we assume an enactment date in FY 1997, we show no costs for these appropriations. If, however, the bill passes sooner than the effective date that CBO has assumed, additional costs in FY 1996 would be scored.

b\ Subtitle B of the bill limits the amount of funds provided to states under Medicaid.

TABLE A-2
FEDERAL BUDGET EFFECTS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY ACT OF 1996
CHAPTER 2 - SUPPLEMENTAL SECURITY INCOME
As ordered reported by the Committee on Finance on June 26, 1996.

Assumed date of enactment: October 1, 1996.
(By fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	7-year total
DIRECT SPENDING								
SSI Benefits to Certain Children								
Supplemental Security Income								
Budget Authority	--	-125	-1,150	-1,500	-1,800	-1,675	-2,000	-8,250
Outlays	--	-125	-1,150	-1,500	-1,800	-1,675	-2,000	-8,250
Family Support Payments								
Budget Authority	--	a/	a/	a/	a/	a/	a/	a/
Outlays	--	a/	a/	a/	a/	a/	a/	a/
Food stamps b/								
Budget Authority	--	15	155	200	225	245	270	1,110
Outlays	--	15	155	200	225	245	270	1,110
Medicaid								
Budget Authority	--	c/	c/	c/	c/	c/	c/	c/
Outlays	--	c/	c/	c/	c/	c/	c/	c/
Subtotal, provision								
Budget Authority	--	-110	-995	-1,300	-1,575	-1,430	-1,730	-7,140
Outlays	--	-110	-995	-1,300	-1,575	-1,430	-1,730	-7,140
Reduction in SSI Benefits to Certain Hospitalized Children With Private Insurance								
Supplemental Security Income								
Budget Authority	--	-40	-55	-60	-70	-60	-65	-350
Outlays	--	-40	-55	-60	-70	-60	-65	-350
Mandatory Appropriation to Cover Certain Costs of Reviews d/								
Supplemental Security Income								
Budget Authority	--	200	75	25	--	--	--	300
Outlays	--	200	75	25	--	--	--	300
End Payment of Pro-Rated Benefits for Month of Application								
Supplemental Security Income								
Budget Authority	--	-55	-130	-150	-160	-165	-175	-835
Outlays	--	-55	-130	-150	-160	-165	-175	-835
Pay Large Retroactive Benefit Amounts in Installments								
Supplemental Security Income								
Budget Authority	--	-200	-15	-15	-15	-15	-15	-275
Outlays	--	-200	-15	-15	-15	-15	-15	-275
Tighten Restrictions on Payment of Social Security Benefits to Prisoners; Make Payments to Prison Officials Who Report Ineligible Recipients								
Old-Age, Survivors and Disability Insurance--benefits saved e/								
Budget Authority	--	-5	-10	-15	-15	-20	-20	-85
Outlays	--	-5	-10	-15	-15	-20	-20	-85
Supplemental Security Income--benefits saved								
Budget Authority	--	-*	-5	-10	-10	-10	-10	-45
Outlays	--	-*	-5	-10	-10	-10	-10	-45

(continued)

TABLE A-2
FEDERAL BUDGET EFFECTS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY ACT OF 1996
CHAPTER 2 - SUPPLEMENTAL SECURITY INCOME
As ordered reported by the Committee on Finance on June 26, 1996

Assumed date of enactment: October 1, 1996.
(By fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	7-year total
Old-Age, Survivors and Disability Insurance--payments to prison officials								
Budget Authority	--	--	--	--	--	--	--	--
Outlays	--	--	--	--	--	--	--	--
Supplemental Security Income--payments to prison officials								
Budget Authority	--	2	4	5	6	6	7	30
Outlays	--	2	4	5	6	6	7	30
Subtotal, provision								
Budget Authority	--	-3	-11	-20	-19	-24	-23	-100
Outlays	--	-3	-11	-20	-19	-24	-23	-100
TOTAL DIRECT SPENDING								
Supplemental Security Income								
Budget Authority	--	-218	-1,276	-1,705	-2,049	-1,919	-2,258	-9,425
Outlays	--	-218	-1,276	-1,705	-2,049	-1,919	-2,258	-9,425
Food Stamps b/								
Budget Authority	--	15	155	200	225	245	270	1,110
Outlays	--	15	155	200	225	245	270	1,110
Medicaid								
Budget Authority	--	c/	c/	c/	c/	c/	c/	c/
Outlays	--	c/	c/	c/	c/	c/	c/	c/
Family Support Payments								
Budget Authority	--	a/	a/	a/	a/	a/	a/	a/
Outlays	--	a/	a/	a/	a/	a/	a/	a/
Old-Age, Survivors and Disability Insurance								
Budget Authority	--	-5	-10	-15	-15	-20	-20	-85
Outlays	--	-5	-10	-15	-15	-20	-20	-85
TOTAL, ALL ACCOUNTS								
Budget Authority	--	-208	-1,131	-1,520	-1,839	-1,694	-2,008	-8,400
Outlays	--	-208	-1,131	-1,520	-1,839	-1,694	-2,008	-8,400

NOTE. The bill would also repeal section 1618 of the Social Security Act, which establishes maintenance-of-effort requirements for state supplementation programs for SSI beneficiaries, CBO judges that provision's principal effect would be on state budgets, with only small and indirect implications for the federal budget. That judgment assumes that California cuts its supplements no more than was contemplated in the Governor's November 1995 budget submission, and that California would thereby be permitted to continue treating a portion of its supplements as a "cashout" of the small food stamp benefits that SSI recipients could otherwise receive Both of those assumptions are subject to revision if CBO obtains more information about California's intentions or about the legal status of the cashout option, which would be ambiguous if the bill were enacted

Based on conversations with staff, CBO assumed that a technical correction would be made to the effective date provisions in section 2211 (dealing with the schedule for reviews of disabled children)

a/ Proposed to be block-granted elsewhere in the bill
b/ Includes interactions with other food stamp recommendations of the Committee on Agriculture
c/ Proposed changes in Subtitle B to the Medicaid program result in these provisions having no effect on federal Medicaid spending
d/ This appropriation would cover the heavy one-time costs of reviewing about 300,000 to 400,000 disabled child beneficiaries and about 1.4 million SSI recipients who are identified as aliens, or whose citizenship is unknown Without this funding, CBO would assume that SSA would attempt to comply with the law but could not meet the deadlines set in the bill, and savings in benefits would be smaller In addition to the one-time costs of about $300 million, the bill would require that most disabled children who qualify even under the tighter eligibility criteria be reviewed every 3 years to see if their medical condition has improved That cost, which CBO estimates at about $100 million a year beginning in 1998, could be met by raising the caps on discretionary spending as permitted in P.L. 104-121. The cap adjustment in that law, however, was designed to cover periodic reviews and not the heavy volume of one-time reviews that would be mandated in 1997 by this legislation.
e/ The provision would encourage prison officials to exchange data with SSA by paying them up to $400 for providing information that helps to identify each inmate who receives SSI (and whose benefits should therefore be suspended). In the course of checking that information, SSA would find that some inmates collect OASDI. Therefore, although the language makes no mention of OASDI, savings in that program would result.

TABLE A-3
FEDERAL BUDGET EFFECTS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY ACT OF 1996
CHAPTER 3 -- CHILD SUPPORT ENFORCEMENT
As ordered reported by the Committee on Finance on June 26, 1996.

Assumed date of enactment: October 1, 1996.
(by fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	7-year total
New Enforcement Techniques								
State directory of new hires								
Family support payments	--	0	-1	-4	-6	-9	-10	-30
Food stamp program	--	0	-1	-7	-12	-18	-21	-59
Subtotal	--	0	-2	-11	-18	-27	-32	-89
State laws providing expedited enforcement of child support								
Family support payments	--	0	0	-17	-35	-55	-77	-185
Food stamp program	--	0	0	-6	-13	-21	-30	-70
Subtotal	--	0	0	-23	-48	-76	-107	-255
State laws concerning paternity								
Family support payments	--	-16	-18	-20	-22	-24	-26	-127
Food stamp program	--	-3	-3	-4	-4	-4	-5	-23
Subtotal	--	-19	-21	-24	-26	-28	-31	-149
Suspend Drivers' Licenses								
Family support payments	--	-4	-9	-14	-19	-20	-21	-88
Food stamp program	--	-2	-5	-8	-12	-12	-13	-52
Subtotal	--	-7	-14	-22	-31	-33	-34	-140
Adoption of uniform state laws								
Family support payments	--	10	2	-7	-11	-15	-21	-41
Food stamp program	--	0	-1	-3	-4	-6	-9	-24
Subtotal	--	10	1	-9	-15	-22	-29	-65
SUBTOTAL, NEW ENFORCEMENT	--	-16	-36	-89	-139	-186	-233	-699
Lost AFDC Collections due to Reduced Cases Funded by Block Grant Funds								
Family support payments	--	0	29	63	142	200	224	658
Food stamp program	--	0	0	0	0	0	0	0
Subtotal	--	0	29	63	142	200	224	658
Eliminate $50 Passthrough and Exclude Gap Payments from Distribution Rules at State Option								
Family support payments	--	-222	-236	-260	-285	-311	-336	-1,650
Food stamp program	--	114	122	139	147	164	171	858
Subtotal	--	-108	-114	-121	-139	-147	-165	-793
Distribute Child Support Arrears to Former AFDC Families First								
Family support payments	--	0	62	69	76	148	183	539
Food stamp program	--	0	-11	-12	-14	-27	-33	-96
Subtotal	--	0	51	57	63	122	150	442
Hold States Harmless for Lower Child Support Collections								
Family support payments	--	0	17	29	34	39	29	148
Food stamp program	--	0	0	0	0	0	0	0
Subtotal	--	0	17	29	34	39	29	148

(continued)

TABLE A-3
FEDERAL BUDGET EFFECTS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY ACT OF 1996
CHAPTER 3 -- CHILD SUPPORT ENFORCEMENT
As ordered reported by the Committee on Finance on June 26, 1996

Assumed date of enactment: October 1, 1996.
(by fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	7-year total
Other Provisions with Budgetary Implications								
Automated data processing development								
Family support payments	--	43	131	129	129	8	0	440
Food stamp program	--	0	0	0	0	0	0	0
Subtotal	--	43	131	129	129	8	0	440
Automated data processing operation and maintenance								
Family support payments	--	12	55	52	52	46	40	257
Food stamp program	--	0	0	0	0	0	0	0
Subtotal	--	12	55	52	52	46	40	257
Technical assistance to state programs								
Family support payments	--	29	47	46	48	47	45	263
Food stamp program	--	0	0	0	0	0	0	0
Subtotal	--	29	47	46	48	47	45	263
State obligation to provide services								
Family support payments	--	0	0	3	11	22	39	75
Food stamp program	--	0	0	0	0	0	0	0
Subtotal	--	0	0	3	11	22	39	75
Federal and state reviews and audits								
Family support payments	--	3	3	3	3	3	3	20
Food stamp program	--	0	0	0	0	0	0	0
Subtotal	--	3	3	3	3	3	3	20
Grants to States for Visitation								
Family support payments	--	0	10	10	10	10	10	50
Food stamp program	--	0	0	0	0	0	0	0
Subtotal	--	0	10	10	10	10	10	50
Food Stamp Block Grant Interaction								
Family support payments	--	0	0	0	0	0	0	0
Food stamp program	--	-3	-5	-7	-7	-6	-5	-32
Subtotal	--	-3	-5	-7	-7	-6	-5	-32
SUBTOTAL, OTHER PROVISIONS	--	85	241	237	247	131	133	1,073
TOTAL , BY ACCOUNT								
Family support payments	--	-145	93	85	127	88	81	329
Food stamp program	--	106	95	92	81	70	57	501
TOTAL	--	-39	188	177	209	157	138	830

TABLE A-4
FEDERAL BUDGET EFFECTS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY ACT OF 1996
CHAPTER 4 - RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS
As ordered reported by the Committee on Finance on June 26, 1996

Assumed date of enactment: October 1, 1996.
(By fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	7-year total
DIRECT SPENDING								
Supplemental Security Income								
Budget Authority	--	-375	-2,400	-2,600	-2,775	-2,425	-2,700	-13,275
Outlays	--	-375	-2,400	-2,600	-2,775	-2,425	-2,700	-13,275
Medicaid								
Budget Authority	--	a/	a/	a/	a/	a/	a/	a/
Outlays	--	a/	a/	a/	a/	a/	a/	a/
Family Support Payments								
Budget Authority	--	b/	b/	b/	b/	b/	b/	b/
Outlays	--	b/	b/	b/	b/	b/	b/	b/
Food Stamps c/								
Budget Authority	--	-460	-670	-610	-590	-560	-550	-3,440
Outlays	--	-460	-670	-610	-590	-560	-550	-3,440
Student loans d/								
Budget Authority	-*	-*	-*	-*	-*	-*	-*	-*
Outlays	-*	-*	-*	-*	-*	-*	-*	-*
Foster care e/								
Budget Authority	-*	-*	-*	-*	-*	-*	-*	-*
Outlays	-*	-*	-*	-*	-*	-*	-*	-*
Child nutrition								
Budget Authority	--	--	--	-15	-85	-115	-120	-335
Outlays	--	--	--	-15	-75	-110	-120	-320
Earned income tax credit								
Budget Authority	--	-224	-232	-236	-242	-245	-251	-1,430
Outlays	--	-224	-232	-236	-242	-245	-251	-1,430
TOTAL DIRECT SPENDING								
Budget Authority	--	-1,059	-3,302	-3,461	-3,692	-3,345	-3,621	-18,480
Outlays	--	-1,059	-3,302	-3,461	-3,682	-3,340	-3,621	-18,465
REVENUES								
Earned income tax credit	--	28	29	29	30	30	31	177
DEFICIT EFFECT	--	-1,087	-3,331	-3,490	-3,712	-3,370	-3,652	-18,642

a/ Proposed changes in Subtitle B to the Medicaid program result in these provisions having no effect on federal Medicaid spending.
b/ Proposed to be block-granted elsewhere in the bill.
c/ Includes interactions with other food stamp recommendations of the Committee on Agriculture
d/ Section 2424 would require that aliens lawfully admitted for permanent residence who seek to borrow money under several student loan programs have co-signers. CBO estimates negligible savings.
e/ Foster care benefits paid on behalf of alien children would be exempt from any restrictions. Foster care benefits paid to alien parents would be subject to deeming requirements CBO estimates negligible savings.

TABLE A-7
FEDERAL BUDGET EFFECTS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY ACT OF 1996
CHAPTER 7 -- TECHNICAL AMENDMENTS RELATING TO CHILD PROTECTION PROGRAMS
As ordered reported by the Committee on Finance on June 26, 1996.

Assumed date of enactment: October 1, 1996.

(by fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	1996-2002
Direct Spending								
Extend Enhanced Match Rate for Computer Purchases for Foster Care Data Collection								
Budget Authority	0	80	0	0	0	0	0	80
Outlays	0	66	14	0	0	0	0	80

TABLE A-8
FEDERAL BUDGET EFFECTS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY ACT OF 1996
CHAPTER 8 -- CHILD CARE
As ordered reported by the Committee on Finance on June 26, 1996.

Assumed date of enactment: October 1, 1996.

(by fiscal year, in millions of dollars)	1996	1997	1998	1999	2000	2001	2002	1996-2002
Direct Spending								
New Child Care Block Grant								
Budget Authority	0	1,967	2,067	2,167	2,367	2,567	2,717	13,852
Outlays	0	1,635	1,975	2,082	2,227	2,377	2,482	12,778

Note: For states to draw down the child care block grant remainder, this subtitle requires them to maintain the greater of fiscal year 1994 or 1995 spending.

TABLE A-9
FEDERAL BUDGET EFFECTS OF SUBTITLE A , THE WELFARE AND MEDICAID REFORM ACT OF 1996
CHAPTER 9 -- MISCELLANEOUS
As ordered reported by the Committee on Finance on June 26, 1996 07/10/96

Assumes enactment date of October 1, 1996.

(by fiscal year, in millions of dollars)

Section	1996	1997	1998	1999	2000	2001	2002	1996-2002
DIRECT SPENDING AND REVENUES								
Reduction in block grants to states for social services								
Social Services Block Grant								
Budget Authority	0	-560	-560	-560	-560	-560	-560	-3,360
Outlays	0	-505	-560	-560	-560	-560	-560	-3,305
Denial of earned income credit on basis of disqualified income a/								
Budget Authority	0	-170	-169	-151	-146	-152	-160	-948
Outlays	0	-170	-169	-151	-146	-152	-160	-948
Revenue	0	26	26	27	23	23	25	150
Net Deficit Effect	0	-196	-195	-178	-169	-175	-185	-1,098
Modification of adjusted gross income definition for earned income credit a/								
Budget Authority	0	-214	-229	-242	-255	-277	-293	-1,512
Outlays	0	-214	-229	-242	-255	-277	-293	-1,512
Revenue	0	35	40	43	46	50	54	268
Net Deficit Effect	0	-249	-269	-285	-301	-327	-347	-1,780
Suspension of inflation adjustments for individuals without qualifying children a/								
Budget Authority	0	-1	-26	-57	-89	-123	-158	-452
Outlays	0	-1	-26	-57	-89	-123	-158	-452
Revenue	0	*	13	29	43	56	70	212
Net Deficit Effect	0	-1	-39	-86	-132	-179	-228	-664
Interactions among revenue provisions								
Budget Authority	0	26	25	27	27	26	30	162
Outlays	0	26	25	27	27	26	30	162
Revenue	0	-2	-1	-2	-4	-4	-6	-19
Net Deficit Effect	0	28	26	29	31	30	36	181
TOTAL, MISCELLANEOUS--SUBTITLE A, Chapter 9								
Direct Spending								
Social Services Block Grant								
Budget Authority	0	-560	-560	-560	-560	-560	-560	-3,360
Outlays	0	-505	-560	-560	-560	-560	-560	-3,305
Earned Income Tax Credit								
Budget Authority	0	-359	-399	-423	-463	-526	-581	-2,750
Outlays	0	-359	-399	-423	-463	-526	-581	-2,750
TOTAL, ALL ACCOUNTS								
Budget Authority	0	-919	-959	-983	-1,023	-1,086	-1,141	-6,110
Outlays	0	-864	-959	-983	-1,023	-1,086	-1,141	-6,055
Revenues								
Revenues a/	0	59	78	97	108	125	143	610

a/ Estimates provided by the Joint Committee on Taxation. Components may not sum to totals because of rounding

TABLE B
FEDERAL BUDGET EFFECTS OF THE WELFARE AND MEDICAID REFORM ACT OF 1996
SUBTITLE B - RESTRUCTURING MEDICAID
As ordered reported by the Committee on Finance on June 26, 1996

Assumed date of enactment: October 1, 1996.

(By fiscal year, in millions of dollars)	1996	1997	1998	1999	2000	2001	2002	7-Year Total
Baseline (1)	96,086	105,081	115,438	126,366	138,154	151,512	166,444	899,081
Proposed Law - Direct Spending								
Outlays from Title XIX	96,086	12,000	0	0	0	0	0	108,086
Transitional Correction	0	0	500	0	0	0	0	500
Base Pool Amounts	0	91,448	108,430	113,653	119,126	124,864	130,878	688,399
Special Rule	0	127	90	90	0	0	0	307
Supplemental for Illegal Aliens	0	0	390	490	590	690	790	2,949
Supplemental Umbrella Allotment	0	2,007	4,256	4,530	4,800	5,082	5,384	26,062
Federal Indian Medicaid Allocation	0	0	393	459	486	516	547	2,401
Total Outlays	96,086	105,582	114,062	119,221	125,003	131,152	137,598	828,704
Change in Outlays--Subtitle B	0	501	-1,376	-7,145	-13,151	-20,360	-28,846	-70,377

NOTES
(1) The baseline includes legislative changes adopted in the Omnibus Consolidated Recissions and Appropriations Act (P.L. 104-134)

MINORITY VIEWS OF SENATOR BRADLEY ON S. 1795

When the Finance Committee met to mark up S. 1795, I raised some strong concerns about the basic structure of what we are calling "welfare reform." I pointed out that the section does nothing to really repair what's wrong with the welfare system. It does not change the disincentives to work, marry, or become independent. But it does change, completely, the one thing about welfare which has made sense: the financing system. States now get money for welfare based on the number of cases they have, and how much help those families need. The states get back 50–75 percent of what they spend.

That's a system that makes sense. It means that when the need is greatest, as in a recession, states get more help. When times are good, and welfare caseloads decline, not only do states get less help, but taxpayers save money.

But to make the political point that we're, as Newt Gingrich says, "abandoning the welfare state," we are in this bill kicking the foundations out of that system. We're simply transferring pots of money from one politician to another, without regard to need, rules, or accountability. When times are tough, states will not have enough money and children will undoubtedly suffer. But when times are good, states will have extra money, more than they need, and taxpayers will not save money.

In fact, this bill would increase the amount of money spent on basic welfare payments, other than SSI or Food Stamps, by $3 billion. I think this demonstrates that it is possible to spend more money on a program at the same time that we break the foundations of the program.

Block grants mean not only that individuals will suffer in hard times, but also that taxpayers will not benefit from the reductions in AFDC caseloads of almost 30 percent in some states.

I would also like to expand on some data I released at the markup on some of the states that have been most effective in reducing the welfare caseload. In Massachusetts, the AFDC caseload declined between 1992 and the beginning of 1995 by just under 3,000 people. But the SSI disability caseload rose by just under 3,000 people. That's a fully federal program, and it usually pays more than AFDC. In Michigan, the number of adults on AFDC went down by 30,000. And the number of adults classified as disabled and on SSI went up in that period by 22,000. Both states hired a firm, Maximus, Inc., with the specific purpose of getting people off the federal/state welfare program and onto the fully federal SSI program.

I have included with these views a chart that shows a similar shift in every single state that has made a significant reduction in AFDC caseloads. I would also recommend that my colleagues look at an eye-opening article on the Massachusetts experience, entitled

"Welfare and Disability: As the State Cuts Spending, Washington Picks Up the Tab," written by Jennifer Babson an which appeared in a new journal called CommonWealth.

Are all the people who leave welfare going to SSI? Absolutely not: most are leaving for jobs, in these prosperous states. Are the people on SSI deserving? Probably. Most have serious problems. But this phenomenon illustrates two points.

First, this block grant is predicted on the idea that governors are geniuses at helping welfare recipients become independent, and the federal government is not. In fact, governors are pretty smart about manipulating federal funding streams to maximize their revenues, and no better than anyone else at finding jobs for people.

Seocnd, this illustrates the unintended consequences of shifting to a block grant. Consider what would happen with a block grant. States could shift welfare recipients to SSI and they would be fully taken care of by the federal government. Meanwhile the state would be getting welfare funding based on its 1995 caseload, or under this bill, even an earlier period. So the state would still get funding for the individual whose been moved to federal SSI. The federal taxpayer would pay twice. The state would get a "bounty" of several thousand dollars, depending on its benefit levels, for increasing caseloads under this other federal program.

I don't raise this as a problem that should be fixed with some other change to SSI. I raised it because it illustrates the kind of problems that stem from this headlong rush into block grants. When people move from one program to another, there ought to be savings to the taxpayer to offset the cost in the second program. With block grants, there aren't. And if people really should be in a welfare-to-work program, they shouldn't be shifted over to SSI just because there's a bonus for states. I think there are countless other examples of these kinds of problems and unanticipated consequences of the block grant strategy, and I hope the Senate will consider them before we continue down this path.

WELFARE CASELOAD SHIFTS—SSI CASELOAD CHANGES IN STATES WITH LARGEST AFDC CASELOAD REDUCTIONS

State	1992–1994 change in adult AFDC recipients	1992–1994 change in adult SSI recipients
Alabama	−7,438	+8,239
Arkansas	−2,592	+2,793
Colorado	−4,331	+5,393
Florida	−24,184	+30,648
Georgia	−6,317	+9,675
Kansas	−2,263	+3,045
Kentucky	−17,530	+16,136
Maine	−2,463	+3,274
Massachusetts	−18,468	+14,485
Michigan	−29,765	+22,350
Minnesota	−8,358	+6,132
Missouri	−8,381	+6,610
Nebraska	−3,356	+1,221
New Jersey	−5,094	+10,548
New Mexico	−4,076	+4,060
North Carolina	−5,650	+8,260
Ohio	−40,188	+27,124
Oregon	−4,450	+4,970
South Carolina	−6,735	+4,663

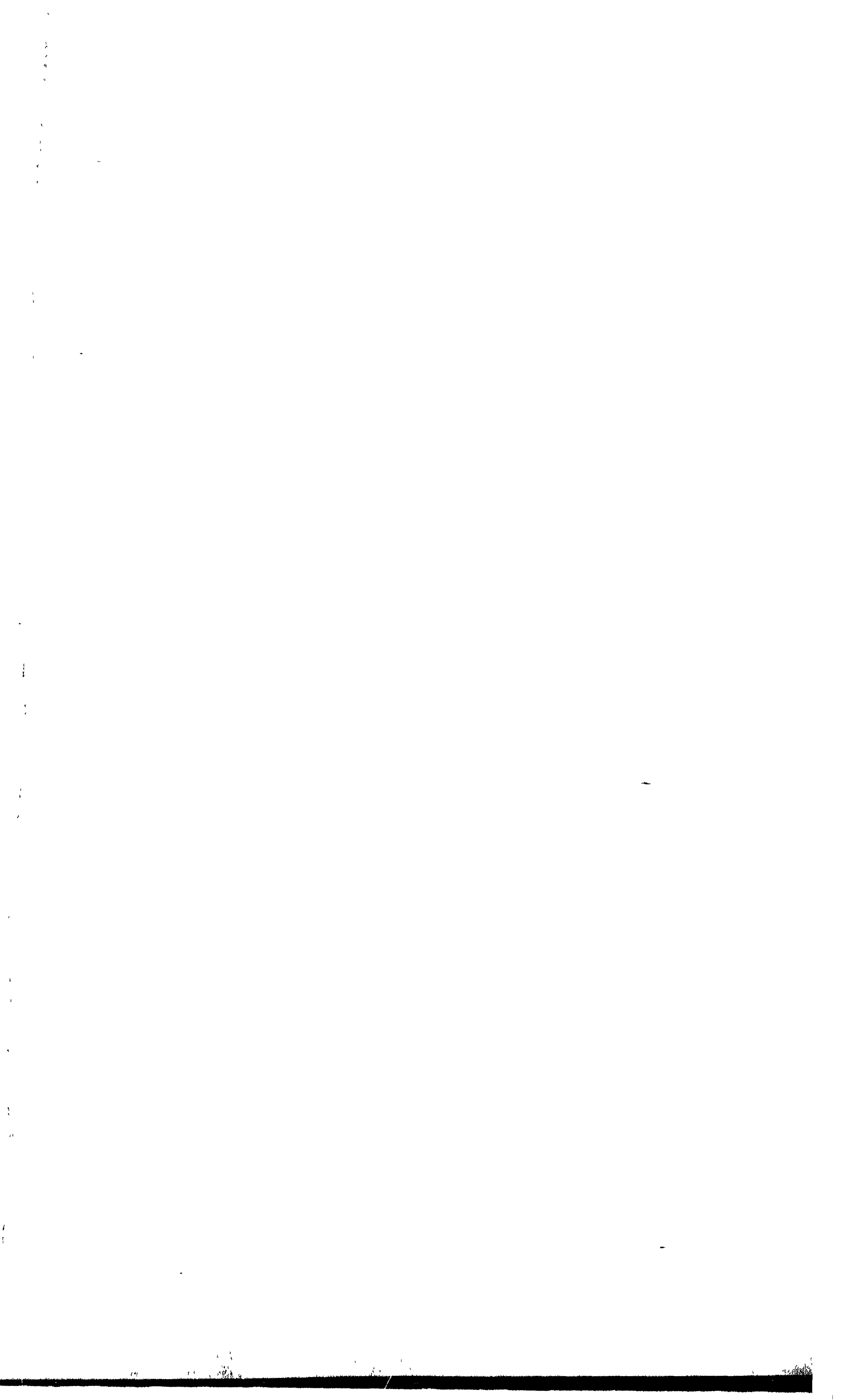
WELFARE CASELOAD SHIFTS—SSI CASELOAD CHANGES IN STATES WITH LARGEST AFDC CASELOAD REDUCTIONS—Continued

State	1992–1994 change in adult AFDC recipients	1992–1994 change in adult SSI recipients
Tennessee	−10,039	+9,538
Utah	−2,183	+2,315
Wisconsin	−33,226	+4,804

Source: Department of Health and Human Services

BILL BRADLEY.

STATUTORY LANGUAGE OF PROVISIONS APPROVED BY THE COMMITTEE ON JUNE 26, 1996



TITLE II—COMMITTEE ON FINANCE

Subtitle A—Welfare Reform

SEC. 2001. SHORT TITLE OF SUBTITLE.

This subtitle may be cited as the "Personal Responsibility and Work Opportunity Act of 1996".

SEC. 2002. TABLE OF CONTENTS OF SUBTITLE.

The table of contents for this subtitle is as follows:

Subtitle A—Welfare Reform

Sec. 2001. Short title.
Sec. 2002. Table of contents.

CHAPTER 1—BLOCK GRANTS FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

Sec. 2101. Findings.
Sec. 2102. Reference to Social Security Act.
Sec. 2103. Block grants to States.
Sec. 2104. Services provided by charitable, religious, or private organizations.
Sec. 2105. Census data on grandparents as primary caregivers for their grandchildren.
Sec. 2106. Report on data processing.
Sec. 2107. Study on alternative outcomes measures.
Sec. 2108. Welfare Formula Fairness Commission.
Sec. 2109. Conforming amendments to the Social Security Act.
Sec. 2110. Conforming amendments to the Food Stamp Act of 1977 and related provisions.
Sec. 2111. Conforming amendments to other laws.
Sec. 2112. Development of prototype of counterfeit-resistant social security card required.
Sec. 2113. Disclosure of receipt of Federal funds.
Sec. 2114. Modifications to the job opportunities for certain low-income individuals program.
Sec. 2115. Secretarial submission of legislative proposal for technical and conforming amendments.
Sec. 2116. Effective date; transition rule.

CHAPTER 2—SUPPLEMENTAL SECURITY INCOME

Sec. 2200. Reference to Social Security Act.

SUBCHAPTER A—ELIGIBILITY RESTRICTIONS

Sec. 2201. Denial of SSI benefits for 10 years to individuals found to have fraudulently misrepresented residence in order to obtain benefits simultaneously in 2 or more States.
Sec. 2202. Denial of SSI benefits for fugitive felons and probation and parole violators.
Sec. 2203. Treatment of prisoners.
Sec. 2204. Effective date of application for benefits.

SUBCHAPTER B—BENEFITS FOR DISABLED CHILDREN

Sec. 2211. Definition and eligibility rules.
Sec. 2212. Eligibility redeterminations and continuing disability reviews.
Sec. 2213. Additional accountability requirements.

Sec. 2214. Reduction in cash benefits payable to institutionalized individuals whose medical costs are covered by private insurance.
Sec. 2215. Regulations.

SUBCHAPTER C—ADDITIONAL ENFORCEMENT PROVISION

Sec. 2221. Installment payment of large past-due supplemental security income benefits.
Sec. 2222. Regulations.

SUBCHAPTER D—STATE SUPPLEMENTATION PROGRAMS

Sec. 2225. Repeal of maintenance of effort requirements applicable to optional State programs for supplementation of SSI benefits.

SUBCHAPTER E—STUDIES REGARDING SUPPLEMENTAL SECURITY INCOME PROGRAM

Sec. 2231. Annual report on the supplemental security income program.
Sec. 2232. Study by General Accounting Office.

CHAPTER 3—CHILD SUPPORT

Sec. 2300. Reference to Social Security Act.

SUBCHAPTER A—ELIGIBILITY FOR SERVICES; DISTRIBUTION OF PAYMENTS

Sec. 2301. State obligation to provide child support enforcement services.
Sec. 2302. Distribution of child support collections.
Sec. 2303. Privacy safeguards.
Sec. 2304. Rights to notification of hearings.

SUBCHAPTER B—LOCATE AND CASE TRACKING

Sec. 2311. State case registry.
Sec. 2312. Collection and disbursement of support payments.
Sec. 2313. State directory of new hires.
Sec. 2314. Amendments concerning income withholding.
Sec. 2315. Locator information from interstate networks.
Sec. 2316. Expansion of the Federal Parent Locator Service.
Sec. 2317. Collection and use of social security numbers for use in child support enforcement.

SUBCHAPTER C—STREAMLINING AND UNIFORMITY OF PROCEDURES

Sec. 2321. Adoption of uniform State laws.
Sec. 2322. Improvements to full faith and credit for child support orders.
Sec. 2323. Administrative enforcement in interstate cases.
Sec. 2324. Use of forms in interstate enforcement.
Sec. 2325. State laws providing expedited procedures.

SUBCHAPTER D—PATERNITY ESTABLISHMENT

Sec. 2331. State laws concerning paternity establishment.
Sec. 2332. Outreach for voluntary paternity establishment.
Sec. 2333. Cooperation by applicants for and recipients of part A assistance.

SUBCHAPTER E—PROGRAM ADMINISTRATION AND FUNDING

Sec. 2341. Performance-based incentives and penalties.
Sec. 2342. Federal and State reviews and audits.
Sec. 2343. Required reporting procedures.
Sec. 2344. Automated data processing requirements.
Sec. 2345. Technical assistance.
Sec. 2346. Reports and data collection by the Secretary.

SUBCHAPTER F—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

Sec. 2351. Simplified process for review and adjustment of child support orders.
Sec. 2352. Furnishing consumer reports for certain purposes relating to child support.
Sec. 2353. Nonliability for financial institutions providing financial records to State child support enforcement agencies in child support cases.

SUBCHAPTER G—ENFORCEMENT OF SUPPORT ORDERS

Sec. 2361. Internal Revenue Service collection of arrearages.

Sec. 2362. Authority to collect support from Federal employees.
Sec. 2363. Enforcement of child support obligations of members of the Armed Forces.
Sec. 2364. Voiding of fraudulent transfers.
Sec. 2365. Work requirement for persons owing past-due child support.
Sec. 2366. Definition of support order.
Sec. 2367. Reporting arrearages to credit bureaus.
Sec. 2368. Liens.
Sec. 2369. State law authorizing suspension of licenses.
Sec. 2370. Denial of passports for nonpayment of child support.
Sec. 2371. International support enforcement.
Sec. 2372. Financial institution data matches.
Sec. 2373. Enforcement of orders against paternal or maternal grandparents in cases of minor parents.
Sec. 2374. Nondischargeability in bankruptcy of certain debts for the support of a child.

SUBCHAPTER H—MEDICAL SUPPORT

Sec. 2376. Correction to ERISA definition of medical child support order.
Sec. 2377. Enforcement of orders for health care coverage.

SUBCHAPTER I—ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NON-RESIDENTIAL PARENTS

Sec. 2381. Grants to States for access and visitation programs.

SUBCHAPTER J—EFFECTIVE DATES AND CONFORMING AMENDMENTS

Sec. 2391. Effective dates and conforming amendments.

CHAPTER 4—RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

Sec. 2400. Statements of national policy concerning welfare and immigration.

SUBCHAPTER A—ELIGIBILITY FOR FEDERAL BENEFITS

Sec. 2401. Aliens who are not qualified aliens ineligible for Federal public benefits.
Sec. 2402. Limited eligibility of qualified aliens for certain Federal programs.
Sec. 2403. Five-year limited eligibility of qualified aliens for Federal means-tested public benefit.
Sec. 2404. Notification and information reporting.

SUBCHAPTER B—ELIGIBILITY FOR STATE AND LOCAL PUBLIC BENEFITS PROGRAMS

Sec. 2411. Aliens who are not qualified aliens or nonimmigrants ineligible for State and local public benefits.
Sec. 2412. State authority to limit eligibility of qualified aliens for State public benefits.

SUBCHAPTER C—ATTRIBUTION OF INCOME AND AFFIDAVITS OF SUPPORT

Sec. 2421. Federal attribution of sponsor's income and resources to alien.
Sec. 2422. Authority for States to provide for attribution of sponsors income and resources to the alien with respect to State programs.
Sec. 2423. Requirements for sponsor's affidavit of support.
Sec. 2424. Cosignature of alien student loans.

SUBCHAPTER D—GENERAL PROVISIONS

Sec. 2431. Definitions.
Sec. 2432. Verification of eligibility for Federal public benefits.
Sec. 2433. Statutory construction.
Sec. 2434. Communication between State and local government agencies and the Immigration and Naturalization Service.
Sec. 2435. Qualifying quarters.

SUBCHAPTER E—CONFORMING AMENDMENTS RELATING TO ASSISTED HOUSING

Sec. 2441. Conforming amendments relating to assisted housing.

SUBCHAPTER F—EARNED INCOME CREDIT DENIED TO UNAUTHORIZED EMPLOYEES

Sec. 2451. Earned income credit denied to individuals not authorized to be employed in the United States.

CHAPTER 5—REDUCTIONS IN FEDERAL GOVERNMENT POSITIONS

Sec. 2501. Reductions.
Sec. 2502. Reductions in Federal bureaucracy.
Sec. 2503. Reducing personnel in Washington, D.C. area.
Sec. 2504. Downward adjustment of discretionary spending limits.

CHAPTER 6—REFORM OF PUBLIC HOUSING

Sec. 2601. Failure to comply with other welfare and public assistance programs.
Sec. 2602. Fraud under means-tested welfare and public assistance programs.

CHAPTER 7—TECHNICAL AMENDMENTS RELATING TO CHILD PROTECTION PROGRAMS

Sec. 2701. Extension of enhanced funding for implementation of statewide automated child welfare information systems.
Sec. 2702. Redesignation of section 1123.

CHAPTER 8—CHILD CARE

Sec. 2801. Short title and references.
Sec. 2802. Goals.
Sec. 2803. Authorization of appropriations and entitlement authority.
Sec. 2804. Lead agency.
Sec. 2805. Application and plan.
Sec. 2806. Limitation on State allotments.
Sec. 2807. Activities to improve the quality of child care.
Sec. 2808. Repeal of early childhood development and before- and after-school care requirement.
Sec. 2809. Administration and enforcement.
Sec. 2810. Payments.
Sec. 2811. Annual report and audits.
Sec. 2812. Report by the Secretary.
Sec. 2813. Allotments.
Sec. 2814. Definitions.
Sec. 2815. Repeals.
Sec. 2816. Effective date.

CHAPTER 9—MISCELLANEOUS

Sec. 2901. Appropriation by State legislatures.
Sec. 2902. Sanctioning for testing positive for controlled substances.
Sec. 2903. Reduction in block grants to States for social services.
Sec. 2904. Elimination of housing assistance with respect to fugitive felons and probation and parole violators.
Sec. 2905. Sense of the Senate regarding enterprise zones.
Sec. 2906. Sense of the Senate regarding the inability of the noncustodial parent to pay child support.
Sec. 2907. Establishing national goals to prevent teenage pregnancies.
Sec. 2908. Sense of the Senate regarding enforcement of statutory rape laws.
Sec. 2909. Abstinence education.
Sec. 2910. Provisions to encourage electronic benefit transfer systems.
Sec. 2911. Rules relating to denial of earned income credit on basis of disqualified income.
Sec. 2912. Modification of adjusted gross income definition for earned income credit.
Sec. 2913. Suspension of inflation adjustments for individuals with no qualifying children.

CHAPTER 1—BLOCK GRANTS FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

SEC. 2101. FINDINGS.

The Congress makes the following findings:

(1) Marriage is the foundation of a successful society.

(2) Marriage is an essential institution of a successful society which promotes the interests of children.

(3) Promotion of responsible fatherhood and motherhood is integral to successful child rearing and the well-being of children.

(4) In 1992, only 54 percent of single-parent families with children had a child support order established and, of that 54 percent, only about one-half received the full amount due. Of the cases enforced through the public child support enforcement system, only 18 percent of the caseload has a collection.

(5) The number of individuals receiving aid to families with dependent children (in this section referred to as "AFDC") has more than tripled since 1965. More than two-thirds of these recipients are children. Eighty-nine percent of children receiving AFDC benefits now live in homes in which no father is present.

(A)(i) The average monthly number of children receiving AFDC benefits—

(I) was 3,300,000 in 1965;

(II) was 6,200,000 in 1970;

(III) was 7,400,000 in 1980; and

(IV) was 9,300,000 in 1992.

(ii) While the number of children receiving AFDC benefits increased nearly threefold between 1965 and 1992, the total number of children in the United States aged 0 to 18 has declined by 5.5 percent.

(B) The Department of Health and Human Services has estimated that 12,000,000 children will receive AFDC benefits within 10 years.

(C) The increase in the number of children receiving public assistance is closely related to the increase in births to unmarried women. Between 1970 and 1991, the percentage of live births to unmarried women increased nearly threefold, from 10.7 percent to 29.5 percent.

(6) The increase of out-of-wedlock pregnancies and births is well documented as follows:

(A) It is estimated that the rate of nonmarital teen pregnancy rose 23 percent from 54 pregnancies per 1,000 unmarried teenagers in 1976 to 66.7 pregnancies in 1991. The overall rate of nonmarital pregnancy rose 14 percent from 90.8 pregnancies per 1,000 unmarried women in 1980 to 103 in both 1991 and 1992. In contrast, the overall pregnancy rate for married couples decreased 7.3 percent between 1980 and 1991, from 126.9 pregnancies per 1,000 married women in 1980 to 117.6 pregnancies in 1991.

(B) The total of all out-of-wedlock births between 1970 and 1991 has risen from 10.7 percent to 29.5 percent and if the current trend continues, 50 percent of all births by the year 2015 will be out-of-wedlock.

(7) The negative consequences of an out-of-wedlock birth on the mother, the child, the family, and society are well documented as follows:

(A) Young women 17 and under who give birth outside of marriage are more likely to go on public assistance and to spend more years on welfare once enrolled. These combined effects of "younger and longer" increase total AFDC

costs per household by 25 percent to 30 percent for 17-year-olds.

(B) Children born out-of-wedlock have a substantially higher risk of being born at a very low or moderately low birth weight.

(C) Children born out-of-wedlock are more likely to experience low verbal cognitive attainment, as well as more child abuse, and neglect.

(D) Children born out-of-wedlock were more likely to have lower cognitive scores, lower educational aspirations, and a greater likelihood of becoming teenage parents themselves.

(E) Being born out-of-wedlock significantly reduces the chances of the child growing up to have an intact marriage.

(F) Children born out-of-wedlock are 3 times more likely to be on welfare when they grow up.

(8) Currently 35 percent of children in single-parent homes were born out-of-wedlock, nearly the same percentage as that of children in single-parent homes whose parents are divorced (37 percent). While many parents find themselves, through divorce or tragic circumstances beyond their control, facing the difficult task of raising children alone, nevertheless, the negative consequences of raising children in single-parent homes are well documented as follows:

(A) Only 9 percent of married-couple families with children under 18 years of age have income below the national poverty level. In contrast, 46 percent of female-headed households with children under 18 years of age are below the national poverty level.

(B) Among single-parent families, nearly ½ of the mothers who never married received AFDC while only ⅕ of divorced mothers received AFDC.

(C) Children born into families receiving welfare assistance are 3 times more likely to be on welfare when they reach adulthood than children not born into families receiving welfare.

(D) Mothers under 20 years of age are at the greatest risk of bearing low-birth-weight babies.

(E) The younger the single parent mother, the less likely she is to finish high school.

(F) Young women who have children before finishing high school are more likely to receive welfare assistance for a longer period of time.

(G) Between 1985 and 1990, the public cost of births to teenage mothers under the aid to families with dependent children program, the food stamp program, and the medicaid program has been estimated at $120,000,000,000.

(H) The absence of a father in the life of a child has a negative effect on school performance and peer adjustment.

(I) Children of teenage single parents have lower cognitive scores, lower educational aspirations, and a greater likelihood of becoming teenage parents themselves.

(J) Children of single-parent homes are 3 times more likely to fail and repeat a year in grade school than are children from intact 2-parent families.

(K) Children from single-parent homes are almost 4 times more likely to be expelled or suspended from school.

(L) Neighborhoods with larger percentages of youth aged 12 through 20 and areas with higher percentages of single-parent households have higher rates of violent crime.

(M) Of those youth held for criminal offenses within the State juvenile justice system, only 29.8 percent lived primarily in a home with both parents. In contrast to these incarcerated youth, 73.9 percent of the 62,800,000 children in the Nation's resident population were living with both parents.

(9) Therefore, in light of this demonstration of the crisis in our Nation, it is the sense of the Congress that prevention of out-of-wedlock pregnancy and reduction in out-of-wedlock birth are very important Government interests and the policy contained in part A of title IV of the Social Security Act (as amended by section 2103(a) of this Act) is intended to address the crisis.

SEC. 2102. REFERENCE TO SOCIAL SECURITY ACT.

Except as otherwise specifically provided, wherever in this chapter an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

SEC. 2103. BLOCK GRANTS TO STATES.

(a) IN GENERAL.—Part A of title IV (42 U.S.C. 601 et seq.) is amended—

(1) by striking all that precedes section 418 (as added by section 2803(b)(2) of this Act) and inserting the following:

"PART A—BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

"SEC. 401. PURPOSE.

"(a) IN GENERAL.—The purpose of this part is to increase the flexibility of States in operating a program designed to—

"(1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

"(2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

"(3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and

"(4) encourage the formation and maintenance of two-parent families.

"(b) NO INDIVIDUAL ENTITLEMENT.—This part shall not be interpreted to entitle any individual or family to assistance under any State program funded under this part.

"SEC. 402. ELIGIBLE STATES; STATE PLAN.

"(a) IN GENERAL.—As used in this part, the term 'eligible State' means, with respect to a fiscal year, a State that, during the 2-year period immediately preceding the fiscal year, has submitted to the Secretary a plan that the Secretary has found includes the following:

"(1) OUTLINE OF FAMILY ASSISTANCE PROGRAM.—

"(A) GENERAL PROVISIONS.—A written document that outlines how the State intends to do the following:

"(i) Conduct a program, designed to serve all political subdivisions in the State (not necessarily in a uniform manner), that provides assistance to needy families with (or expecting) children and provides parents with job preparation, work, and support services to enable them to leave the program and become self-sufficient.

"(ii) Require a parent or caretaker receiving assistance under the program to engage in work (as defined by the State) once the State determines the parent or caretaker is ready to engage in work, or once the parent or caretaker has received assistance under the program for 24 months (whether or not consecutive), whichever is earlier.

"(iii) Ensure that parents and caretakers receiving assistance under the program engage in work activities in accordance with section 407.

"(iv) Take such reasonable steps as the State deems necessary to restrict the use and disclosure of information about individuals and families receiving assistance under the program attributable to funds provided by the Federal Government.

"(v) Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies, with special emphasis on teenage pregnancies, and establish numerical goals for reducing the illegitimacy ratio of the State (as defined in section 403(a)(2)(B)) for calendar years 1996 through 2005.

"(vi) Determine, on an objective and equitable basis, the needs of and the amount of assistance to be provided to needy families, and, except as provided in subparagraph (B), treat families of similar needs and circumstances similarly.

"(vii) Grant an opportunity for a fair hearing before the appropriate State agency to any individual to whom assistance under the program is denied, reduced, or terminated, or whose request for such assistance is not acted on with reasonable promptness.

"(B) SPECIAL PROVISIONS.—

"(i) The document shall indicate whether the State intends to treat families moving into the State from another State differently than other families under the program, and if so, how the State intends to treat such families under the program.

"(ii) The document shall indicate whether the State intends to provide assistance under the program to individuals who are not citizens of the United States, and if so, shall include an overview of such assistance.

"(2) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD SUPPORT ENFORCEMENT PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child support enforcement program under the State plan approved under part D.

"(3) CERTIFICATION THAT THE STATE WILL OPERATE A FOSTER CARE AND ADOPTION ASSISTANCE PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a foster care and adoption assistance program under the State plan approved under part E, and that the State will take such actions as are necessary to ensure that children receiving assistance under such part are eligible for medical assistance under the State plan under title XIX (or XV, if applicable).

"(4) CERTIFICATION OF THE ADMINISTRATION OF THE PROGRAM.—A certification by the chief executive officer of the State specifying which State agency or agencies will administer and supervise the program referred to in paragraph (1) for the fiscal year, which shall include assurances that local governments and private sector organizations—

"(A) have been consulted regarding the plan and design of welfare services in the State so that services are provided in a manner appropriate to local populations; and

"(B) have had at least 45 days to submit comments on the plan and the design of such services.

"(5) CERTIFICATION THAT THE STATE WILL PROVIDE INDIANS WITH EQUITABLE ACCESS TO ASSISTANCE.—A certification by the chief executive officer of the State that, during the fiscal year, the State will provide each Indian who is a member of an Indian tribe in the State that does not have a tribal family assistance plan approved under section 412 with equitable access to assistance under the State program funded under this part attributable to funds provided by the Federal Government.

"(6) CERTIFICATION OF STANDARDS AND PROCEDURES TO ENSURE AGAINST PROGRAM FRAUD AND ABUSE.—A certification by the chief executive officer of the State that the State has established and is enforcing standards and procedures to ensure against program fraud and abuse, including standards and procedures concerning nepotism, conflicts of interest among individuals responsible for the administration and supervision of the State program, kickbacks, and the use of political patronage.

"(b) PUBLIC AVAILABILITY OF STATE PLAN SUMMARY.—The State shall make available to the public a summary of any plan submitted by the State under this section.

"SEC. 403. GRANTS TO STATES.

"(a) GRANTS.—

"(1) FAMILY ASSISTANCE GRANT.—

"(A) IN GENERAL.—Each eligible State shall be entitled to receive from the Secretary, for each of fiscal years 1996,

1997, 1998, 1999, 2000, and 2001 a grant in an amount equal to the State family assistance grant.

"(B) STATE FAMILY ASSISTANCE GRANT DEFINED.—As used in this part, the term 'State family assistance grant' means the greatest of—

"(i) 1/3 of the total amount required to be paid to the State under former section 403 (as in effect on September 30, 1995) for fiscal years 1992, 1993, and 1994 (other than with respect to amounts expended by the State for child care under subsection (g) or (i) of former section 402 (as so in effect));

"(ii)(I) the total amount required to be paid to the State under former section 403 for fiscal year 1994 (other than with respect to amounts expended by the State for child care under subsection (g) or (i) of former section 402 (as so in effect)); plus

"(II) an amount equal to 85 percent of the amount (if any) by which the total amount required to be paid to the State under former section 403(a)(5) for emergency assistance for fiscal year 1995 exceeds the total amount required to be paid to the State under former section 403(a)(5) for fiscal year 1994, if, during fiscal year 1994 or 1995, the Secretary approved under former section 402 an amendment to the former State plan to allow the provision of emergency assistance in the context of family preservation; or

"(iii) 4/3 of the total amount required to be paid to the State under former section 403 (as in effect on September 30, 1995) for the 1st 3 quarters of fiscal year 1995 (other than with respect to amounts expended by the State under the State plan approved under part F (as so in effect) or for child care under subsection (g) or (i) of former section 402 (as so in effect)), plus the total amount required to be paid to the State for fiscal year 1995 under former section 403(l) (as so in effect).

"(C) TOTAL AMOUNT REQUIRED TO BE PAID TO THE STATE UNDER FORMER SECTION 403 DEFINED.—As used in this part, the term 'total amount required to be paid to the State under former section 403' means, with respect to a fiscal year—

"(i) in the case of a State to which section 1108 does not apply, the sum of—

"(I) the Federal share of maintenance assistance expenditures for the fiscal year, before reduction pursuant to subparagraph (B) or (C) of section 403(b)(2) (as in effect on September 30, 1995), as reported by the State on ACF Form 231;

"(II) the Federal share of administrative expenditures (including administrative expenditures for the development of management information systems) for the fiscal year, as reported by the State on ACF Form 231;

"(III) the Federal share of emergency assistance expenditures for the fiscal year, as reported by the State on ACF Form 231;

"(IV) the Federal share of expenditures for the fiscal year with respect to child care pursuant to subsections (g) and (i) of former section 402 (as in effect on September 30, 1995), as reported by the State on ACF Form 231; and

"(V) the aggregate amount required to be paid to the State for the fiscal year with respect to the State program operated under part F (as in effect on September 30, 1995), as determined by the Secretary, including additional obligations or reductions in obligations made after the close of the fiscal year; and

"(ii) in the case of a State to which section 1108 applies, the lesser of—

"(I) the sum described in clause (i); or

"(II) the total amount certified by the Secretary under former section 403 (as in effect during the fiscal year) with respect to the territory.

"(D) INFORMATION TO BE USED IN DETERMINING AMOUNTS.—

"(i) FOR FISCAL YEARS 1992 AND 1993.—

"(I) In determining the amounts described in subclauses (I) through (IV) of subparagraph (C)(i) for any State for each of fiscal years 1992 and 1993, the Secretary shall use information available as of April 28, 1995.

"(II) In determining the amount described in subparagraph (C)(i)(V) for any State for each of fiscal years 1992 and 1993, the Secretary shall use information available as of January 6, 1995.

"(ii) FOR FISCAL YEAR 1994.—In determining the amounts described in subparagraph (C)(i) for any State for fiscal year 1994, the Secretary shall use information available as of April 28, 1995.

"(iii) FOR FISCAL YEAR 1995.—

"(I) In determining the amount described in subparagraph (B)(ii)(II) for any State for fiscal year 1995, the Secretary shall use the information which was reported by the States and estimates made by the States with respect to emergency assistance expenditures and was available as of August 11, 1995.

"(II) In determining the amounts described in subclauses (I) through (III) of subparagraph (C)(i) for any State for fiscal year 1995, the Secretary shall use information available as of October 2, 1995.

"(III) In determining the amount described in subparagraph (C)(i)(IV) for any State for fiscal year 1995, the Secretary shall use information available as of February 28, 1996.

"(IV) In determining the amount described in subparagraph (C)(i)(V) for any State for fiscal year 1995, the Secretary shall use information available as of October 5, 1995.

"(E) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1996, 1997, 1998, 1999, 2000, and 2001 such sums as are necessary for grants under this paragraph.

"(2) GRANT TO REWARD STATES THAT REDUCE OUT-OF-WEDLOCK BIRTHS.—

"(A) IN GENERAL.—Each eligible State shall be entitled to receive from the Secretary for fiscal year 1998 or any succeeding fiscal year, a grant in an amount equal to the State family assistance grant multiplied by—

"(i) 5 percent if—

"(I) the illegitimacy ratio of the State for the fiscal year is at least 1 percentage point lower than the illegitimacy ratio of the State for fiscal year 1995; and

"(II) the rate of induced pregnancy terminations in the State for the fiscal year is less than the rate of induced pregnancy terminations in the State for fiscal year 1995; or

"(ii) 10 percent if—

"(I) the illegitimacy ratio of the State for the fiscal year is at least 2 percentage points lower than the illegitimacy ratio of the State for fiscal year 1995; and

"(II) the rate of induced pregnancy terminations in the State for the fiscal year is less than the rate of induced pregnancy terminations in the State for fiscal year 1995.

"(B) ILLEGITIMACY RATIO.—As used in this paragraph, the term 'illegitimacy ratio' means, with respect to a State and a fiscal year—

"(i) the number of out-of-wedlock births that occurred in the State during the most recent fiscal year for which such information is available; divided by

"(ii) the number of births that occurred in the State during the most recent fiscal year for which such information is available.

"(C) DISREGARD OF CHANGES IN DATA DUE TO CHANGED REPORTING METHODS.—For purposes of subparagraph (A), the Secretary shall disregard—

"(i) any difference between the illegitimacy ratio of a State for a fiscal year and the illegitimacy ratio of the State for fiscal year 1995 which is attributable to a change in State methods of reporting data used to calculate the illegitimacy ratio; and

"(ii) any difference between the rate of induced pregnancy terminations in a State for a fiscal year and such rate for fiscal year 1995 which is attributable to

a change in State methods of reporting data used to calculate such rate.

"(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal year 1998 and for each succeeding fiscal year such sums as are necessary for grants under this paragraph.

"(3) SUPPLEMENTAL GRANT FOR POPULATION INCREASES IN CERTAIN STATES.—

"(A) IN GENERAL.—Each qualifying State shall, subject to subparagraph (F), be entitled to receive from the Secretary—

"(i) for fiscal year 1998 a grant in an amount equal to 2.5 percent of the total amount required to be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994; and

"(ii) for each of fiscal years 1999, 2000, and 2001, a grant in an amount equal to the sum of—

"(I) the amount (if any) required to be paid to the State under this paragraph for the immediately preceding fiscal year; and

"(II) 2.5 percent of the sum of—

"(aa) the total amount required to be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994; and

"(bb) the amount (if any) required to be paid to the State under this paragraph for the fiscal year preceding the fiscal year for which the grant is to be made.

"(B) PRESERVATION OF GRANT WITHOUT INCREASES FOR STATES FAILING TO REMAIN QUALIFYING STATES.—Each State that is not a qualifying State for a fiscal year specified in subparagraph (A)(ii) but was a qualifying State for a prior fiscal year shall, subject to subparagraph (F), be entitled to receive from the Secretary for the specified fiscal year, a grant in an amount equal to the amount required to be paid to the State under this paragraph for the most recent fiscal year for which the State was a qualifying State.

"(C) QUALIFYING STATE.—

"(i) IN GENERAL.—For purposes of this paragraph, a State is a qualifying State for a fiscal year if—

"(I) the level of welfare spending per poor person by the State for the immediately preceding fiscal year is less than the national average level of State welfare spending per poor person for such preceding fiscal year; and

"(II) the population growth rate of the State (as determined by the Bureau of the Census) for the most recent fiscal year for which information is available exceeds the average population growth rate for all States (as so determined) for such most recent fiscal year.

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"(ii) STATE MUST QUALIFY IN FISCAL YEAR 1998.—Notwithstanding clause (i), a State shall not be a qualifying State for any fiscal year after 1998 by reason of clause (i) if the State is not a qualifying State for fiscal year 1998 by reason of clause (i).

"(iii) CERTAIN STATES DEEMED QUALIFYING STATES.—For purposes of this paragraph, a State is deemed to be a qualifying State for fiscal years 1998, 1999, 2000, and 2001 if—

"(I) the level of welfare spending per poor person by the State for fiscal year 1997 is less than 35 percent of the national average level of State welfare spending per poor person for fiscal year 1996; or

"(II) the population of the State increased by more than 10 percent from April 1, 1990 to July 1, 1994, according to the population estimates in publication CB94–204 of the Bureau of the Census.

"(D) DEFINITIONS.—As used in this paragraph:

"(i) LEVEL OF WELFARE SPENDING PER POOR PERSON.—The term 'level of State welfare spending per poor person' means, with respect to a State and a fiscal year—

"(I) the sum of—

"(aa) the total amount required to be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994; and

"(bb) the amount (if any) paid to the State under this paragraph for the immediately preceding fiscal year; divided by

"(II) the number of individuals, according to the 1990 decennial census, who were residents of the State and whose income was below the poverty line.

"(ii) NATIONAL AVERAGE LEVEL OF STATE WELFARE SPENDING PER POOR PERSON.—The term 'national average level of State welfare spending per poor person' means, with respect to a fiscal year, an amount equal to—

"(I) the total amount required to be paid to the States under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994; divided by

"(II) the number of individuals, according to the 1990 decennial census, who were residents of any State and whose income was below the poverty line.

"(iii) STATE.—The term 'State' means each of the 50 States of the United States and the District of Columbia.

"(E) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are

appropriated for fiscal years 1998, 1999, 2000, and 2001 such sums as are necessary for grants under this paragraph, in a total amount not to exceed $800,000,000.

"(F) GRANTS REDUCED PRO RATA IF INSUFFICIENT APPROPRIATIONS.—If the amount appropriated pursuant to this paragraph for a fiscal year is less than the total amount of payments otherwise required to be made under this paragraph for the fiscal year, then the amount otherwise payable to any State for the fiscal year under this paragraph shall be reduced by a percentage equal to the amount so appropriated divided by such total amount.

"(G) BUDGET SCORING.—Notwithstanding section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, the baseline shall assume that no grant shall be made under this paragraph after fiscal year 2000.

"(4) BONUS TO REWARD HIGH PERFORMANCE STATES.—

"(A) IN GENERAL.—The Secretary shall make a grant pursuant to this paragraph to each State for each bonus year for which the State is a high performing State.

"(B) AMOUNT OF GRANT.—

"(i) IN GENERAL.—Subject to clause (ii) of this subparagraph, the Secretary shall determine the amount of the grant payable under this paragraph to a high performing State for a bonus year, which shall be based on the score assigned to the State under subparagraph (D)(i) for the fiscal year that immediately precedes the bonus year.

"(ii) LIMITATION.—The amount payable to a State under this paragraph for a bonus year shall not exceed 5 percent of the State family assistance grant.

"(C) FORMULA FOR MEASURING STATE PERFORMANCE.—Not later than 1 year after the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996, the Secretary, in consultation with the National Governors' Association and the American Public Welfare Association, shall develop a formula for measuring State performance in operating the State program funded under this part so as to achieve the goals set forth in section 401(a). Such formula shall emphasize the extent to which the State increases the number of families that become ineligible for assistance under the State program funded under this part as a result of unsubsidized employment.

"(D) SCORING OF STATE PERFORMANCE; SETTING OF PERFORMANCE THRESHOLDS.—For each bonus year, the Secretary shall—

"(i) use the formula developed under subparagraph (C) to assign a score to each eligible State for the fiscal year that immediately precedes the bonus year; and

"(ii) prescribe a performance threshold in such a manner so as to ensure that—

"(I) the average annual total amount of grants to be made under this paragraph for each bonus

year equals the amount specified for such bonus year in subparagraph (E)(ii); and

"(II) the total amount of grants to be made under this paragraph for all bonus years equals $1,000,000,000.

"(E) DEFINITIONS.—As used in this paragraph:

"(i) BONUS YEAR.—The term 'bonus year' means fiscal years 1999, 2000, 2001, 2002, and 2003.

"(ii) THE AMOUNT SPECIFIED FOR SUCH BONUS YEAR.—The term 'the amount specified for such bonus year' means the following:

"(I) For fiscal years 1999, 2000, 2001, and 2002, $175,000,000.

"(II) For fiscal year 2003, $300,000,000.

"(iii) HIGH PERFORMING STATE.—The term 'high performing State' means, with respect a bonus year, an eligible State whose score assigned pursuant to subparagraph (D)(i) for the fiscal year immediately preceding the bonus year equals or exceeds the performance threshold prescribed under subparagraph (D)(ii) for such preceding fiscal year.

"(F) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1999 through 2003 $1,000,000,000 for grants under this paragraph.

"(b) CONTINGENCY FUND.—

"(1) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a fund which shall be known as the 'Contingency Fund for State Welfare Programs' (in this section referred to as the 'Fund').

"(2) DEPOSITS INTO FUND.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1998, 1999, 2000, and 2001 such sums as are necessary for payment to the Fund in a total amount not to exceed $2,000,000,000.

"(3) GRANTS.—

"(A) PROVISIONAL PAYMENTS.—If an eligible State submits to the Secretary a request for funds under this paragraph during an eligible month, the Secretary shall, subject to this paragraph, pay to the State, from amounts appropriated pursuant to paragraph (2), an amount equal to the amount of funds so requested.

"(B) PAYMENT PRIORITY.—The Secretary shall make payments under subparagraph (A) in the order in which the Secretary receives requests for such payments.

"(C) LIMITATIONS.—

"(i) MONTHLY PAYMENT TO A STATE.—The total amount paid to a single State under subparagraph (A) during a month shall not exceed 1/12 of 20 percent of the State family assistance grant.

"(ii) PAYMENTS TO ALL STATES.—The total amount paid to all States under subparagraph (A) during fiscal years 1998 through 2001 shall not exceed the total amount appropriated pursuant to paragraph (2).

"(4) ANNUAL RECONCILIATION.—Notwithstanding paragraph (3), at the end of each fiscal year, each State shall remit to the Secretary an amount equal to the amount (if any) by which the total amount paid to the State under paragraph (3) during the fiscal year exceeds—

"(A) the Federal medical assistance percentage for the State for the fiscal year (as defined in section 1905(b), as in effect on September 30, 1995) of the amount (if any) by which the expenditures under the State program funded under this part for the fiscal year exceed historic State expenditures (as defined in section 409(a)(7)(B)(iii)); multiplied by

"(B) 1/12 times the number of months during the fiscal year for which the Secretary makes a payment to the State under this subsection.

"(5) ELIGIBLE MONTH.—As used in paragraph (3)(A), the term 'eligible month' means, with respect to a State, a month in the 2-month period that begins with any month for which the State is a needy State.

"(6) NEEDY STATE.—For purposes of paragraph (5), a State is a needy State for a month if—

"(A) the average rate of—

"(i) total unemployment in such State (seasonally adjusted) for the period consisting of the most recent 3 months for which data for all States are published equals or exceeds 6.5 percent; and

"(ii) total unemployment in such State (seasonally adjusted) for the 3-month period equals or exceeds 110 percent of such average rate for either (or both) of the corresponding 3-month periods ending in the 2 preceding calendar years; or

"(B) as determined by the Secretary of Agriculture (in the discretion of the Secretary of Agriculture), the monthly average number of individuals (as of the last day of each month) participating in the food stamp program in the State in the then most recently concluded 3-month period for which data are available exceeds by not less than 10 percent the lesser of—

"(i) the monthly average number of individuals (as of the last day of each month) in the State that would have participated in the food stamp program in the corresponding 3-month period in fiscal year 1994 if the amendments made by chapter 4 of the Personal Responsibility and Work Opportunity Act of 1996 and the amendments made by chapter 1 of subtitle A of title I of the Agricultural Reconciliation Act of 1996 had been in effect throughout fiscal year 1994; or

"(ii) the monthly average number of individuals (as of the last day of each month) in the State that would have participated in the food stamp program in the corresponding 3-month period in fiscal year 1995 if the amendments made by chapter 4 of the Personal Responsibility and Work Opportunity Act of 1996 and the amendments made by chapter 1 of subtitle A of

title I of the Agricultural Reconciliation Act of 1996 had been in effect throughout fiscal year 1995.

"(7) OTHER TERMS DEFINED.—As used in this subsection:

"(A) STATE.—The term 'State' means each of the 50 States of the United States and the District of Columbia.

"(B) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(8) ANNUAL REPORTS.—The Secretary shall annually report to the Congress on the status of the Fund.

"(9) BUDGET SCORING.—Notwithstanding section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, the baseline shall assume that no grant shall be made under this subsection after fiscal year 2001.

"SEC. 404. USE OF GRANTS.

"(a) GENERAL RULES.—Subject to this part, a State to which a grant is made under section 403 may use the grant—

"(1) in any manner that is reasonably calculated to accomplish the purpose of this part, including to provide low income households with assistance in meeting home heating and cooling costs; or

"(2) in any manner that the State was authorized to use amounts received under part A or F, as such parts were in effect on September 30, 1995.

"(b) LIMITATION ON USE OF GRANT FOR ADMINISTRATIVE PURPOSES.—

"(1) LIMITATION.—A State to which a grant is made under section 403 shall not expend more than 15 percent of the grant for administrative purposes.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the use of a grant for information technology and computerization needed for tracking or monitoring required by or under this part.

"(c) AUTHORITY TO TREAT INTERSTATE IMMIGRANTS UNDER RULES OF FORMER STATE.—A State operating a program funded under this part may apply to a family the rules (including benefit amounts) of the program funded under this part of another State if the family has moved to the State from the other State and has resided in the State for less than 12 months.

"(d) AUTHORITY TO USE PORTION OF GRANT FOR OTHER PURPOSES.—

"(1) IN GENERAL.—A State may use not more than 30 percent of the amount of the grant made to the State under section 403 for a fiscal year to carry out a State program pursuant to the Child Care and Development Block Grant Act of 1990.

"(2) APPLICABLE RULES.—Any amount paid to the State under this part that is used to carry out a State program pursuant to a provision of law specified or described in paragraph (1) shall not be subject to the requirements of this part, but shall be subject to the requirements that apply to Federal funds provided directly under the provision of law to carry out the program.

"(e) AUTHORITY TO RESERVE CERTAIN AMOUNTS FOR ASSISTANCE.—A State may reserve amounts paid to the State under this part for any fiscal year for the purpose of providing, without fiscal

year limitation, assistance under the State program funded under this part.

"(f) AUTHORITY TO OPERATE EMPLOYMENT PLACEMENT PROGRAM.—A State to which a grant is made under section 403 may use the grant to make payments (or provide job placement vouchers) to State-approved public and private job placement agencies that provide employment placement services to individuals who receive assistance under the State program funded under this part.

"(g) IMPLEMENTATION OF ELECTRONIC BENEFIT TRANSFER SYSTEM.—A State to which a grant is made under section 403 is encouraged to implement an electronic benefit transfer system for providing assistance under the State program funded under this part, and may use the grant for such purpose.

"SEC. 405. ADMINISTRATIVE PROVISIONS.

"(a) QUARTERLY.—The Secretary shall pay each grant payable to a State under section 403 in quarterly installments.

"(b) NOTIFICATION.—Not later than 3 months before the payment of any such quarterly installment to a State, the Secretary shall notify the State of the amount of any reduction determined under section 412(a)(1)(B) with respect to the State.

"(c) COMPUTATION AND CERTIFICATION OF PAYMENTS TO STATES.—

"(1) COMPUTATION.—The Secretary shall estimate the amount to be paid to each eligible State for each quarter under this part, such estimate to be based on a report filed by the State containing an estimate by the State of the total sum to be expended by the State in the quarter under the State program funded under this part and such other information as the Secretary may find necessary.

"(2) CERTIFICATION.—The Secretary of Health and Human Services shall certify to the Secretary of the Treasury the amount estimated under paragraph (1) with respect to a State, reduced or increased to the extent of any overpayment or underpayment which the Secretary of Health and Human Services determines was made under this part to the State for any prior quarter and with respect to which adjustment has not been made under this paragraph.

"(d) PAYMENT METHOD.—Upon receipt of a certification under subsection (c)(2) with respect to a State, the Secretary of the Treasury shall, through the Fiscal Service of the Department of the Treasury and before audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health and Human Services, the amount so certified.

"(e) COLLECTION OF STATE OVERPAYMENTS TO FAMILIES FROM FEDERAL TAX REFUNDS.—

"(1) IN GENERAL.—Upon receiving notice from the Secretary of Health and Human Services that a State agency administering a program funded under this part has notified the Secretary that a named individual has been overpaid under the State program funded under this part, the Secretary of the Treasury shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual, regardless of whether the individual filed a tax return as a married or unmarried individual. If the Secretary of the Treasury finds that

any such amount is so payable, the Secretary shall withhold from such refunds an amount equal to the overpayment sought to be collected by the State and pay such amount to the State agency.

"(2) REGULATIONS.—The Secretary of the Treasury shall issue regulations, after review by the Secretary of Health and Human services, that provide—

"(A) that a State may only submit under paragraph (1) requests for collection of overpayments with respect to individuals—

"(i) who are no longer receiving assistance under the State program funded under this part;

"(ii) with respect to whom the State has already taken appropriate action under State law against the income or resources of the individuals or families involved to collect the past-due legally enforceable debt; and

"(iii) to whom the State agency has given notice of its intent to request withholding by the Secretary of the Treasury from the income tax refunds of such individuals;

"(B) that the Secretary of the Treasury will give a timely and appropriate notice to any other person filing a joint return with the individual whose refund is subject to withholding under paragraph (1); and

"(C) the procedures that the State and the Secretary of the Treasury will follow in carrying out this subsection which, to the maximum extent feasible and consistent with the provisions of this subsection, will be the same as those issued pursuant to section 464(b) applicable to collection of past-due child support.

"SEC. 406. FEDERAL LOANS FOR STATE WELFARE PROGRAMS.

"(a) LOAN AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall make loans to any loan-eligible State, for a period to maturity of not more than 3 years.

"(2) LOAN-ELIGIBLE STATE.—As used in paragraph (1), the term 'loan-eligible State' means a State against which a penalty has not been imposed under section 409(a)(1).

"(b) RATE OF INTEREST.—The Secretary shall charge and collect interest on any loan made under this section at a rate equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the period to maturity of the loan.

"(c) USE OF LOAN.—A State shall use a loan made to the State under this section only for any purpose for which grant amounts received by the State under section 403(a) may be used, including—

"(1) welfare anti-fraud activities; and

"(2) the provision of assistance under the State program to Indian families that have moved from the service area of an Indian tribe with a tribal family assistance plan approved under section 412.

"(d) LIMITATION ON TOTAL AMOUNT OF LOANS TO A STATE.—The cumulative dollar amount of all loans made to a State under this section during fiscal years 1997 through 2001 shall not exceed 10 percent of the State family assistance grant.

"(e) LIMITATION ON TOTAL AMOUNT OF OUTSTANDING LOANS.—The total dollar amount of loans outstanding under this section may not exceed $1,700,000,000.

"(f) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated such sums as may be necessary for the cost of loans under this section.

"SEC. 407. MANDATORY WORK REQUIREMENTS.

"(a) PARTICIPATION RATE REQUIREMENTS.—

"(1) ALL FAMILIES.—A State to which a grant is made under section 403 for a fiscal year shall achieve the minimum participation rate specified in the following table for the fiscal year with respect to all families receiving assistance under the State program funded under this part:

"If the fiscal year is:	The minimum participation rate is:
1996	15
1997	25
1998	30
1999	35
2000	40
2001	45
2002 and thereafter	50.

"(2) 2-PARENT FAMILIES.—A State to which a grant is made under section 403 for a fiscal year shall achieve the minimum participation rate specified in the following table for the fiscal year with respect to 2-parent families receiving assistance under the State program funded under this part:

"If the fiscal year is:	The minimum participation rate is:
1996	50
1997	75
1998	75
1999 and thereafter	90.

"(b) CALCULATION OF PARTICIPATION RATES.—

"(1) ALL FAMILIES.—

"(A) AVERAGE MONTHLY RATE.—For purposes of subsection (a)(1), the participation rate for all families of a State for a fiscal year is the average of the participation rates for all families of the State for each month in the fiscal year.

"(B) MONTHLY PARTICIPATION RATES.—The participation rate of a State for all families of the State for a month, expressed as a percentage, is—

"(i) the number of families receiving assistance under the State program funded under this part that include an adult who is engaged in work for the month; divided by

"(ii) the amount by which—

"(I) the number of families receiving such assistance during the month that include an adult receiving such assistance; exceeds

"(II) the number of families receiving such assistance that are subject in such month to a penalty described in subsection (e)(1) but have not been subject to such penalty for more than 3 months within the preceding 12-month period (whether or not consecutive).

"(2) 2-PARENT FAMILIES.—

"(A) AVERAGE MONTHLY RATE.—For purposes of subsection (a)(2), the participation rate for 2-parent families of a State for a fiscal year is the average of the participation rates for 2-parent families of the State for each month in the fiscal year.

"(B) MONTHLY PARTICIPATION RATES.—The participation rate of a State for 2-parent families of the State for a month shall be calculated by use of the formula set forth in paragraph (1)(B), except that in the formula the term 'number of 2-parent families' shall be substituted for the term 'number of families' each place such latter term appears.

"(3) PRO RATA REDUCTION OF PARTICIPATION RATE DUE TO CASELOAD REDUCTIONS NOT REQUIRED BY FEDERAL LAW.—

"(A) IN GENERAL.—The Secretary shall prescribe regulations for reducing the minimum participation rate otherwise required by this section for a fiscal year by the number of percentage points equal to the number of percentage points (if any) by which—

"(i) the average monthly number of families receiving assistance during the fiscal year under the State program funded under this part is less than

"(ii) the average monthly number of families that received aid under the State plan approved under part A (as in effect on September 30, 1995) during fiscal year 1995.

The minimum participation rate shall not be reduced to the extent that the Secretary determines that the reduction in the number of families receiving such assistance is required by Federal law.

"(B) ELIGIBILITY CHANGES NOT COUNTED.—The regulations described in subparagraph (A) shall not take into account families that are diverted from a State program funded under this part as a result of differences in eligibility criteria under a State program funded under this part and eligibility criteria under the State program operated under the State plan approved under part A (as such plan and such part were in effect on September 30, 1995). Such regulations shall place the burden on the Secretary to prove that such families were diverted as a direct result of differences in such eligibility criteria.

"(4) STATE OPTION TO INCLUDE INDIVIDUALS RECEIVING ASSISTANCE UNDER A TRIBAL FAMILY ASSISTANCE PLAN.—For purposes of paragraphs (1)(B) and (2)(B), a State may, at its op-

tion, include families receiving assistance under a tribal family assistance plan approved under section 412.

"(5) STATE OPTION FOR PARTICIPATION REQUIREMENT EXEMPTIONS.—

"(A) IN GENERAL.—For any fiscal year, a State may, at its option, not require an individual who is a single custodial parent caring for a child who has not attained 12 months of age to engage in work and may disregard such an individual in determining the participation rates under subsection (a).

"(B) LIMITATION.—The exemption described in subparagraph (A) may only be applied to a single custodial parent for a total of 12 months (whether or not consecutive).

"(c) ENGAGED IN WORK.—

"(1) ALL FAMILIES.—For purposes of subsection (b)(1)(B)(i), a recipient is engaged in work for a month in a fiscal year if the recipient is participating in work activities for at least the minimum average number of hours per week specified in the following table during the month, not fewer than 20 hours per week of which are attributable to an activity described in paragraph (1), (2), (3), (4), (5), (6), (7), or (8) of subsection (d):

"If the month is in fiscal year:	The minimum average number of hours per week is:
1996	20
1997	20
1998	20
1999	25
2000	30
2001	30
2002 and thereafter	35.

"(2) 2-PARENT FAMILIES.—For purposes of subsection (b)(2)(B)(i)—

"(A) an adult is engaged in work for a month in a fiscal year if the adult is making progress in work activities for at least 35 hours per week during the month, not fewer than 30 hours per week of which are attributable to an activity described in paragraph (1), (2), (3), (4), (5), (6), (7), or (8) of subsection (d); and

"(B) if the family of such adult receives federally-funded child care assistance, if the adult's spouse is making progress in work activities for at least 20 hours per week during the month which are attributable to an activity described in paragraph (1), (2), (3), (4), (5), or (7) of subsection (d).

"(3) LIMITATION ON NUMBER OF WEEKS FOR WHICH JOB SEARCH COUNTS AS WORK.—Notwithstanding paragraphs (1) and (2), an individual shall not be considered to be engaged in work by virtue of participation in an activity described in subsection (d)(6), after the individual has participated in such an activity for 4 weeks (except if the unemployment rate in the State is above the national average, in which case, 12 weeks) in a fiscal year. An individual shall be considered to be participating in such an activity for a week if the individual participates in such an activity at any time during the week.

"(4) LIMITATION ON VOCATIONAL EDUCATION ACTIVITIES COUNTED AS WORK.—For purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B)(i) of subsection (b), not more than 20 percent of adults in all families and in 2-parent families determined to be engaged in work in the State for a month may meet the work activity requirement through participation in vocational educational training.

"(5) SINGLE PARENT WITH CHILD UNDER AGE 6 DEEMED TO BE MEETING WORK PARTICIPATION REQUIREMENTS IF PARENT IS ENGAGED IN WORK FOR 20 HOURS PER WEEK.—For purposes of determining monthly participation rates under subsection (b)(1)(B)(i), a recipient in a 1-parent family who is the parent of a child who has not attained 6 years of age is deemed to be engaged in work for a month if the recipient is engaged in work for an average of at least 20 hours per week during the month.

"(6) TEEN HEAD OF HOUSEHOLD WHO MAINTAINS SATISFACTORY SCHOOL ATTENDANCE DEEMED TO BE MEETING WORK PARTICIPATION REQUIREMENTS.—For purposes of determining monthly participation rates under subsection (b)(1)(B)(i), a recipient who is a single head of household and has not attained 20 years of age is deemed to be engaged in work for a month in a fiscal year if the recipient—

"(A) maintains satisfactory attendance at secondary school or the equivalent during the month; or

"(B) participates in education directly related to employment for at least the minimum average number of hours per week specified in the table set forth in paragraph (1).

"(d) WORK ACTIVITIES DEFINED.—As used in this section, the term 'work activities' means—

"(1) unsubsidized employment;

"(2) subsidized private sector employment;

"(3) subsidized public sector employment;

"(4) work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;

"(5) on-the-job training;

"(6) job search and job readiness assistance;

"(7) community service programs;

"(8) vocational educational training (not to exceed 12 months with respect to any individual);

"(9) job skills training directly related to employment;

"(10) education directly related to employment, in the case of a recipient who has not attained 20 years of age, and has not received a high school diploma or a certificate of high school equivalency; and

"(11) satisfactory attendance at secondary school, in the case of a recipient who—

"(A) has not completed secondary school; and

"(B) is a dependent child, or a head of household who has not attained 20 years of age.

"(e) PENALTIES AGAINST INDIVIDUALS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an adult in a family receiving assistance under the State program

funded under this part refuses to engage in work required in accordance with this section, the State shall—

"(A) reduce the amount of assistance otherwise payable to the family pro rata (or more, at the option of the State) with respect to any period during a month in which the adult so refuses; or

"(B) terminate such assistance,

subject to such good cause and other exceptions as the State may establish.

"(2) EXCEPTION.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), a State may not reduce or terminate assistance under the State program funded under this part based on a refusal of an adult to work if the adult is a single custodial parent caring for a child who has not attained 11 years of age, and the adult proves that the adult has a demonstrated inability (as determined by the State) to obtain needed child care, for 1 or more of the following reasons:

"(i) Unavailability of appropriate child care within a reasonable distance from the individual's home or work site.

"(ii) Unavailability or unsuitability of informal child care by a relative or under other arrangements.

"(iii) Unavailability of appropriate and affordable formal child care arrangements.

"(B) INCLUDED IN DETERMINATION OF PARTICIPATION RATES.—A State may not disregard an adult for which the exception described in subparagraph (A) applies from determination of the participation rates under subsection (a).

"(f) NONDISPLACEMENT IN WORK ACTIVITIES.—

"(1) IN GENERAL.—Subject to paragraph (2), an adult in a family receiving assistance under a State program funded under this part attributable to funds provided by the Federal Government may fill a vacant employment position in order to engage in a work activity described in subsection (d).

"(2) NO FILLING OF CERTAIN VACANCIES.—No work assignment to an adult in a family receiving assistance under a State program funded under this part shall result in—

"(A) the displacement of any currently employed worker (including any partial displacement of such worker through such matters as a reduction in the hours of overtime work, wages, or employment benefits), or in the impairment of any contract for services in existence as of the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996, or in the impairment of any collective bargaining agreement in existence as of such date.

"(B) the termination of the employment of any regular employee or any other involuntary reduction of an employer's workforce in order to fill the vacancy so created with an adult described in paragraph (1).

"(3) GRIEVANCE PROCEDURE.—A State with a program funded under this part shall establish and maintain a grievance procedure for resolving complaints of alleged violations of the provi-

sions of paragraph (2) and for providing adequate remedies for any such violations established. The grievance procedure established under this paragraph shall include an opportunity for a hearing.

"(4) NO PREEMPTION.—Nothing in this subsection shall preempt or supersede any provision of State or local law that provides greater protection for employees from displacement.

"(g) SENSE OF THE CONGRESS.—It is the sense of the Congress that in complying with this section, each State that operates a program funded under this part is encouraged to assign the highest priority to requiring adults in 2-parent families and adults in single-parent families that include older preschool or school-age children to be engaged in work activities.

"(h) SENSE OF THE CONGRESS THAT STATES SHOULD IMPOSE CERTAIN REQUIREMENTS ON NONCUSTODIAL, NONSUPPORTING MINOR PARENTS.—It is the sense of the Congress that the States should require noncustodial, nonsupporting parents who have not attained 18 years of age to fulfill community work obligations and attend appropriate parenting or money management classes after school.

"SEC. 408. PROHIBITIONS; REQUIREMENTS.

"(a) IN GENERAL.—

"(1) NO ASSISTANCE FOR FAMILIES WITHOUT A MINOR CHILD.— A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to a family—

"(A) unless the family includes—

"(i) a minor child who resides with a custodial parent or other adult caretaker relative of the child; or

"(ii) a pregnant individual; and

"(B) if such family includes an adult who has received assistance under any State program funded under this part attributable to funds provided by the Federal Government, for 60 months (whether or not consecutive) after the date the State program funded under this part commences (unless an exception described in subparagraph (B) or (C) of paragraph (8) applies).

"(2) NO ADDITIONAL CASH ASSISTANCE FOR CHILDREN BORN TO FAMILIES RECEIVING ASSISTANCE.—

"(A) GENERAL RULE.—A State to which a grant is made under section 403 shall not use any part of the grant to provide cash benefits for a minor child who is born to—

"(i) a recipient of assistance under the program operated under this part; or

"(ii) a person who received such assistance at any time during the 10-month period ending with the birth of the child.

"(B) EXCEPTION FOR CHILDREN BORN INTO FAMILIES WITH NO OTHER CHILDREN.—Subparagraph (A) shall not apply to a minor child who is born into a family that does not include any other children.

"(C) EXCEPTION FOR RAPE OR INCEST.—Subparagraph (A) shall not apply with respect to a child who is born as a result of rape or incest.

"(D) STATE ELECTION TO OPT OUT.—Subparagraph (A) shall not apply to a State if State law specifically exempts

the State program funded under this part from the application of subparagraph (A).

"(E) SUBSTITUTION OF FAMILY CAPS IN EFFECT UNDER WAIVERS OR CURRENT STATE LAW.—Subparagraph (A) shall not apply to a State—

"(i) if, not earlier than 2 years prior to the date of the enactment of this part, the State enacted a law permitting the State to deny aid or assistance to a family by reason of the birth of a child to a family member otherwise eligible for such aid or assistance; or

"(ii) if, as of the date of the enactment of this part—

"(I) the State has in effect a waiver approved by the Secretary under section 1115 which permits the State to deny aid under the State plan approved under part A of this title (as in effect without regard to the amendments made by chapter 1 of the Personal Responsibility and Work Opportunity Act of 1996) to a family by reason of the birth of a child to a family member otherwise eligible for such aid; and

"(II) the State continues to implement such policy under the State program funded under this part (regardless of the expiration of the waiver), under rules prescribed by the State.

"(3) REDUCTION OR ELIMINATION OF ASSISTANCE FOR NONCOOPERATION IN ESTABLISHING PATERNITY OR OBTAINING CHILD SUPPORT.—If the agency responsible for administering the State plan approved under part D determines that an individual is not cooperating with the State in establishing paternity or in establishing, modifying, or enforcing a support order with respect to a child of the individual, and the individual does not qualify for any good cause or other exception established by the State pursuant to section 454(29), then the State—

"(A) shall deduct not less than 25 percent of the assistance that would otherwise be provided to the family of the individual under the State program funded under this part; and

"(B) may deny the family any assistance under the State program.

"(4) NO ASSISTANCE FOR FAMILIES NOT ASSIGNING CERTAIN SUPPORT RIGHTS TO THE STATE.—

"(A) IN GENERAL.—A State to which a grant is made under section 403 shall require, as a condition of providing assistance to a family under the State program funded under this part, that a member of the family assign to the State any rights the family member may have (on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance) to support from any other person, not exceeding the total amount of assistance so provided to the family, which accrue (or have accrued) before the date the family leaves the program, which assignment, on and after the date the family leaves the program, shall not apply with respect to

any support (other than support collected pursuant to section 464) which accrued before the family received such assistance and which the State has not collected by—

"(i) September 30, 2000, if the assignment is executed on or after October 1, 1997, and before October 1, 2000; or

"(ii) the date the family leaves the program, if the assignment is executed on or after October 1, 2000.

"(B) LIMITATION.—A State to which a grant is made under section 403 shall not require, as a condition of providing assistance to any family under the State program funded under this part, that a member of the family assign to the State any rights to support described in subparagraph (A) which accrue after the date the family leaves the program.

"(5) NO ASSISTANCE FOR TEENAGE PARENTS WHO DO NOT ATTEND HIGH SCHOOL OR OTHER EQUIVALENT TRAINING PROGRAM.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to an individual who has not attained 18 years of age, is not married, has a minor child at least 12 weeks of age in his or her care, and has not successfully completed a high-school education (or its equivalent), if the individual does not participate in—

"(A) educational activities directed toward the attainment of a high school diploma or its equivalent; or

"(B) an alternative educational or training program that has been approved by the State.

"(6) NO ASSISTANCE FOR TEENAGE PARENTS NOT LIVING IN ADULT-SUPERVISED SETTINGS.—

"(A) IN GENERAL.—

"(i) REQUIREMENT.—Except as provided in subparagraph (B), a State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to an individual described in clause (ii) of this subparagraph if the individual and the minor child referred to in clause (ii)(II) do not reside in a place of residence maintained by a parent, legal guardian, or other adult relative of the individual as such parent's, guardian's, or adult relative's own home.

"(ii) INDIVIDUAL DESCRIBED.— For purposes of clause (i), an individual described in this clause is an individual who—

"(I) has not attained 18 years of age; and

"(II) is not married, and has a minor child in his or her care.

"(B) EXCEPTION.—

"(i) PROVISION OF, OR ASSISTANCE IN LOCATING, ADULT-SUPERVISED LIVING ARRANGEMENT.—In the case of an individual who is described in clause (ii), the State agency referred to in section 402(a)(4) shall provide, or assist the individual in locating, a second chance home, maternity home, or other appropriate

adult-supervised supportive living arrangement, taking into consideration the needs and concerns of the individual, and thereafter shall require that the individual and the minor child referred to in subparagraph (A)(ii)(II) reside in such living arrangement as a condition of the continued receipt of assistance under the State program funded under this part attributable to funds provided by the Federal Government (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate).

"(ii) INDIVIDUAL DESCRIBED.—For purposes of clause (i), an individual is described in this clause if the individual is described in subparagraph (A)(ii), and—

"(I) the individual has no parent, legal guardian or other appropriate adult relative described in subclause (II) of his or her own who is living or whose whereabouts are known;

"(II) no living parent, legal guardian, or other appropriate adult relative, who would otherwise meet applicable State criteria to act as the individual's legal guardian, of such individual allows the individual to live in the home of such parent, guardian, or relative;

"(III) the State agency determines that—

"(aa) the individual or the minor child referred to in subparagraph (A)(ii)(II) is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of the individual's own parent or legal guardian; or

"(bb) substantial evidence exists of an act or failure to act that presents an imminent or serious harm if the individual and the minor child lived in the same residence with the individual's own parent or legal guardian; or

"(IV) the State agency otherwise determines that it is in the best interest of the minor child to waive the requirement of subparagraph (A) with respect to the individual or the minor child.

"(iii) SECOND-CHANCE HOME.—For purposes of this subparagraph, the term 'second-chance home' means an entity that provides individuals described in clause (ii) with a supportive and supervised living arrangement in which such individuals are required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their children.

"(7) NO MEDICAL SERVICES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a State to which a grant is made under section 403 shall not use any part of the grant to provide medical services.

"(B) EXCEPTION FOR FAMILY PLANNING SERVICES.—As used in subparagraph (A), the term 'medical services' does not include family planning services.

"(8) NO ASSISTANCE FOR MORE THAN 5 YEARS.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to a family that includes an adult who has received assistance under any State program funded under this part attributable to funds provided by the Federal Government, for 60 months (whether or not consecutive) after the date the State program funded under this part commences.

"(B) MINOR CHILD EXCEPTION.—In determining the number of months for which an individual who is a parent or pregnant has received assistance under the State program funded under this part, the State shall disregard any month for which such assistance was provided with respect to the individual and during which the individual was—

"(i) a minor child; and

"(ii) not the head of a household or married to the head of a household.

"(C) HARDSHIP EXCEPTION.—

"(i) IN GENERAL.—The State may exempt a family from the application of subparagraph (A) of this paragraph, or subparagraph (B) of paragraph (1), by reason of hardship or if the family includes an individual who has been battered or subjected to extreme cruelty.

"(ii) LIMITATION.—The number of families with respect to which an exemption made by a State under clause (i) is in effect for a fiscal year shall not exceed 20 percent of the average monthly number of families to which assistance is provided under the State program funded under this part.

"(iii) BATTERED OR SUBJECT TO EXTREME CRUELTY DEFINED.—For purposes of clause (i), an individual has been battered or subjected to extreme cruelty if the individual has been subjected to—

"(I) physical acts that resulted in, or threatened to result in, physical injury to the individual;

"(II) sexual abuse;

"(III) sexual activity involving a dependent child;

"(IV) being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;

"(V) threats of, or attempts at, physical or sexual abuse;

"(VI) mental abuse; or

"(VII) neglect or deprivation of medical care.

"(D) RULE OF INTERPRETATION.—Subparagraph (A) of this paragraph and subparagraph (B) of paragraph (1) shall not be interpreted to require any State to provide assistance to any individual for any period of time under the State program funded under this part.

"(9) DENIAL OF ASSISTANCE FOR 10 YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN ASSISTANCE IN 2 OR MORE STATES.—A State to which a grant is made under section 403 shall not use any part of the grant to provide cash assistance to an individual during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States under programs that are funded under this title, title XV or XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI. The preceding sentence shall not apply with respect to a conviction of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct which was the subject of the conviction.

"(10) DENIAL OF ASSISTANCE FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.—

"(A) IN GENERAL.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to any individual who is—

"(i) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(ii) violating a condition of probation or parole imposed under Federal or State law.

The preceding sentence shall not apply with respect to conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

"(B) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—If a State to which a grant is made under section 403 establishes safeguards against the use or disclosure of information about applicants or recipients of assistance under the State program funded under this part, the safeguards shall not prevent the State agency administering the program from furnishing a Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient if the officer furnishes the agency with the name of the recipient and notifies the agency that—

"(i) the recipient—

"(I) is described in subparagraph (A); or

"(II) has information that is necessary for the officer to conduct the official duties of the officer; and

"(ii) the location or apprehension of the recipient is within such official duties.

"(11) DENIAL OF ASSISTANCE FOR MINOR CHILDREN WHO ARE ABSENT FROM THE HOME FOR A SIGNIFICANT PERIOD.—

"(A) IN GENERAL.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance for a minor child who has been, or is expected by a parent (or other caretaker relative) of the child to be, absent from the home for a period of 45 consecutive days or, at the option of the State, such period of not less than 30 and not more than 180 consecutive days as the State may provide for in the State plan submitted pursuant to section 402.

"(B) STATE AUTHORITY TO ESTABLISH GOOD CAUSE EXCEPTIONS.—The State may establish such good cause exceptions to subparagraph (A) as the State considers appropriate if such exceptions are provided for in the State plan submitted pursuant to section 402.

"(C) DENIAL OF ASSISTANCE FOR RELATIVE WHO FAILS TO NOTIFY STATE AGENCY OF ABSENCE OF CHILD.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance for an individual who is a parent (or other caretaker relative) of a minor child and who fails to notify the agency administering the State program funded under this part of the absence of the minor child from the home for the period specified in or provided for pursuant to subparagraph (A), by the end of the 5-day period that begins with the date that it becomes clear to the parent (or relative) that the minor child will be absent for such period so specified or provided for.

"(12) MEDICAL ASSISTANCE REQUIRED TO BE PROVIDED FOR 1 YEAR FOR FAMILIES BECOMING INELIGIBLE FOR ASSISTANCE UNDER THIS PART DUE TO INCREASED EARNINGS FROM EMPLOYMENT OR COLLECTION OF CHILD SUPPORT.—

"(A) IN GENERAL.—A State to which a grant is made under section 403 shall take such action as may be necessary to ensure that, if any family becomes ineligible to receive assistance under the State program funded under this part as a result of—

"(i) increased earnings from employment;

"(ii) the collection or increased collection of child or spousal support;

"(iii) a combination of the matters described in clauses (i) and (ii), or;

"(iv) during the 1-year period that begins on July 1, 1997 (or the date described in section 2116(b)(1)(A) of the Personal Responsibility and Work Opportunity Act of 1996, if earlier), as a result of the State revising the standards and criteria under the State plan for determining eligibility for assistance under this part,

and such family received such assistance in at least 3 of the 6 months immediately preceding the month in which such ineligibility begins, the family shall be eligible for medical assistance under the State's plan approved under title XIX (or, if applicable, title XV) during the immediately succeeding 12-month period for so long as family

income (as defined by the State), excluding any refund of Federal income taxes made by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) and any payment made by an employer under section 3507 of such Code (relating to advance payment of earned income credit), is less than the poverty line, and that the family will be appropriately notified of such eligibility.

"(B) EXCEPTION.—No medical assistance may be provided under subparagraph (A) to any family that contains an individual who has had all or part of any assistance provided under this part withheld, deducted, or denied as a result of the application of—

"(i) a preceding paragraph of this subsection;

"(ii) section 407(e)(1); or

"(iii) in the case of a family described in clause (iv) of subparagraph (A), a sanction imposed under the State plan under this part (as in effect on June 30, 1997 (or the day before the date described in section 2116(b)(1)(A) of the Personal Responsibility and Work Opportunity Act of 1996, if earlier)).

"(b) ALIENS.—For special rules relating to the treatment of aliens, see section 2402 of the Personal Responsibility and Work Opportunity Act of 1996.

"(c) NONDISCRIMINATION PROVISIONS.—Any program or activity that receives funds under this part shall be subject to enforcement authorized under the following provisions of law:

"(1) The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

"(2) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(4) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.)

"SEC. 409. PENALTIES.

"(a) IN GENERAL.—Subject to this section:

"(1) USE OF GRANT IN VIOLATION OF THIS PART.—

"(A) GENERAL PENALTY.—If an audit conducted under chapter 75 of title 31, United States Code, finds that an amount paid to a State under section 403 for a fiscal year has been used in violation of this part, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter by the amount so used.

"(B) ENHANCED PENALTY FOR INTENTIONAL VIOLATIONS.—If the State does not prove to the satisfaction of the Secretary that the State did not intend to use the amount in violation of this part, the Secretary shall further reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter by an amount equal to 5 percent of the State family assistance grant.

"(2) FAILURE TO SUBMIT REQUIRED REPORT.—

"(A) IN GENERAL.—If the Secretary determines that a State has not, within 1 month after the end of a fiscal quarter, submitted the report required by section 411(a) for the quarter, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to 4 percent of the State family assistance grant.

"(B) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a State under subparagraph (A) with respect to a report if the State submits the report before the end of the fiscal quarter that immediately succeeds the fiscal quarter for which the report was required.

"(3) FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.—

"(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 for a fiscal year has failed to comply with section 407(a) for the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 5 percent of the State family assistance grant.

"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) based on the degree of noncompliance.

"(C) ADDITIONAL PENALTY FOR CONSECUTIVE NONCOMPLIANCE.—Notwithstanding the limitation described in subparagraph (A), the Secretary shall reduce the grant payable to the State under section 403(a)(1) for a fiscal year, in addition to the reduction imposed under subparagraph (A), by an amount equal to 5 percent of the State family assistance grant, if the Secretary determines that the State failed to comply with section 407(a) for 2 or more consecutive preceding fiscal years.

"(4) FAILURE TO PARTICIPATE IN THE INCOME AND ELIGIBILITY VERIFICATION SYSTEM.—If the Secretary determines that a State program funded under this part is not participating during a fiscal year in the income and eligibility verification system requ red by section 1137, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 2 percent of the State family assistance grant.

"(5) FAILURE TO COMPLY WITH PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT REQUIREMENTS UNDER PART D.—Notwithstanding any other provision of this Act, if the Secretary determines that the State agency that administers a program funded under this part does not enforce the penalties requested by the agency administering part D against recipients of assistance under the State program who fail to cooperate in establishing paternity or in establishing, modifying, or enforcing a child support order in accordance with such part and who do not qualify for any good cause or other exception established by the State under section 454(29), the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year (without regard to this section) by not more than 5 percent.

"(6) FAILURE TO TIMELY REPAY A FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.—If the Secretary determines that a State has failed to repay any amount borrowed from the Federal Loan Fund for State Welfare Programs established under section 406 within the period of maturity applicable to the loan, plus any interest owed on the loan, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter (without regard to this section) by the outstanding loan amount, plus the interest owed on the outstanding amount. The Secretary shall not forgive any outstanding loan amount or interest owed on the outstanding amount.

"(7) FAILURE OF ANY STATE TO MAINTAIN CERTAIN LEVEL OF HISTORIC EFFORT.—

"(A) IN GENERAL.—The Secretary shall reduce the grant payable to the State under section 403(a)(1) for fiscal year 1998, 1999, 2000, 2001, or 2002 by the amount (if any) by which qualified State expenditures for the then immediately preceding fiscal year are less than the applicable percentage of historic State expenditures with respect to such preceding fiscal year.

"(B) DEFINITIONS.—As used in this paragraph:

"(i) QUALIFIED STATE EXPENDITURES.—

"(I) IN GENERAL.—The term 'qualified State expenditures' means, with respect to a State and a fiscal year, the total expenditures by the State during the fiscal year, under all State programs, for any of the following with respect to eligible families:

"(aa) Cash assistance.

"(bb) Child care assistance.

"(cc) Educational activities designed to increase self-sufficiency, job training, and work, excluding any expenditure for public education in the State except expenditures which involve the provision of services or assistance to a member of an eligible family which is not generally available to persons who are not members of an eligible family.

"(dd) Administrative costs in connection with the matters described in items (aa), (bb), (cc), and (ee), but only to the extent that such costs do not exceed 15 percent of the total amount of qualified State expenditures for the fiscal year.

"(ee) Any other use of funds allowable under section 404(a)(1).

"(II) EXCLUSION OF TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such term does not include expenditures under any State or local program during a fiscal year, except to the extent that—

"(aa) such expenditures exceed the amount expended under the State or local program in

the fiscal year most recently ending before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996; or

"(bb) the State is entitled to a payment under former section 403 (as in effect immediately before such date of enactment) with respect to such expenditures.

"(III) ELIGIBLE FAMILIES.—As used in subclause (I), the term 'eligible families' means families eligible for assistance under the State program funded under this part, and families that would be eligible for such assistance but for the application of section 408(a)(8) of this Act or section 2402 of the Personal Responsibility and Work Opportunity Act of 1996.

"(ii) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means for fiscal years 1997 through 2001, 80 percent reduced (if appropriate) in accordance with subparagraph (C)(ii).

"(iii) HISTORIC STATE EXPENDITURES.—The term 'historic State expenditures' means, with respect to a State, the lesser of—

"(I) the expenditures by the State under parts A and F (as in effect during fiscal year 1994) for fiscal year 1994; or

"(II) the amount which bears the same ratio to the amount described in subclause (I) as—

"(aa) the State family assistance grant, plus the total amount required to be paid to the State under former section 403 for fiscal year 1994 with respect to amounts expended by the State for child care under subsection (g) or (i) of section 402 (as in effect during fiscal year 1994); bears to

"(bb) the total amount required to be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994.

Such term does not include any expenditures under the State plan approved under part A (as so in effect) on behalf of individuals covered by a tribal family assistance plan approved under section 412, as determined by the Secretary.

"(iv) EXPENDITURES BY THE STATE.—The term 'expenditures by the State' does not include—

"(I) any expenditures from amounts made available by the Federal Government;

"(II) State funds expended for the medicaid program under title XV or XIX; or

"(III) any State funds which are used to match Federal funds or are expended as a condition of receiving Federal funds under Federal programs other than under this part.

"(C) APPLICABLE PERCENTAGE REDUCED FOR HIGH PERFORMANCE STATES.—

"(i) DETERMINATION OF HIGH PERFORMANCE STATES.—The Secretary shall use the formula developed under section 403(a)(4)(C) to assign a score to each eligible State that represents the performance of the State program funded under this part for each fiscal year, and shall prescribe a performance threshold which the Secretary shall use to determine whether to reduce the applicable percentage with respect to any eligible State for a fiscal year.

"(ii) REDUCTION PROPORTIONAL TO PERFORMANCE.—The Secretary shall reduce the applicable percentage for a fiscal year with respect to each eligible State by an amount which is directly proportional to the amount (if any) by which the score assigned to the State under clause (i) for the immediately preceding fiscal year exceeds the performance threshold prescribed under clause (i) for such preceding fiscal year, subject to clause (iii).

"(iii) LIMITATION ON REDUCTION.—The applicable percentage for a fiscal year with respect to a State may not be reduced by more than 8 percentage points under this subparagraph.

"(8) SUBSTANTIAL NONCOMPLIANCE OF STATE CHILD SUPPORT ENFORCEMENT PROGRAM WITH REQUIREMENTS OF PART D.—

"(A) IN GENERAL.—If a State program operated under part D is found as a result of a review conducted under section 452(a)(4) not to have complied substantially with the requirements of such part for any quarter, and the Secretary determines that the program is not complying substantially with such requirements at the time the finding is made, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the quarter and each subsequent quarter that ends before the 1st quarter throughout which the program is found to be in substantial compliance with such requirements by—

"(i) not less than 1 nor more than 2 percent;

"(ii) not less than 2 nor more than 3 percent, if the finding is the 2nd consecutive such finding made as a result of such a review; or

"(iii) not less than 3 nor more than 5 percent, if the finding is the 3rd or a subsequent consecutive such finding made as a result of such a review.

"(B) DISREGARD OF NONCOMPLIANCE WHICH IS OF A TECHNICAL NATURE.—For purposes of subparagraph (A) and section 452(a)(4), a State which is not in full compliance with the requirements of this part shall be determined to be in substantial compliance with such requirements only if the Secretary determines that any noncompliance with such requirements is of a technical nature which does not adversely affect the performance of the State's program operated under part D.

"(9) FAILURE OF STATE RECEIVING AMOUNTS FROM CONTINGENCY FUND TO MAINTAIN 100 PERCENT OF HISTORIC EFFORT.—If, at the end of any fiscal year during which amounts from the Contingency Fund for State Welfare Programs have been paid to a State, the Secretary finds that the expenditures under the State program funded under this part for the fiscal year are less than 100 percent of historic State expenditures (as defined in paragraph (7)(B)(iii) of this subsection), the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by the total of the amounts so paid to the State.

"(10) FAILURE TO COMPLY WITH PROVISIONS OF THIS PART OR THE STATE PLAN.—If, after reasonable notice and opportunity for hearing, the Secretary determines that during a fiscal year a State has not substantially complied with any provision of this part or of the State plan, the Secretary shall, if a preceding paragraph of this subsection does not apply to such noncompliance, reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 5 percent of the State family assistance grant, and shall continue to impose such reduction during each succeeding fiscal year until the Secretary determines that the State no longer is in noncompliance with such provision.

"(11) FAILURE TO COMPLY WITH 5-YEAR LIMIT ON ASSISTANCE.—If the Secretary determines that during a fiscal year a State has not complied with the provisions of section 408(a)(1)(B), the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to 5 percent of the State family assistance grant.

"(12) REQUIRED REPLACEMENT OF GRANT FUND REDUCTIONS CAUSED BY PENALTIES.—If the grant payable to a State under section 403(a)(1) for a fiscal year is reduced by reason of this subsection, the State shall, during the immediately succeeding fiscal year, expend under the State program funded under this part an amount equal to the total amount of such reductions.

"(b) REASONABLE CAUSE EXCEPTION.—

"(1) IN GENERAL.—The Secretary may not impose a penalty on a State under subsection (a) with respect to a requirement if the Secretary determines that the State has reasonable cause for failing to comply with the requirement.

"(2) EXCEPTION.—Paragraph (1) of this subsection shall not apply to any penalty under paragraph (6) or (7) of subsection (a).

"(c) CORRECTIVE COMPLIANCE PLAN.—

"(1) IN GENERAL.—

"(A) NOTIFICATION OF VIOLATION.—Before imposing a penalty against a State under subsection (a) with respect to a violation of this part, the Secretary shall notify the State of the violation and allow the State the opportunity to enter into a corrective compliance plan in accordance with this subsection which outlines how the State will cor-

rect the violation and how the State will insure continuing compliance with this part.

"(B) 60-DAY PERIOD TO PROPOSE A CORRECTIVE COMPLIANCE PLAN.—During the 60-day period that begins on the date the State receives a notice provided under subparagraph (A) with respect to a violation, the State may submit to the Federal Government a corrective compliance plan to correct the violation.

"(C) CONSULTATION ABOUT MODIFICATIONS.—During the 60-day period that begins with the date the Secretary receives a corrective compliance plan submitted by a State in accordance with subparagraph (B), the Secretary may consult with the State on modifications to the plan.

"(D) ACCEPTANCE OF PLAN.— A corrective compliance plan submitted by a State in accordance with subparagraph (B) is deemed to be accepted by the Secretary if the Secretary does not accept or reject the plan during 60-day period that begins on the date the plan is submitted.

"(2) EFFECT OF CORRECTING VIOLATION.—The Secretary may not impose any penalty under subsection (a) with respect to any violation covered by a State corrective compliance plan accepted by the Secretary if the State corrects the violation pursuant to the plan.

"(3) EFFECT OF FAILING TO CORRECT VIOLATION.—The Secretary shall assess some or all of a penalty imposed on a State under subsection (a) with respect to a violation if the State does not, in a timely manner, correct the violation pursuant to a State corrective compliance plan accepted by the Secretary.

"(4) INAPPLICABILITY TO FAILURE TO TIMELY REPAY A FEDERAL LOAN FUND FOR A STATE WELFARE PROGRAM.—This subsection shall not apply to the imposition of a penalty against a State under subsection (a)(6).

"(d) LIMITATION ON AMOUNT OF PENALTY.—

"(1) IN GENERAL.—In imposing the penalties described in subsection (a), the Secretary shall not reduce any quarterly payment to a State by more than 25 percent.

"(2) CARRYFORWARD OF UNRECOVERED PENALTIES.—To the extent that paragraph (1) of this subsection prevents the Secretary from recovering during a fiscal year the full amount of penalties imposed on a State under subsection (a) of this section for a prior fiscal year, the Secretary shall apply any remaining amount of such penalties to the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year.

"SEC. 410. APPEAL OF ADVERSE DECISION.

"(a) IN GENERAL.—Within 5 days after the date the Secretary takes any adverse action under this part with respect to a State, the Secretary shall notify the chief executive officer of the State of the adverse action, including any action with respect to the State plan submitted under section 402 or the imposition of a penalty under section 409.

"(b) ADMINISTRATIVE REVIEW.—

"(1) IN GENERAL.—Within 60 days after the date a State receives notice under subsection (a) of an adverse action, the

State may appeal the action, in whole or in part, to the Departmental Appeals Board established in the Department of Health and Human Services (in this section referred to as the 'Board') by filing an appeal with the Board.

"(2) PROCEDURAL RULES.—The Board shall consider an appeal filed by a State under paragraph (1) on the basis of such documentation as the State may submit and as the Board may require to support the final decision of the Board. In deciding whether to uphold an adverse action or any portion of such an action, the Board shall conduct a thorough review of the issues and take into account all relevant evidence. The Board shall make a final determination with respect to an appeal filed under paragraph (1) not less than 60 days after the date the appeal is filed.

"(c) JUDICIAL REVIEW OF ADVERSE DECISION.—

"(1) IN GENERAL.—Within 90 days after the date of a final decision by the Board under this section with respect to an adverse action taken against a State, the State may obtain judicial review of the final decision (and the findings incorporated into the final decision) by filing an action in—

"(A) the district court of the United States for the judicial district in which the principal or headquarters office of the State agency is located; or

"(B) the United States District Court for the District of Columbia.

"(2) PROCEDURAL RULES.—The district court in which an action is filed under paragraph (1) shall review the final decision of the Board on the record established in the administrative proceeding, in accordance with the standards of review prescribed by subparagraphs (A) through (E) of section 706(2) of title 5, United States Code. The review shall be on the basis of the documents and supporting data submitted to the Board.

"SEC. 411. DATA COLLECTION AND REPORTING.

"(a) QUARTERLY REPORTS BY STATES.—

"(1) GENERAL REPORTING REQUIREMENT.—

"(A) CONTENTS OF REPORT.—Each eligible State shall collect on a monthly basis, and report to the Secretary on a quarterly basis, the following disaggregated case record information on the families receiving assistance under the State program funded under this part:

"(i) The county of residence of the family.

"(ii) Whether a child receiving such assistance or an adult in the family is disabled.

"(iii) The ages of the members of such families.

"(iv) The number of individuals in the family, and the relation of each family member to the youngest child in the family.

"(v) The employment status and earnings of the employed adult in the family.

"(vi) The marital status of the adults in the family, including whether such adults have never married, are widowed, or are divorced.

"(vii) The race and educational status of each adult in the family.

"(viii) The race and educational status of each child in the family.

"(ix) Whether the family received subsidized housing, medical assistance under the State plan under title XV or the State plan approved under title XIX, food stamps, or subsidized child care, and if the latter 2, the amount received.

"(x) The number of months that the family has received each type of assistance under the program.

"(xi) If the adults participated in, and the number of hours per week of participation in, the following activities:

"(I) Education.

"(II) Subsidized private sector employment.

"(III) Unsubsidized employment.

"(IV) Public sector employment, work experience, or community service.

"(V) Job search.

"(VI) Job skills training or on-the-job training.

"(VII) Vocational education.

"(xii) Information necessary to calculate participation rates under section 407.

"(xiii) The type and amount of assistance received under the program, including the amount of and reason for any reduction of assistance (including sanctions).

"(xiv) Any amount of unearned income received by any member of the family.

"(xv) The citizenship of the members of the family.

"(xvi) From a sample of closed cases, whether the family left the program, and if so, whether the family left due to—

"(I) employment;

"(II) marriage;

"(III) the prohibition set forth in section 408(a)(8);

"(IV) sanction; or

"(V) State policy.

"(B) USE OF ESTIMATES.—

"(i) AUTHORITY.—A State may comply with subparagraph (A) by submitting an estimate which is obtained through the use of scientifically acceptable sampling methods approved by the Secretary.

"(ii) SAMPLING AND OTHER METHODS.—The Secretary shall provide the States with such case sampling plans and data collection procedures as the Secretary deems necessary to produce statistically valid estimates of the performance of State programs funded under this part. The Secretary may develop and implement procedures for verifying the quality of data submitted by the States.

"(2) REPORT ON USE OF FEDERAL FUNDS TO COVER ADMINISTRATIVE COSTS AND OVERHEAD.—The report required by paragraph (1) for a fiscal quarter shall include a statement of the

percentage of the funds paid to the State under this part for the quarter that are used to cover administrative costs or overhead.

"(3) REPORT ON STATE EXPENDITURES ON PROGRAMS FOR NEEDY FAMILIES.—The report required by paragraph (1) for a fiscal quarter shall include a statement of the total amount expended by the State during the quarter on programs for needy families.

"(4) REPORT ON NONCUSTODIAL PARENTS PARTICIPATING IN WORK ACTIVITIES.—The report required by paragraph (1) for a fiscal quarter shall include the number of noncustodial parents in the State who participated in work activities (as defined in section 407(d)) during the quarter.

"(5) REPORT ON TRANSITIONAL SERVICES.—The report required by paragraph (1) for a fiscal quarter shall include the total amount expended by the State during the quarter to provide transitional services to a family that has ceased to receive assistance under this part because of employment, along with a description of such services.

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to define the data elements with respect to which reports are required by this subsection.

"(b) ANNUAL REPORTS TO THE CONGRESS BY THE SECRETARY.—Not later than 6 months after the end of fiscal year 1997, and each fiscal year thereafter, the Secretary shall transmit to the Congress a report describing—

"(1) whether the States are meeting—

"(A) the participation rates described in section 407(a); and

"(B) the objectives of—

"(i) increasing employment and earnings of needy families, and child support collections; and

"(ii) decreasing out-of-wedlock pregnancies and child poverty;

"(2) the demographic and financial characteristics of families applying for assistance, families receiving assistance, and families that become ineligible to receive assistance;

"(3) the characteristics of each State program funded under this part; and

"(4) the trends in employment and earnings of needy families with minor children living at home.

"SEC. 412. DIRECT FUNDING AND ADMINISTRATION BY INDIAN TRIBES.

"(a) GRANTS FOR INDIAN TRIBES.—

"(1) TRIBAL FAMILY ASSISTANCE GRANT.—

"(A) IN GENERAL.—For each of fiscal years 1997, 1998, 1999, 2000, and 2001, the Secretary shall pay to each Indian tribe that has an approved tribal family assistance plan a tribal family assistance grant for the fiscal year in an amount equal to the amount determined under subparagraph (B), and shall reduce the grant payable under section 403(a)(1) to any State in which lies the service area or areas of the Indian tribe by that portion of the amount

so determined that is attributable to expenditures by the State.

"(B) AMOUNT DETERMINED.—

"(i) IN GENERAL.—The amount determined under this subparagraph is an amount equal to the total amount of the Federal payments to a State or States under section 403 (as in effect during such fiscal year) for fiscal year 1994 attributable to expenditures (other than child care expenditures) by the State or States under parts A and F (as so in effect) for fiscal year 1994 for Indian families residing in the service area or areas identified by the Indian tribe pursuant to subsection (b)(1)(C) of this section.

"(ii) USE OF STATE SUBMITTED DATA.—

"(I) IN GENERAL.—The Secretary shall use State submitted data to make each determination under clause (i).

"(II) DISAGREEMENT WITH DETERMINATION.—If an Indian tribe or tribal organization disagrees with State submitted data described under subclause (I), the Indian tribe or tribal organization may submit to the Secretary such additional information as may be relevant to making the determination under clause (i) and the Secretary may consider such information before making such determination.

"(2) GRANTS FOR INDIAN TRIBES THAT RECEIVED JOBS FUNDS.—

"(A) IN GENERAL.—The Secretary shall pay to each eligible Indian tribe for each of fiscal years 1996, 1997, 1998, 1999, 2000, and 2001 a grant in an amount equal to the amount received by the Indian tribe in fiscal year 1994 under section 482(i) (as in effect during fiscal year 1994).

"(B) ELIGIBLE INDIAN TRIBE.—For purposes of subparagraph (A), the term 'eligible Indian tribe' means an Indian tribe or Alaska Native organization that conducted a job opportunities and basic skills training program in fiscal year 1995 under section 482(i) (as in effect during fiscal year 1995).

"(C) USE OF GRANT.—Each Indian tribe to which a grant is made under this paragraph shall use the grant for the purpose of operating a program to make work activities available to members of the Indian tribe.

"(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $7,638,474 for each fiscal year specified in subparagraph (A) for grants under subparagraph (A).

"(b) 3-YEAR TRIBAL FAMILY ASSISTANCE PLAN.—

"(1) IN GENERAL.—Any Indian tribe that desires to receive a tribal family assistance grant shall submit to the Secretary a 3-year tribal family assistance plan that—

"(A) outlines the Indian tribe's approach to providing welfare-related services for the 3-year period, consistent with this section;

"(B) specifies whether the welfare-related services provided under the plan will be provided by the Indian tribe or through agreements, contracts, or compacts with intertribal consortia, States, or other entities;

"(C) identifies the population and service area or areas to be served by such plan;

"(D) provides that a family receiving assistance under the plan may not receive duplicative assistance from other State or tribal programs funded under this part;

"(E) identifies the employment opportunities in or near the service area or areas of the Indian tribe and the manner in which the Indian tribe will cooperate and participate in enhancing such opportunities for recipients of assistance under the plan consistent with any applicable State standards; and

"(F) applies the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

"(2) APPROVAL.—The Secretary shall approve each tribal family assistance plan submitted in accordance with paragraph (1).

"(3) CONSORTIUM OF TRIBES.—Nothing in this section shall preclude the development and submission of a single tribal family assistance plan by the participating Indian tribes of an intertribal consortium.

"(c) MINIMUM WORK PARTICIPATION REQUIREMENTS AND TIME LIMITS.—The Secretary, with the participation of Indian tribes, shall establish for each Indian tribe receiving a grant under this section minimum work participation requirements, appropriate time limits for receipt of welfare-related services under the grant, and penalties against individuals—

"(1) consistent with the purposes of this section;

"(2) consistent with the economic conditions and resources available to each tribe; and

"(3) similar to comparable provisions in section 407(d).

"(d) EMERGENCY ASSISTANCE.—Nothing in this section shall preclude an Indian tribe from seeking emergency assistance from any Federal loan program or emergency fund.

"(e) ACCOUNTABILITY.—Nothing in this section shall be construed to limit the ability of the Secretary to maintain program funding accountability consistent with—

"(1) generally accepted accounting principles; and

"(2) the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(f) PENALTIES.—

"(1) Subsections (a)(1), (a)(6), and (b) of section 409, shall apply to an Indian tribe with an approved tribal assistance plan in the same manner as such subsections apply to a State.

"(2) Section 409(a)(3) shall apply to an Indian tribe with an approved tribal assistance plan by substituting 'meet minimum work participation requirements established under section 412(c)' for 'comply with section 407(a)'.

"(g) DATA COLLECTION AND REPORTING.—Section 411 shall apply to an Indian tribe with an approved tribal family assistance plan.

"(h) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, and except as provided in paragraph (2), an Indian tribe in the State of Alaska that receives a tribal family assistance grant under this section shall use the grant to operate a program in accordance with requirements comparable to the requirements applicable to the program of the State of Alaska funded under this part. Comparability of programs shall be established on the basis of program criteria developed by the Secretary in consultation with the State of Alaska and such Indian tribes.

"(2) WAIVER.—An Indian tribe described in paragraph (1) may apply to the appropriate State authority to receive a waiver of the requirement of paragraph (1).

"SEC. 413. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.

"(a) RESEARCH.—The Secretary shall conduct research on the benefits, effects, and costs of operating different State programs funded under this part, including time limits relating to eligibility for assistance. The research shall include studies on the effects of different programs and the operation of such programs on welfare dependency, illegitimacy, teen pregnancy, employment rates, child well-being, and any other area the Secretary deems appropriate. The Secretary shall also conduct research on the costs and benefits of State activities under section 409.

"(b) DEVELOPMENT AND EVALUATION OF INNOVATIVE APPROACHES TO REDUCING WELFARE DEPENDENCY AND INCREASING CHILD WELL-BEING.—

"(1) IN GENERAL.—The Secretary may assist States in developing, and shall evaluate, innovative approaches for reducing welfare dependency and increasing the well-being of minor children living at home with respect to recipients of assistance under programs funded under this part. The Secretary may provide funds for training and technical assistance to carry out the approaches developed pursuant to this paragraph.

"(2) EVALUATIONS.—In performing the evaluations under paragraph (1), the Secretary shall, to the maximum extent feasible, use random assignment as an evaluation methodology.

"(c) DISSEMINATION OF INFORMATION.—The Secretary shall develop innovative methods of disseminating information on any research, evaluations, and studies conducted under this section, including the facilitation of the sharing of information and best practices among States and localities through the use of computers and other technologies.

"(d) ANNUAL RANKING OF STATES AND REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—

"(1) ANNUAL RANKING OF STATES.—The Secretary shall rank annually the States to which grants are paid under section 403 in the order of their success in placing recipients of assistance under the State program funded under this part into long-term private sector jobs, reducing the overall welfare caseload, and, when a practicable method for calculating this information becomes available, diverting individuals from formally applying

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to the State program and receiving assistance. In ranking States under this subsection, the Secretary shall take into account the average number of minor children living at home in families in the State that have incomes below the poverty line and the amount of funding provided each State for such families.

"(2) ANNUAL REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—The Secretary shall review the programs of the 3 States most recently ranked highest under paragraph (1) and the 3 States most recently ranked lowest under paragraph (1) that provide parents with work experience, assistance in finding employment, and other work preparation activities and support services to enable the families of such parents to leave the program and become self-sufficient.

"(e) ANNUAL RANKING OF STATES AND REVIEW OF ISSUES RELATING TO OUT-OF-WEDLOCK BIRTHS.—

"(1) ANNUAL RANKING OF STATES.—

"(A) IN GENERAL.—The Secretary shall annually rank States to which grants are made under section 403 based on the following ranking factors:

"(i) ABSOLUTE OUT-OF-WEDLOCK RATIOS.—The ratio represented by—

"(I) the total number of out-of-wedlock births in families receiving assistance under the State program under this part in the State for the most recent fiscal year for which information is available; over

"(II) the total number of births in families receiving assistance under the State program under this part in the State for such year.

"(ii) NET CHANGES IN THE OUT-OF-WEDLOCK RATIO.—The difference between the ratio described in subparagraph (A)(i) with respect to a State for the most recent fiscal year for which such information is available and the ratio with respect to the State for the immediately preceding year.

"(2) ANNUAL REVIEW.—The Secretary shall review the programs of the 5 States most recently ranked highest under paragraph (1) and the 5 States most recently ranked the lowest under paragraph (1).

"(f) STATE-INITIATED EVALUATIONS.—A State shall be eligible to receive funding to evaluate the State program funded under this part if—

"(1) the State submits a proposal to the Secretary for the evaluation;

"(2) the Secretary determines that the design and approach of the evaluation is rigorous and is likely to yield information that is credible and will be useful to other States, and

"(3) unless otherwise waived by the Secretary, the State contributes to the cost of the evaluation, from non-Federal sources, an amount equal to at least 10 percent of the cost of the evaluation.

"(g) FUNDING OF STUDIES AND DEMONSTRATIONS.—

"(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $15,000,000 for each of fiscal years 1998 through 2001, for the purpose of paying—

"(A) the cost of conducting the research described in subsection (a);

"(B) the cost of developing and evaluating innovative approaches for reducing welfare dependency and increasing the well-being of minor children under subsection (b);

"(C) the Federal share of any State-initiated study approved under subsection (f); and

"(D) an amount determined by the Secretary to be necessary to operate and evaluate demonstration projects, relating to this part, that are in effect or approved under section 1115 as of September 30, 1995, and are continued after such date.

"(2) ALLOCATION.—Of the amount appropriated under paragraph (1) for a fiscal year—

"(A) 50 percent shall be allocated for the purposes described in subparagraphs (A) and (B) of paragraph (1), and

"(B) 50 percent shall be allocated for the purposes described in subparagraphs (C) and (D) of paragraph (1).

"(3) DEMONSTRATIONS OF INNOVATIVE STRATEGIES.—The Secretary may implement and evaluate demonstrations of innovative and promising strategies which—

"(A) provide one-time capital funds to establish, expand, or replicate programs;

"(B) test performance-based grant-to-loan financing in which programs meeting performance targets receive grants while programs not meeting such targets repay funding on a prorated basis; and

"(C) test strategies in multiple States and types of communities.

"SEC. 414. STUDY BY THE CENSUS BUREAU.

"(a) IN GENERAL.—The Bureau of the Census shall expand the Survey of Income and Program Participation as necessary to obtain such information as will enable interested persons to evaluate the impact of the amendments made by chapter 1 of the Personal Responsibility and Work Opportunity Act of 1996 on a random national sample of recipients of assistance under State programs funded under this part and (as appropriate) other low income families, and in doing so, shall pay particular attention to the issues of out-of-wedlock birth, welfare dependency, the beginning and end of welfare spells, and the causes of repeat welfare spells.

"(b) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $10,000,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002 for payment to the Bureau of the Census to carry out subsection (a).

"SEC. 415. WAIVERS.

"(a) CONTINUATION OF WAIVERS.—

"(1) WAIVERS IN EFFECT ON DATE OF ENACTMENT OF WELFARE REFORM.—Except as provided in paragraph (3), if any waiver

granted to a State under section 1115 or otherwise which relates to the provision of assistance under a State plan under this part (as in effect on September 30, 1996) is in effect as of the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996, the amendments made by such Act (other than by section 2103(d) of such Act) shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the waiver.

"(2) WAIVERS GRANTED SUBSEQUENTLY.—Except as provided in paragraph (3), if any waiver granted to a State under section 1115 or otherwise which relates to the provision of assistance under a State plan under this part (as in effect on September 30, 1996) is submitted to the Secretary before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996 and approved by the Secretary on or before July 1, 1997, and the State demonstrates to the satisfaction of the Secretary that the waiver will not result in Federal expenditures under title IV of this Act (as in effect without regard to the amendments made by the Personal Responsibility and Work Opportunity Act of 1996) that are greater than would occur in the absence of the waiver, the amendments made by the Personal Responsibility and Work Opportunity Act of 1996 (other than by section 2103(d) of such Act) shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent the amendments made by the Personal Responsibility and Work Opportunity Act of 1996 are inconsistent with the waiver.

"(3) FINANCING LIMITATION.—Notwithstanding any other provision of law, beginning with fiscal year 1996, a State operating under a waiver described in paragraph (1) shall be entitled to payment under section 403 for the fiscal year, in lieu of any other payment provided for in the waiver.

"(b) STATE OPTION TO TERMINATE WAIVER.—

"(1) IN GENERAL.—A State may terminate a waiver described in subsection (a) before the expiration of the waiver.

"(2) REPORT.—A State which terminates a waiver under paragraph (1) shall submit a report to the Secretary summarizing the waiver and any available information concerning the result or effect of the waiver.

"(3) HOLD HARMLESS PROVISION.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a State that, not later than the date described in subparagraph (B), submits a written request to terminate a waiver described in subsection (a) shall be held harmless for accrued cost neutrality liabilities incurred under the waiver.

"(B) DATE DESCRIBED.—The date described in this subparagraph is 90 days following the adjournment of the first regular session of the State legislature that begins after the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996.

"(c) SECRETARIAL ENCOURAGEMENT OF CURRENT WAIVERS.—The Secretary shall encourage any State operating a waiver described in subsection (a) to continue the waiver and to evaluate, using random sampling and other characteristics of accepted scientific evaluations, the result or effect of the waiver.

"(d) CONTINUATION OF INDIVIDUAL WAIVERS.—A State may elect to continue 1 or more individual waivers described in subsection (a).

"SEC. 416. ADMINISTRATION.

The programs under this part and part D shall be administered by an Assistant Secretary for Family Support within the Department of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be in addition to any other Assistant Secretary of Health and Human Services provided for by law, and the Secretary shall reduce the Federal workforce within the Department of Health and Human Services by an amount equal to the sum of 75 percent of the full-time equivalent positions at such Department that relate to any direct spending program, or any program funded through discretionary spending, that has been converted into a block grant program under the Personal Responsibility and Work Opportunity Act of 1996 and the amendments made by such Act, and by an amount equal to 75 percent of that portion of the total full-time equivalent departmental management positions at such Department that bears the same relationship to the amount appropriated for any direct spending program, or any program funded through discretionary spending, that has been converted into a block grant program under the Personal Responsibility and Work Opportunity Act of 1996 and the amendments made by such Act, as such amount relates to the total amount appropriated for use by such Department, and, notwithstanding any other provision of law, the Secretary shall take such actions as may be necessary, including reductions in force actions, consistent with sections 3502 and 3595 of title 5, United States Code, to reduce the full-time equivalent positions within the Department of Health and Human Services by 245 full-time equivalent positions related to the program converted into a block grant under the amendment made by section 2103 of the Personal Responsibility and Work Opportunity Act of 1996, and by 60 full-time equivalent managerial positions in the Department.

"SEC. 417. LIMITATION ON FEDERAL AUTHORITY.

"No officer or employee of the Federal Government may regulate the conduct of States under this part or enforce any provision of this part, except to the extent expressly provided in this part."; and

(2) by inserting after such section 418 the following:

"SEC. 419. DEFINITIONS.

"As used in this part:

"(1) ADULT.—The term 'adult' means an individual who is not a minor child.

"(2) MINOR CHILD.—The term 'minor child' means an individual who—

"(A) has not attained 18 years of age; or

"(B) has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training).

"(3) FISCAL YEAR.—The term 'fiscal year' means any 12-month period ending on September 30 of a calendar year.

"(4) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the terms 'Indian', 'Indian tribe', and 'tribal organization' have the meaning given such terms by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(B) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.—The term 'Indian tribe' means, with respect to the State of Alaska, only the Metlakatla Indian Community of the Annette Islands Reserve and the following Alaska Native regional nonprofit corporations:

"(i) Arctic Slope Native Association.

"(ii) Kawerak, Inc.

"(iii) Maniilaq Association.

"(iv) Association of Village Council Presidents.

"(v) Tanana Chiefs Conference.

"(vi) Cook Inlet Tribal Council.

"(vii) Bristol Bay Native Association.

"(viii) Aleutian and Pribilof Island Association.

"(ix) Chugachmuit.

"(x) Tlingit Haida Central Council.

"(xi) Kodiak Area Native Association.

"(xii) Copper River Native Association.

"(5) STATE.—

"(A) IN GENERAL.—Except as otherwise specifically provided, the term 'State' means the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa.

"(B) STATE OPTION TO CONTRACT TO PROVIDE SERVICES.—The term 'State' includes the—

"(i) administration and provision of services under the program funded under this part, or under the programs funded under parts B and E of this title, through contracts with charitable, religious, or private organizations; and

"(ii) provision to beneficiaries of assistance under such programs with certificates, vouchers, or other forms of disbursement which are redeemable with such organizations.".

(b) GRANTS TO OUTLYING AREAS.—Section 1108 (42 U.S.C. 1308) is amended—

(1) by redesignating subsection (c) as subsection (g);

(2) by striking all that precedes subsection (c) and inserting the following:

"SEC. 1108. ADDITIONAL GRANTS TO PUERTO RICO, THE VIRGIN ISLANDS, GUAM, AND AMERICAN SAMOA; LIMITATION ON TOTAL PAYMENTS.

"(a) LIMITATION ON TOTAL PAYMENTS TO EACH TERRITORY.—Notwithstanding any other provision of this Act, the total amount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, under parts A and E of title IV, and under subsection (b) of this section, for payment to any territory for a fiscal year shall not exceed the ceiling amount for the territory for the fiscal year.

"(b) ENTITLEMENT TO MATCHING GRANT.—

"(1) IN GENERAL.—Each territory shall be entitled to receive from the Secretary for each fiscal year a grant in an amount equal to 75 percent of the amount (if any) by which—

"(A) the total expenditures of the territory during the fiscal year under the territory programs funded under parts A and E of title IV; exceeds

"(B) the sum of—

"(i) the total amount required to be paid to the territory (other than with respect to child care) under former section 403 (as in effect on September 30, 1995) for fiscal year 1995, which shall be determined by applying subparagraphs (C) and (D) of section 403(a)(1) to the territory;

"(ii) the total amount required to be paid to the territory under former section 434 (as so in effect) for fiscal year 1995; and

"(iii) the total amount expended by the territory during fiscal year 1995 pursuant to parts A and F of title IV (as so in effect), other than for child care.

"(2) USE OF GRANT.—Any territory to which a grant is made under paragraph (1) may expend the amount under any program operated or funded under any provision of law specified in subsection (a).

"(c) DEFINITIONS.—As used in this section:

"(1) TERRITORY.—The term 'territory' means Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(2) CEILING AMOUNT.—The term 'ceiling amount' means, with respect to a territory and a fiscal year, the mandatory ceiling amount with respect to the territory, reduced for the fiscal year in accordance with subsection (e).

"(3) MANDATORY CEILING AMOUNT.—The term 'mandatory ceiling amount' means—

"(A) $102,040,000 with respect to for Puerto Rico;

"(B) $4,683,000 with respect to Guam;

"(C) $3,554,000 with respect to the Virgin Islands; and

"(D) $1,000,000 with respect to American Samoa.

"(4) TOTAL AMOUNT EXPENDED BY THE TERRITORY.—The term 'total amount expended by the territory'—

"(A) does not include expenditures during the fiscal year from amounts made available by the Federal Government; and

"(B) when used with respect to fiscal year 1995, also does not include—

"(i) expenditures during fiscal year 1995 under subsection (g) or (i) of section 402 (as in effect on September 30, 1995); or

"(ii) any expenditures during fiscal year 1995 for which the territory (but for section 1108, as in effect on September 30, 1995) would have received reimbursement from the Federal Government.

"(d) AUTHORITY TO TRANSFER FUNDS AMONG PROGRAMS.—Notwithstanding any other provision of this Act, any territory to which an amount is paid under any provision of law specified in subsection (a) may use part or all of the amount to carry out any program operated by the territory, or funded, under any other such provision of law.

"(e) MAINTENANCE OF EFFORT.—The ceiling amount with respect to a territory shall be reduced for a fiscal year by an amount equal to the amount (if any) by which—

"(1) the total amount expended by the territory under all programs of the territory operated pursuant to the provisions of law specified in subsection (a) (as such provisions were in effect for fiscal year 1995) for fiscal year 1995; exceeds

"(2) the total amount expended by the territory under all programs of the territory that are funded under the provisions of law specified in subsection (a) for the fiscal year that immediately precedes the fiscal year referred to in the matter preceding paragraph (1)."; and

(3) by striking subsections (d) and (e).

(c) REPEAL OF PROVISIONS REQUIRING REDUCTION OF MEDICAID PAYMENTS TO STATES THAT REDUCE WELFARE PAYMENT LEVELS.—

(1) Section 1903(i) (42 U.S.C. 1396b(i)) is amended by striking paragraph (9).

(2) Section 1902 (42 U.S.C. 1396a) is amended by striking subsection (c).

(d) ELIMINATION OF CHILD CARE PROGRAMS UNDER THE SOCIAL SECURITY ACT.—

(1) AFDC AND TRANSITIONAL CHILD CARE PROGRAMS.—Section 402 (42 U.S.C. 602) is amended by striking subsection (g).

(2) AT-RISK CHILD CARE PROGRAM.—

(A) AUTHORIZATION.—Section 402 (42 U.S.C. 602) is amended by striking subsection (i).

(B) FUNDING PROVISIONS.—Section 403 (42 U.S.C. 603) is amended by striking subsection (n).

SEC. 2104. SERVICES PROVIDED BY CHARITABLE, RELIGIOUS, OR PRIVATE ORGANIZATIONS.

(a) IN GENERAL.—

(1) STATE OPTIONS.—A State may—

(A) administer and provide services under the programs described in subparagraphs (A) and (B)(i) of paragraph (2) through contracts with charitable, religious, or private organizations; and

(B) provide beneficiaries of assistance under the programs described in subparagraphs (A) and (B)(ii) of paragraph (2) with certificates, vouchers, or other forms of disbursement which are redeemable with such organizations.

(2) PROGRAMS DESCRIBED.—The programs described in this paragraph are the following programs:

(A) A State program funded under part A of title IV of the Social Security Act (as amended by section 2103(a) of this Act).

(B) Any other program established or modified under chapter 1 or 2 of this subtitle, that—

(i) permits contracts with organizations; or

(ii) permits certificates, vouchers, or other forms of disbursement to be provided to beneficiaries, as a means of providing assistance.

(b) RELIGIOUS ORGANIZATIONS.—The purpose of this section is to allow States to contract with religious organizations, or to allow religious organizations to accept certificates, vouchers, or other forms of disbursement under any program described in subsection (a)(2), on the same basis as any other nongovernmental provider without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

(c) NONDISCRIMINATION AGAINST RELIGIOUS ORGANIZATIONS.—In the event a State exercises its authority under subsection (a), religious organizations are eligible, on the same basis as any other private organization, as contractors to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, under any program described in subsection (a)(2) so long as the programs are implemented consistent with the Establishment Clause of the United States Constitution. Except as provided in subsection (k), neither the Federal Government nor a State receiving funds under such programs shall discriminate against an organization which is or applies to be a contractor to provide assistance, or which accepts certificates, vouchers, or other forms of disbursement, on the basis that the organization has a religious character.

(d) RELIGIOUS CHARACTER AND FREEDOM.—

(1) RELIGIOUS ORGANIZATIONS.—A religious organization with a contract described in subsection (a)(1)(A), or which accepts certificates, vouchers, or other forms of disbursement under subsection (a)(1)(B), shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

(2) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State shall require a religious organization to—

(A) alter its form of internal governance; or

(B) remove religious art, icons, scripture, or other symbols;

in order to be eligible to contract to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, funded under a program described in subsection (a)(2).

(e) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—

(1) IN GENERAL.—If an individual described in paragraph (2) has an objection to the religious character of the organization or institution from which the individual receives, or would receive, assistance funded under any program described in subsection (a)(2), the State in which the individual resides shall

provide such individual (if otherwise eligible for such assistance) within a reasonable period of time after the date of such objection with assistance from an alternative provider that is accessible to the individual and the value of which is not less than the value of the assistance which the individual would have received from such organization.

(2) INDIVIDUAL DESCRIBED.—An individual described in this paragraph is an individual who receives, applies for, or requests to apply for, assistance under a program described in subsection (a)(2).

(f) EMPLOYMENT PRACTICES.—A religious organization's exemption provided under section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1a) regarding employment practices shall not be affected by its participation in, or receipt of funds from, programs described in subsection (a)(2).

(g) NONDISCRIMINATION AGAINST BENEFICIARIES.—Except as otherwise provided in law, a religious organization shall not discriminate against an individual in regard to rendering assistance funded under any program described in subsection (a)(2) on the basis of religion, a religious belief, or refusal to actively participate in a religious practice.

(h) FISCAL ACCOUNTABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), any religious organization contracting to provide assistance funded under any program described in subsection (a)(2) shall be subject to the same regulations as other contractors to account in accord with generally accepted auditing principles for the use of such funds provided under such programs.

(2) LIMITED AUDIT.—If such organization segregates Federal funds provided under such programs into separate accounts, then only the financial assistance provided with such funds shall be subject to audit.

(i) COMPLIANCE.—Any party which seeks to enforce its rights under this section may assert a civil action for injunctive relief exclusively in an appropriate State court against the entity or agency that allegedly commits such violation.

(j) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.—No funds provided directly to institutions or organizations to provide services and administer programs under subsection (a)(1)(A) shall be expended for sectarian worship, instruction, or proselytization.

(k) PREEMPTION.—Nothing in this section shall be construed to preempt any provision of a State constitution or State statute that prohibits or restricts the expenditure of State funds in or by religious organizations.

SEC. 2105. CENSUS DATA ON GRANDPARENTS AS PRIMARY CAREGIVERS FOR THEIR GRANDCHILDREN.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Commerce, in carrying out section 141 of title 13, United States Code, shall expand the data collection efforts of the Bureau of the Census (in this section referred to as the "Bureau") to enable the Bureau to collect statistically significant data, in connection with its decennial census and its mid-decade census, concerning the growing trend of grandparents who are the primary caregivers for their grandchildren.

(b) EXPANDED CENSUS QUESTION.—In carrying out subsection (a), the Secretary of Commerce shall expand the Bureau's census question that details households which include both grandparents and their grandchildren. The expanded question shall be formulated to distinguish between the following households:

(1) A household in which a grandparent temporarily provides a home for a grandchild for a period of weeks or months during periods of parental distress.

(2) A household in which a grandparent provides a home for a grandchild and serves as the primary caregiver for the grandchild.

SEC. 2106. REPORT ON DATA PROCESSING.

(a) IN GENERAL.—Within 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Congress a report on—

(1) the status of the automated data processing systems operated by the States to assist management in the administration of State programs under part A of title IV of the Social Security Act (whether in effect before or after October 1, 1995); and

(2) what would be required to establish a system capable of—

(A) tracking participants in public programs over time; and

(B) checking case records of the States to determine whether individuals are participating in public programs of 2 or more States.

(b) PREFERRED CONTENTS.—The report required by subsection (a) should include—

(1) a plan for building on the automated data processing systems of the States to establish a system with the capabilities described in subsection (a)(2); and

(2) an estimate of the amount of time required to establish such a system and of the cost of establishing such a system.

SEC. 2107. STUDY ON ALTERNATIVE OUTCOMES MEASURES.

(a) STUDY.—The Secretary shall, in cooperation with the States, study and analyze outcomes measures for evaluating the success of the States in moving individuals out of the welfare system through employment as an alternative to the minimum participation rates described in section 407 of the Social Security Act. The study shall include a determination as to whether such alternative outcomes measures should be applied on a national or a State-by-State basis and a preliminary assessment of the effects of section 409(a)(7)(C) of such Act.

(b) REPORT.—Not later than September 30, 1998, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing the findings of the study required by subsection (a).

SEC. 2108. WELFARE FORMULA FAIRNESS COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Welfare Formula Fairness Commission (in this section referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 13 members, of whom—

(A) 3 shall be appointed by the President, of whom not more than 2 shall be of the same political party;

(B) 3 shall be appointed by the Majority Leader of the Senate;

(C) 2 shall be appointed by the Minority Leader of the Senate;

(D) 3 shall be appointed by the Speaker of the House of Representatives; and

(E) 2 shall be appointed by the Minority Leader of the House of Representatives.

(2) DATE.—The appointments of the members of the Commission shall be made not later than 30 days after the date of the enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chair.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIR AND VICE CHAIR.—The Commission shall select a Chair and Vice Chair from among its members.

(h) DUTIES OF THE COMMISSION.—

(1) STUDY.—The Commission shall study—

(A) the temporary assistance for needy families block grant program established under part A of title IV of the Social Security Act, as amended by section 2103 of this Act; and

(B) the funding formulas applied, the bonus payments provided, and the work requirements established under such program.

(2) REPORT.—Not later than September 1, 1998, the Commission shall submit a report to the Congress on the matters studied under paragraph (1).

(i) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Chair of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(j) PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) STAFF.—

(A) IN GENERAL.—The Chair of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) COMPENSATION.—The Chair of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chair of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(k) TERMINATION OF THE COMMISSION.—The Commission shall terminate not later than December 31, 1998.

(l) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Commission such sums as are necessary to carry out the purposes of this section.

SEC. 2109. CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) AMENDMENTS TO PART D OF TITLE IV.—

(1) Section 451 (42 U.S.C. 651) is amended by striking "aid" and inserting "assistance under a State program funded".

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A";

(B) by striking "such aid" and inserting "such assistance"; and

(C) by striking "under section 402(a)(26) or" and inserting "pursuant to section 408(a)(4) or under section".

(3) Section 452(a)(10)(F) (42 U.S.C. 652(a)(10)(F)) is amended—

(A) by striking "aid under a State plan approved" and inserting "assistance under a State program funded"; and

(B) by striking "in accordance with the standards referred to in section 402(a)(26)(B)(ii)" and inserting "by the State".

(4) Section 452(b) (42 U.S.C. 652(b)) is amended in the first sentence by striking "aid under the State plan approved under part A" and inserting "assistance under the State program funded under part A".

(5) Section 452(d)(3)(B)(i) (42 U.S.C. 652(d)(3)(B)(i)) is amended by striking "1115(c)" and inserting "1115(b)".

(6) Section 452(g)(2)(A)(ii)(I) (42 U.S.C. 652(g)(2)(A)(ii)(I)) is amended by striking "aid is being paid under the State's plan approved under part A or E" and inserting "assistance is being provided under the State program funded under part A".

(7) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended in the matter following clause (iii) by striking "aid was being paid under the State's plan approved under part A or E" and inserting "assistance was being provided under the State program funded under part A".

(8) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended in the matter following subparagraph (B)—

(A) by striking "who is a dependent child" and inserting "with respect to whom assistance is being provided under the State program funded under part A";

(B) by inserting "by the State" after "found"; and

(C) by striking "to have good cause for refusing to cooperate under section 402(a)(26)" and inserting "to qualify for a good cause or other exception to cooperation pursuant to section 454(29)".

(9) Section 452(h) (42 U.S.C. 652(h)) is amended by striking "under section 402(a)(26)" and inserting "pursuant to section 408(a)(4)".

(10) Section 453(c)(3) (42 U.S.C. 653(c)(3)) is amended by striking "aid under part A of this title" and inserting "assistance under a State program funded under part A".

(11) Section 454(5)(A) (42 U.S.C. 654(5)(A))) is amended—

(A) by striking "under section 402(a)(26)" and inserting "pursuant to section 408(a)(4)"; and

(B) by striking "; except that this paragraph shall not apply to such payments for any month following the first month in which the amount collected is sufficient to make such family ineligible for assistance under the State plan approved under part A;" and inserting a comma.

(12) Section 454(6)(D) (42 U.S.C. 654(6)(D)) is amended by striking "aid under a State plan approved" and inserting "assistance under a State program funded".

(13) Section 456(a)(1) (42 U.S.C. 656(a)(1)) is amended by striking "under section 402(a)(26)".

(14) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "402(a)(26)" and inserting "408(a)(3)".

(15) Section 466(b)(2) (42 U.S.C. 666(b)(2)) is amended by striking "aid" and inserting "assistance under a State program funded".

(16) Section 469(a) (42 U.S.C. 669(a)) is amended—

(A) by striking "aid under plans approved" and inserting "assistance under State programs funded"; and

(B) by striking "such aid" and inserting "such assistance".

(b) REPEAL OF PART F OF TITLE IV.—Part F of title IV (42 U.S.C. 681–687) is repealed.

(c) AMENDMENT TO TITLE X.—Section 1002(a)(7) (42 U.S.C. 1202(a)(7)) is amended by striking "aid to families with dependent children under the State plan approved under section 402 of this Act" and inserting "assistance under a State program funded under part A of title IV".

(d) AMENDMENTS TO TITLE XI.—

(1) Section 1109 (42 U.S.C. 1309) is amended by striking "or part A of title IV,".

(2) Section 1115 (42 U.S.C. 1315) is amended—

(A) in subsection (a)(2)—

(i) by inserting "(A)" after "(2)";

(ii) by striking "403,";

(iii) by striking the period at the end and inserting ", and"; and

(iv) by adding at the end the following new subparagraph:

"(B) costs of such project which would not otherwise be a permissible use of funds under part A of title IV and which are not included as part of the costs of projects under section 1110, shall to the extent and for the period prescribed by the Secretary, be regarded as a permissible use of funds under such part."; and

(B) in subsection (c)(3), by striking "the program of aid to families with dependent children" and inserting "part A of such title".

(3) Section 1116 (42 U.S.C. 1316) is amended—

(A) in each of subsections (a)(1), (b), and (d), by striking "or part A of title IV,"; and

(B) in subsection (a)(3), by striking "404,".

(4) Section 1118 (42 U.S.C. 1318) is amended—

(A) by striking "403(a),";

(B) by striking "and part A of title IV,"; and

(C) by striking ", and shall, in the case of American Samoa, mean 75 per centum with respect to part A of title IV".

(5) Section 1119 (42 U.S.C. 1319) is amended—

(A) by striking "or part A of title IV"; and

(B) by striking "403(a),".

(6) Section 1133(a) (42 U.S.C. 1320b–3(a)) is amended by striking "or part A of title IV,".

(7) Section 1136 (42 U.S.C. 1320b–6) is repealed.

(8) Section 1137 (42 U.S.C. 1320b–7) is amended—

(A) in subsection (b), by striking paragraph (1) and inserting the following:

"(1) any State program funded under part A of title IV of this Act;"; and

(B) in subsection (d)(1)(B)—

(i) by striking "In this subsection—" and all that follows through "(ii) in" and inserting "In this subsection, in";

(ii) by redesignating subclauses (I), (II), and (III) as clauses (i), (ii), and (iii); and

(iii) by moving such redesignated material 2 ems to the left.

(e) AMENDMENT TO TITLE XIV.—Section 1402(a)(7) (42 U.S.C. 1352(a)(7)) is amended by striking "aid to families with dependent children under the State plan approved under section 402 of this Act" and inserting "assistance under a State program funded under part A of title IV".

(f) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE TERRITORIES.—Section 1602(a)(11), as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972 (42 U.S.C. 1382 note), is amended by striking "aid under the State plan approved" and inserting "assistance under a State program funded".

(g) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE STATES.—Section 1611(c)(5)(A) (42 U.S.C. 1382(c)(5)(A)) is amended to read as follows: "(A) a State program funded under part A of title IV,".

(h) AMENDMENT TO TITLE XIX.—Section 1902(j) (42 U.S.C. 1396a(j)) is amended by striking "1108(c)" and inserting "1108(g)".

SEC. 2110. CONFORMING AMENDMENTS TO THE FOOD STAMP ACT OF 1977 AND RELATED PROVISIONS.

(a) Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in the second sentence of subsection (a), by striking "plan approved" and all that follows through "title IV of the Social Security Act" and inserting "program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)";

(2) in subsection (d)—

(A) in paragraph (5), by striking "assistance to families with dependent children" and inserting "assistance under a State program funded"; and

(B) by striking paragraph (13) and redesignating paragraphs (14), (15), and (16) as paragraphs (13), (14), and (15), respectively;

(3) in subsection (j), by striking "plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.)" and inserting "program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.)"; and

(4) by striking subsection (m) and redesignating subsection (n), as added by section 1122, as subsection (m).

(b) Section 6 of such Act (7 U.S.C. 2015) is amended—

(1) in subsection (c)(5), by striking "the State plan approved" and inserting "the State program funded"; and

(2) in subsection (e)(6), by striking "aid to families with dependent children" and inserting "benefits under a State program funded".

(c) Section 16(g)(4) of such Act (7 U.S.C. 2025(g)(4)) is amended by striking "State plans under the Aid to Families with Dependent Children Program under" and inserting "State programs funded under part A of".

(d) Section 17(b)(3) of such Act (7 U.S.C. 2026(b)(3)) is amended by adding at the end the following new subparagraph:

"(I) The Secretary may not grant a waiver under this paragraph on or after October 1, 1995. Any reference in this paragraph to a provision of title IV of the Social Security Act shall be deemed to be a reference to such provision as in effect on September 30, 1995.";

(e) Section 20 of such Act (7 U.S.C. 2029) is amended—

(1) in subsection (a)(2)(B) by striking "operating—" and all that follows through "(ii) any other" and inserting "operating any"; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "(b)(1) A household" and inserting "(b) A household"; and

(ii) in subparagraph (B), by striking "training program" and inserting "activity";

(B) by striking paragraph (2); and

(C) by redesignating subparagraphs (A) through (F) as paragraphs (1) through (6), respectively.

(f) Section 5(h)(1) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–186; 7 U.S.C. 612c note) is amended by striking "the program for aid to families with dependent children" and inserting "the State program funded".

(g) Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(B)(ii)(II), as amended by section 1202(b)—

(i) by striking "program for aid to families with dependent children" and inserting "State program funded"; and

(ii) by inserting before the period at the end the following: "(42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(B) in paragraph (6)—

(i) in subparagraph (A)(ii)—

(I) by striking "an AFDC assistance unit (under the aid to families with dependent children program authorized" and inserting "a family (under the State program funded"; and

(II) by striking ", in a State" and all that follows through "9902(2)))" and inserting "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(ii) in subparagraph (B), by striking "aid to families with dependent children" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(2) in subsection (d)(2)(C)—

(A) by striking "program for aid to families with dependent children" and inserting "State program funded"; and

(B) by inserting before the period at the end the following: "(42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

(h) Section 17(d)(2)(A)(ii)(II) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(A)(ii)(II)) is amended—

(1) by striking "program for aid to families with dependent children established" and inserting "State program funded"; and

(2) by inserting before the semicolon the following: "(42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

SEC. 2111. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) Subsection (b) of section 508 of the Unemployment Compensation Amendments of 1976 (42 U.S.C. 603a; Public Law 94–566; 90 Stat. 2689) is amended to read as follows:

"(b) PROVISION FOR REIMBURSEMENT OF EXPENSES.—For purposes of section 455 of the Social Security Act, expenses incurred

to reimburse State employment offices for furnishing information requested of such offices—

"(1) pursuant to the third sentence of section 3(a) of the Act entitled 'An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes', approved June 6, 1933 (29 U.S.C. 49b(a)), or

"(2) by a State or local agency charged with the duty of carrying a State plan for child support approved under part D of title IV of the Social Security Act,

shall be considered to constitute expenses incurred in the administration of such State plan.".

(b) Section 9121 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.

(c) Section 9122 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.

(d) Section 221 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 602 note), relating to treatment under AFDC of certain rental payments for federally assisted housing, is repealed.

(e) Section 159 of the Tax Equity and Fiscal Responsibility Act of 1982 (42 U.S.C. 602 note) is repealed.

(f) Section 202(d) of the Social Security Amendments of 1967 (81 Stat. 882; 42 U.S.C. 602 note) is repealed.

(g) Section 903 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 11381 note), relating to demonstration projects to reduce number of AFDC families in welfare hotels, is amended—

(1) in subsection (a), by striking "aid to families with dependent children under a State plan approved" and inserting "assistance under a State program funded"; and

(2) in subsection (c), by striking "aid to families with dependent children in the State under a State plan approved" and inserting "assistance in the State under a State program funded".

(h) The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

(1) in section 404C(c)(3) (20 U.S.C. 1070a–23(c)(3)), by striking "(Aid to Families with Dependent Children)"; and

(2) in section 480(b)(2) (20 U.S.C. 1087vv(b)(2)), by striking "aid to families with dependent children under a State plan approved" and inserting "assistance under a State program funded".

(i) The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended—

(1) in section 231(d)(3)(A)(ii) (20 U.S.C. 2341(d)(3)(A)(ii)), by striking "The program for aid to dependent children" and inserting "The State program funded";

(2) in section 232(b)(2)(B) (20 U.S.C. 2341a(b)(2)(B)), by striking "the program for aid to families with dependent children" and inserting "the State program funded"; and

(3) in section 521(14)(B)(iii) (20 U.S.C. 2471(14)(B)(iii)), by striking "the program for aid to families with dependent children" and inserting "the State program funded".

(j) The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) in section 1113(a)(5) (20 U.S.C. 6313(a)(5)), by striking "Aid to Families with Dependent Children program" and inserting "State program funded under part A of title IV of the Social Security Act";

(2) in section 1124(c)(5) (20 U.S.C. 6333(c)(5)), by striking "the program of aid to families with dependent children under a State plan approved under" and inserting "a State program funded under part A of"; and

(3) in section 5203(b)(2) (20 U.S.C. 7233(b)(2))—

(A) in subparagraph (A)(xi), by striking "Aid to Families with Dependent Children benefits" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act"; and

(B) in subparagraph (B)(viii), by striking "Aid to Families with Dependent Children" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act".

(k) The 4th proviso of chapter VII of title I of Public Law 99–88 (25 U.S.C. 13d–1) is amended to read as follows: "*Provided further,* That general assistance payments made by the Bureau of Indian Affairs shall be made—

"(1) after April 29, 1985, and before October 1, 1995, on the basis of Aid to Families with Dependent Children (AFDC) standards of need; and

"(2) on and after October 1, 1995, on the basis of standards of need established under the State program funded under part A of title IV of the Social Security Act,

except that where a State ratably reduces its AFDC or State program payments, the Bureau shall reduce general assistance payments in such State by the same percentage as the State has reduced the AFDC or State program payment.".

(l) The Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) is amended—

(1) in section 51(d)(9) (26 U.S.C. 51(d)(9)), by striking all that follows "agency as" and inserting "being eligible for financial assistance under part A of title IV of the Social Security Act and as having continually received such financial assistance during the 90-day period which immediately precedes the date on which such individual is hired by the employer.";

(2) in section 3304(a)(16) (26 U.S.C. 3304(a)(16)), by striking "eligibility for aid or services," and all that follows through "children approved" and inserting "eligibility for assistance, or the amount of such assistance, under a State program funded";

(3) in section 6103(l)(7)(D)(i) (26 U.S.C. 6103(l)(7)(D)(i)), by striking "aid to families with dependent children provided under a State plan approved" and inserting "a State program funded";

(4) in section 6103(l)(10) (26 U.S.C. 6103(l)(10))—

(A) by striking "(c) or (d)" each place it appears and inserting "(c), (d), or (e)"; and

(B) by adding at the end of subparagraph (B) the following new sentence: "Any return information disclosed with

respect to section 6402(e) shall only be disclosed to officers and employees of the State agency requesting such information.";

(5) in section 6103(p)(4) (26 U.S.C. 6103(p)(4)), in the matter preceding subparagraph (A)—

(A) by striking "(5), (10)" and inserting "(5)"; and

(B) by striking "(9), or (12)" and inserting "(9), (10), or (12)";

(6) in section 6334(a)(11)(A) (26 U.S.C. 6334(a)(11)(A)), by striking "(relating to aid to families with dependent children)";

(7) in section 6402 (26 U.S.C. 6402)—

(A) in subsection (a), by striking "(c) and (d)" and inserting "(c), (d), and (e)";

(B) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(C) by inserting after subsection (d) the following:

"(e) COLLECTION OF OVERPAYMENTS UNDER TITLE IV–A OF THE SOCIAL SECURITY ACT.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced (after reductions pursuant to subsections (c) and (d), but before a credit against future liability for an internal revenue tax) in accordance with section 405(e) of the Social Security Act (concerning recovery of overpayments to individuals under State plans approved under part A of title IV of such Act)."; and

(8) in section 7523(b)(3)(C) (26 U.S.C. 7523(b)(3)(C)), by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act".

(m) Section 3(b) of the Wagner-Peyser Act (29 U.S.C. 49b(b)) is amended by striking "State plan approved under part A of title IV" and inserting "State program funded under part A of title IV".

(n) The Job Training Partnership Act (29 U.S.C. 1501 et seq.) is amended—

(1) in section 4(29)(A)(i) (29 U.S.C. 1503(29)(A)(i)), by striking "(42 U.S.C. 601 et seq.)";

(2) in section 106(b)(6)(C) (29 U.S.C. 1516(b)(6)(C)), by striking "State aid to families with dependent children records," and inserting "records collected under the State program funded under part A of title IV of the Social Security Act,";

(3) in section 121(b)(2) (29 U.S.C. 1531(b)(2))—

(A) by striking "the JOBS program" and inserting "the work activities required under title IV of the Social Security Act"; and

(B) by striking the second sentence;

(4) in section 123(c) (29 U.S.C. 1533(c))—

(A) in paragraph (1)(E), by repealing clause (vi); and

(B) in paragraph (2)(D), by repealing clause (v);

(5) in section 203(b)(3) (29 U.S.C. 1603(b)(3)), by striking ", including recipients under the JOBS program";

(6) in subparagraphs (A) and (B) of section 204(a)(1) (29 U.S.C. 1604(a)(1) (A) and (B)), by striking "(such as the JOBS program)" each place it appears;

(7) in section 205(a) (29 U.S.C. 1605(a)), by striking paragraph (4) and inserting the following:

"(4) the portions of title IV of the Social Security Act relating to work activities;";

(8) in section 253 (29 U.S.C. 1632)—

(A) in subsection (b)(2), by repealing subparagraph (C); and

(B) in paragraphs (1)(B) and (2)(B) of subsection (c), by striking "the JOBS program or" each place it appears;

(9) in section 264 (29 U.S.C. 1644)—

(A) in subparagraphs (A) and (B) of subsection (b)(1), by striking "(such as the JOBS program)" each place it appears; and

(B) in subparagraphs (A) and (B) of subsection (d)(3), by striking "and the JOBS program" each place it appears;

(10) in section 265(b) (29 U.S.C. 1645(b)), by striking paragraph (6) and inserting the following:

"(6) the portion of title IV of the Social Security Act relating to work activities;";

(11) in the second sentence of section 429(e) (29 U.S.C. 1699(e)), by striking "and shall be in an amount that does not exceed the maximum amount that may be provided by the State pursuant to section 402(g)(1)(C) of the Social Security Act (42 U.S.C. 602(g)(1)(C))";

(12) in section 454(c) (29 U.S.C. 1734(c)), by striking "JOBS and";

(13) in section 455(b) (29 U.S.C. 1735(b)), by striking "the JOBS program,";

(14) in section 501(1) (29 U.S.C. 1791(1)), by striking "aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act";

(15) in section 506(1)(A) (29 U.S.C. 1791e(1)(A)), by striking "aid to families with dependent children" and inserting "assistance under the State program funded";

(16) in section 508(a)(2)(A) (29 U.S.C. 1791g(a)(2)(A)), by striking "aid to families with dependent children" and inserting "assistance under the State program funded"; and

(17) in section 701(b)(2)(A) (29 U.S.C. 1792(b)(2)(A))—

(A) in clause (v), by striking the semicolon and inserting "; and"; and

(B) by striking clause (vi).

(o) Section 3803(c)(2)(C)(iv) of title 31, United States Code, is amended to read as follows:

"(iv) assistance under a State program funded under part A of title IV of the Social Security Act;".

(p) Section 2605(b)(2)(A)(i) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(2)(A)(i)) is amended to read as follows:

"(i) assistance under the State program funded under part A of title IV of the Social Security Act;".

(q) Section 303(f)(2) of the Family Support Act of 1988 (42 U.S.C. 602 note) is amended—

(1) by striking "(A)"; and

(2) by striking subparagraphs (B) and (C).

(r) The Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) is amended—

(1) in the first section 255(h) (2 U.S.C. 905(h)), by striking "Aid to families with dependent children (75–0412–0–1–609);" and inserting "Block grants to States for temporary assistance for needy families;"; and

(2) in section 256 (2 U.S.C. 906)—

(A) by striking subsection (k); and

(B) by redesignating subsection (l) as subsection (k).

(s) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 210(f) (8 U.S.C. 1160(f)), by striking "aid under a State plan approved under" each place it appears and inserting "assistance under a State program funded under";

(2) in section 245A(h) (8 U.S.C. 1255a(h))—

(A) in paragraph (1)(A)(i), by striking "program of aid to families with dependent children" and inserting "State program of assistance"; and

(B) in paragraph (2)(B), by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act"; and

(3) in section 412(e)(4) (8 U.S.C. 1522(e)(4)), by striking "State plan approved" and inserting "State program funded".

(t) Section 640(a)(4)(B)(i) of the Head Start Act (42 U.S.C. 9835(a)(4)(B)(i)) is amended by striking "program of aid to families with dependent children under a State plan approved" and inserting "State program of assistance funded".

(u) Section 9 of the Act of April 19, 1950 (64 Stat. 47, chapter 92; 25 U.S.C. 639) is repealed.

(v) Subparagraph (E) of section 213(d)(6) of the School-To-Work Opportunities Act of 1994 (20 U.S.C. 6143(d)(6)) is amended to read as follows:

"(E) part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) relating to work activities;".

(w) Section 552a(a)(8)(B)(iv)(III) of title 5, United States Code, is amended by striking "section 464 or 1137 of the Social Security Act" and inserting "section 404(e), 464, or 1137 of the Social Security Act".

SEC. 2112. DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD REQUIRED.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Commissioner of Social Security (in this section referred to as the "Commissioner") shall, in accordance with this section, develop a prototype of a counterfeit-resistant social security card. Such prototype card shall—

(A) be made of a durable, tamper-resistant material such as plastic or polyester,

(B) employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits, and

(C) be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(2) ASSISTANCE BY ATTORNEY GENERAL.—The Attorney General of the United States shall provide such information and assistance as the Commissioner deems necessary to enable the Commissioner to comply with this section.

(b) STUDY AND REPORT.—

(1) IN GENERAL.—The Commissioner shall conduct a study and issue a report to the Congress which examines different methods of improving the social security card application process.

(2) ELEMENTS OF STUDY.—The study shall include an evaluation of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3-, 5-, and 10-year period. The study shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3-, 5-, and 10-year phase-in options.

(3) DISTRIBUTION OF REPORT.—The Commissioner shall submit copies of the report described in this subsection along with a facsimile of the prototype card as described in subsection (a) to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate within 1 year after the date of the enactment of this Act.

SEC. 2113. DISCLOSURE OF RECEIPT OF FEDERAL FUNDS.

(a) IN GENERAL.—Whenever an organization that accepts Federal funds under this subtitle or the amendments made by this subtitle makes any communication that in any way intends to promote public support or opposition to any policy of a Federal, State, or local government through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public advertising, such communication shall state the following: "This was prepared and paid for by an organization that accepts taxpayer dollars.".

(b) FAILURE TO COMPLY.—If an organization makes any communication described in subsection (a) and fails to provide the statement required by that subsection, such organization shall be ineligible to receive Federal funds under this subtitle or the amendments made by this subtitle.

(c) DEFINITION.—For purposes of this section, the term "organization" means an organization described in section 501(c) of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATES.—This section shall take effect—

(1) with respect to printed communications 1 year after the date of enactment of this Act; and

(2) with respect to any other communication on the date of enactment of this Act.

SEC. 2114. MODIFICATIONS TO THE JOB OPPORTUNITIES FOR CERTAIN LOW-INCOME INDIVIDUALS PROGRAM.

Section 505 of the Family Support Act of 1988 (42 U.S.C. 1315 note) is amended—

(1) in the heading, by striking "**demonstration**";

(2) by striking "demonstration" each place such term appears;

(3) in subsection (a), by striking "in each of fiscal years" and all that follows through "10" and inserting "shall enter into agreements with";

(4) in subsection (b)(3), by striking "aid to families with dependent children under part A of title IV of the Social Security Act" and inserting "assistance under the program funded part A of title IV of the Social Security Act of the State in which the individual resides";

(5) in subsection (c)—

(A) in paragraph (1)(C), by striking "aid to families with dependent children under title IV of the Social Security Act" and inserting "assistance under a State program funded part A of title IV of the Social Security Act";

(B) in paragraph (2), by striking "aid to families with dependent children under title IV of such Act" and inserting "assistance under a State program funded part A of title IV of the Social Security Act";

(6) in subsection (d), by striking "job opportunities and basic skills training program (as provided for under title IV of the Social Security Act)" and inserting "the State program funded under part A of title IV of the Social Security Act"; and

(7) by striking subsections (e) through (g) and inserting the following:

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of conducting projects under this section, there is authorized to be appropriated an amount not to exceed $25,000,000 for any fiscal year.".

SEC. 2115. SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL FOR TECHNICAL AND CONFORMING AMENDMENTS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services and the Commissioner of Social Security, in consultation, as appropriate, with the heads of other Federal agencies, shall submit to the appropriate committees of the Congress a legislative proposal proposing such technical and conforming amendments as are necessary to bring the law into conformity with the policy embodied in this chapter.

SEC. 2116. EFFECTIVE DATE; TRANSITION RULE.

(a) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this chapter, this chapter and the amendments made by this chapter shall take effect on July 1, 1997.

(2) DELAYED EFFECTIVE DATE FOR CERTAIN PROVISIONS.—Notwithstanding any other provision of this section, paragraphs (2), (3), (4), (5), (8), and (10) of section 409(a) and section 411(a) of the Social Security Act (as added by the amendments made by section 2103(a) of this Act) shall not take effect with respect to a State until, and shall apply only with respect to conduct that occurs on or after, the later of—

(A) July 1, 1997; or

(B) the date that is 6 months after the date the Secretary of Health and Human Services receives from the

State a plan described in section 402(a) of the Social Security Act (as added by such amendment).

(3) ELIMINATION OF CHILD CARE PROGRAMS.—The amendments made by section 2103(d) shall take effect on October 1, 1996.

(4) DEFINITIONS APPLICABLE TO NEW CHILD CARE ENTITLEMENT.—Sections 403(a)(1)(C), 403(a)(1)(D), and 419(4) of the Social Security Act, as added by the amendments made by section 2103(a) of this Act, shall take effect on October 1, 1996.

(b) TRANSITION RULES.—Effective on the date of the enactment of this Act:

(1) STATE OPTION TO ACCELERATE EFFECTIVE DATE.—

(A) IN GENERAL.—If the Secretary of Health and Human Services receives from a State a plan described in section 402(a) of the Social Security Act (as added by the amendment made by section 2103(a)(1) of this Act), then—

(i) on and after the date of such receipt—

(I) except as provided in clause (ii), this chapter and the amendments made by this chapter (other than by section 2103(d) of this Act) shall apply with respect to the State; and

(II) the State shall be considered an eligible State for purposes of part A of title IV of the Social Security Act (as in effect pursuant to the amendments made by such section 2103(a)); and

(ii) during the period that begins on the date of such receipt and ends on June 30, 1997, there shall remain in effect with respect to the State—

(I) section 403(h) of the Social Security Act (as in effect on September 30, 1995); and

(II) all State reporting requirements under parts A and F of title IV of the Social Security Act (as in effect on September 30, 1995), modified by the Secretary as appropriate, taking into account the State program under part A of title IV of the Social Security Act (as in effect pursuant to the amendments made by such section 2103(a)).

(B) LIMITATIONS ON FEDERAL OBLIGATIONS.—

(i) UNDER AFDC PROGRAM.—The total obligations of the Federal Government to a State under part A of title IV of the Social Security Act (as in effect on September 30, 1995) with respect to expenditures in fiscal year 1997 shall not exceed an amount equal to the State family assistance grant.

(ii) UNDER TEMPORARY FAMILY ASSISTANCE PROGRAM.—Notwithstanding section 403(a)(1) of the Social Security Act (as in effect pursuant to the amendments made by section 2103(a) of this Act), the total obligations of the Federal Government to a State under such section 403(a)(1)—

(I) for fiscal year 1996, shall be an amount equal to—

(aa) the State family assistance grant; multiplied by

(bb) 1/366 of the number of days during the period that begins on the date the Secretary of Health and Human Services first receives from the State a plan described in section 402(a) of the Social Security Act (as added by the amendment made by section 2103(a)(1) of this Act) and ends on September 30, 1996; and

(II) for fiscal year 1997, shall be an amount equal to the lesser of—

(aa) the amount (if any) by which the State family assistance grant exceeds the total obligations of the Federal Government to the State under part A of title IV of the Social Security Act (as in effect on September 30, 1995) with respect to expenditures in fiscal year 1997; or

(bb) the State family assistance grant, multiplied by 1/365 of the number of days during the period that begins on October 1, 1996, or the date the Secretary of Health and Human Services first receives from the State a plan described in section 402(a) of the Social Security Act (as added by the amendment made by section 2103(a)(1) of this Act), whichever is later, and ends on September 30, 1997.

(iii) CHILD CARE OBLIGATIONS EXCLUDED IN DETERMINING FEDERAL AFDC OBLIGATIONS.—As used in this subparagraph, the term "obligations of the Federal Government to the State under part A of title IV of the Social Security Act" does not include any obligation of the Federal Government with respect to child care expenditures by the State.

(C) SUBMISSION OF STATE PLAN FOR FISCAL YEAR 1996 OR 1997 DEEMED ACCEPTANCE OF GRANT LIMITATIONS AND FORMULA AND TERMINATION OF AFDC ENTITLEMENT.—The submission of a plan by a State pursuant to subparagraph (A) is deemed to constitute—

(i) the State's acceptance of the grant reductions under subparagraph (B) (including the formula for computing the amount of the reduction); and

(ii) the termination of any entitlement of any individual or family to benefits or services under the State AFDC program.

(D) DEFINITIONS.—As used in this paragraph:

(i) STATE AFDC PROGRAM.—The term "State AFDC program" means the State program under parts A and F of title IV of the Social Security Act (as in effect on September 30, 1995).

(ii) STATE.—The term "State" means the 50 States and the District of Columbia.

(iii) STATE FAMILY ASSISTANCE GRANT.—The term "State family assistance grant" means the State family assistance grant (as defined in section 403(a)(1)(B) of

the Social Security Act, as added by the amendment made by section 2103(a)(1) of this Act).

(2) CLAIMS, ACTIONS, AND PROCEEDINGS.—The amendments made by this chapter shall not apply with respect to—

(A) powers, duties, functions, rights, claims, penalties, or obligations applicable to aid, assistance, or services provided before the effective date of this chapter under the provisions amended; and

(B) administrative actions and proceedings commenced before such date, or authorized before such date to be commenced, under such provisions.

(3) CLOSING OUT ACCOUNT FOR THOSE PROGRAMS TERMINATED OR SUBSTANTIALLY MODIFIED BY THIS CHAPTER.—In closing out accounts, Federal and State officials may use scientifically acceptable statistical sampling techniques. Claims made with respect to State expenditures under a State plan approved under part A of title IV of the Social Security Act (as in effect on September 30, 1995) with respect to assistance or services provided on or before September 30, 1995, shall be treated as claims with respect to expenditures during fiscal year 1995 for purposes of reimbursement even if payment was made by a State on or after October 1, 1995. Each State shall complete the filing of all claims under the State plan (as so in effect) within 2 years after the date of the enactment of this Act. The head of each Federal department shall—

(A) use the single audit procedure to review and resolve any claims in connection with the close out of programs under such State plans; and

(B) reimburse States for any payments made for assistance or services provided during a prior fiscal year from funds for fiscal year 1995, rather than from funds authorized by this chapter.

(4) CONTINUANCE IN OFFICE OF ASSISTANT SECRETARY FOR FAMILY SUPPORT.—The individual who, on the day before the effective date of this chapter, is serving as Assistant Secretary for Family Support within the Department of Health and Human Services shall, until a successor is appointed to such position—

(A) continue to serve in such position; and

(B) except as otherwise provided by law—

(i) continue to perform the functions of the Assistant Secretary for Family Support under section 417 of the Social Security Act (as in effect before such effective date); and

(ii) have the powers and duties of the Assistant Secretary for Family Support under section 416 of the Social Security Act (as in effect pursuant to the amendment made by section 2103(a)(1) of this Act).

(c) TERMINATION OF ENTITLEMENT UNDER AFDC PROGRAM.—Effective October 1, 1996, no individual or family shall be entitled to any benefits or services under any State plan approved under part A or F of title IV of the Social Security Act (as in effect on September 30, 1995).

CHAPTER 2—SUPPLEMENTAL SECURITY INCOME

SEC. 2200. REFERENCE TO SOCIAL SECURITY ACT.

Except as otherwise specifically provided, wherever in this chapter an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

Subchapter A—Eligibility Restrictions

SEC. 2201. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDIVIDUALS FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR MORE STATES.

(a) IN GENERAL.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 105(b)(4) of the Contract with America Advancement Act of 1996, is amended by redesignating paragraph (5) as paragraph (3) and by adding at the end the following new paragraph:

"(4)(A) No person shall be considered an eligible individual or eligible spouse for purposes of this title during the 10-year period that begins on the date the person is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the person in order to receive assistance simultaneously from 2 or more States under programs that are funded under title IV, title XV, title XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under this title.

"(B) As soon as practicable after the conviction of a person in a Federal or State court as described in subparagraph (A), an official of such court shall notify the Commissioner of such conviction.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 2202. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.

(a) IN GENERAL.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 2201(a) of this Act, is amended by adding at the end the following new paragraph:

"(5) No person shall be considered an eligible individual or eligible spouse for purposes of this title with respect to any month if during such month the person is—

"(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(B) violating a condition of probation or parole imposed under Federal or State law.".

(b) EXCHANGE OF INFORMATION.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 2201(a) of this Act and subsection (a) of this section, is amended by adding at the end the following new paragraph:

"(6) Notwithstanding any other provision of law (other than section 6103 of the Internal Revenue Code of 1986), the Commissioner

shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of benefits under this title, if the officer furnishes the Commissioner with the name of the recipient, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the recipient, and notifies the Commissioner that—

"(A) the recipient—

"(i) is described in subparagraph (A) or (B) of paragraph (5); or

"(ii) has information that is necessary for the officer to conduct the officer's official duties; and

"(B) the location or apprehension of the recipient is within the officer's official duties.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 2203. TREATMENT OF PRISONERS.

(a) IMPLEMENTATION OF PROHIBITION AGAINST PAYMENT OF BENEFITS TO PRISONERS.—Section 1611(e)(1) (42 U.S.C. 1382(e)(1)) is amended by adding at the end the following new subparagraph:

"(I)(i) The Commissioner shall enter into a contract, with any interested State or local institution referred to in subparagraph (A), under which—

"(I) the institution shall provide to the Commissioner, on a monthly basis, the names, social security account numbers, dates of birth, and such other identifying information concerning the inmates of the institution as the Commissioner may require for the purpose of carrying out paragraph (1); and

"(II) the Commissioner shall pay to any such institution, with respect to each inmate of the institution who is eligible for a benefit under this title for the month preceding the first month throughout which such inmate is in such institution and becomes ineligible for such benefit (or becomes eligible only for a benefit payable at a reduced rate) as a result of the application of this paragraph, an amount not to exceed $400 if the institution furnishes the information described in subclause (I) to the Commissioner within 30 days after such individual becomes an inmate of such institution, or an amount not to exceed $200 if the institution furnishes such information after 30 days after such date but within 90 days after such date.

"(ii) The provisions of section 552a of title 5, United States Code, shall not apply to any agreement entered into under clause (i) or to information exchanged pursuant to such agreement.

"(iii) Payments to institutions required by clause (i)(II) shall be made from funds otherwise available for the payment of benefits under this title and shall be treated as direct spending for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) DENIAL OF SSI BENEFITS FOR 10 YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY OBTAINED SSI BENEFITS WHILE IN PRISON.—

(1) IN GENERAL.—Section 1611(e)(1) (42 U.S.C. 1382(e)(1)), as amended by subsection (a) of this section, is amended by adding at the end the following new subparagraph:

"(J) In any case in which the Commissioner of Social Security finds that a person has made a fraudulent statement or representation in order to obtain or to continue to receive benefits under this title while being an inmate in a penal institution, such person shall not be considered an eligible individual or eligible spouse for any month ending during the 10-year period beginning on the date on which such person ceases being such an inmate.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to statements or representations made on or after the date of the enactment of this Act.

(c) STUDY OF OTHER POTENTIAL IMPROVEMENTS IN THE COLLECTION OF INFORMATION RESPECTING PUBLIC INMATES.—

(1) STUDY.—The Commissioner of Social Security shall conduct a study of the desirability, feasibility, and cost of—

(A) establishing a system under which Federal, State, and local courts would furnish to the Commissioner such information respecting court orders by which individuals are confined in jails, prisons, or other public penal, correctional, or medical facilities as the Commissioner may require for the purpose of carrying out section 1611(e)(1) of the Social Security Act; and

(B) requiring that State and local jails, prisons, and other institutions that enter into contracts with the Commissioner under section 1611(e)(1)(I) of the Social Security Act furnish the information required by such contracts to the Commissioner by means of an electronic or other sophisticated data exchange system.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall submit a report on the results of the study conducted pursuant to this subsection to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 2204. EFFECTIVE DATE OF APPLICATION FOR BENEFITS.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 1611(c)(7) (42 U.S.C. 1382(c)(7)) are amended to read as follows:

"(A) the first day of the month following the date such application is filed, or

"(B) the first day of the month following the date such individual becomes eligible for such benefits with respect to such application.".

(b) SPECIAL RULE RELATING TO EMERGENCY ADVANCE PAYMENTS.—Section 1631(a)(4)(A) (42 U.S.C. 1383(a)(4)(A)) is amended—

(1) by inserting "for the month following the date the application is filed" after "is presumptively eligible for such benefits"; and

(2) by inserting ", which shall be repaid through proportionate reductions in such benefits over a period of not more than 6 months" before the semicolon.

(c) CONFORMING AMENDMENTS.—

(1) Section 1614(b) (42 U.S.C. 1382c(b)) is amended by striking "at the time the application or request is filed" and inserting "on the first day of the month following the date the application or request is filed".

(2) Section 1631(g)(3) (42 U.S.C. 1382j(g)(3)) is amended by inserting "following the month" after "beginning with the month".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to applications for benefits under title XVI of the Social Security Act filed on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) BENEFITS UNDER TITLE XVI.—For purposes of this subsection, the term "benefits under title XVI of the Social Security Act" includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act, and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.

Subchapter B—Benefits for Disabled Children

SEC. 2211. DEFINITION AND ELIGIBILITY RULES.

(a) DEFINITION OF CHILDHOOD DISABILITY.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)), as amended by section 105(b)(1) of the Contract with America Advancement Act of 1996, is amended—

(1) in subparagraph (A), by striking "An individual" and inserting "Except as provided in subparagraph (C), an individual";

(2) in subparagraph (A), by striking "(or, in the case of an individual under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)";

(3) by redesignating subparagraphs (C) through (I) as subparagraphs (D) through (J), respectively;

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) An individual under the age of 18 shall be considered disabled for the purposes of this title if that individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. Notwithstanding the preceding sentence, no individual under the age of 18 who engages in substantial gainful activity (determined in accordance with regulations prescribed pursuant to subparagraph (E)) may be considered to be disabled."; and

(5) in subparagraph (F), as redesignated by paragraph (3), by striking "(D)" and inserting "(E)".

(b) REQUEST FOR COMMENTS TO IMPROVE DISABILITY EVALUATION.—Not later than 60 days after the date of the enactment of this Act, and annually thereafter, the Commissioner of Social Security shall issue a request for comments in the Federal Register regarding improvements to the disability evaluation and determina-

tion procedures for individuals under age 18 to ensure the comprehensive assessment of such individuals, including—

(1) additions to conditions which should be presumptively disabling at birth or ages 0 through 3 years;

(2) specific changes in individual listings in the Listing of Impairments set forth in appendix 1 of subpart P of part 404 of title 20, Code of Federal Regulations;

(3) improvements in regulations regarding determinations based on regulations providing for medical and functional equivalence to such Listing of Impairments, and consideration of multiple impairments; and

(4) any other changes to the disability determination procedures.

(c) CHANGES TO CHILDHOOD SSI REGULATIONS.—

(1) MODIFICATION TO MEDICAL CRITERIA FOR EVALUATION OF MENTAL AND EMOTIONAL DISORDERS.—The Commissioner of Social Security shall modify sections 112.00C.2. and 112.02B.2.c.(2) of appendix 1 to subpart P of part 404 of title 20, Code of Federal Regulations, to eliminate references to maladaptive behavior in the domain of personal/behavorial function.

(2) DISCONTINUANCE OF INDIVIDUALIZED FUNCTIONAL ASSESSMENT.—The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in sections 416.924d and 416.924e of title 20, Code of Federal Regulations.

(d) MEDICAL IMPROVEMENT REVIEW STANDARD AS IT APPLIES TO INDIVIDUALS UNDER THE AGE OF 18.—Section 1614(a)(4) (42 U.S.C. 1382(a)(4)) is amended—

(1) by redesignating subclauses (I) and (II) of clauses (i) and (ii) of subparagraph (B) as items (aa) and (bb), respectively;

(2) by redesignating clauses (i) and (ii) of subparagraphs (A) and (B) as subclauses (I) and (II), respectively;

(3) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(4) by inserting before clause (i) (as redesignated by paragraph (3)) the following new subparagraph:

"(A) in the case of an individual who is age 18 or older—";

(5) by inserting after and below subparagraph (A)(iii) (as so redesignated) the following new subparagraph:

"(B) in the case of an individual who is under the age of 18—

"(i) substantial evidence which demonstrates that there has been medical improvement in the individual's impairment or combination of impairments, and that such impairment or combination of impairments no longer results in marked and severe functional limitations; or

"(ii) substantial evidence which demonstrates that, as determined on the basis of new or improved diagnostic techniques or evaluations, the individual's impairment or combination of impairments, is not as disabling as it was considered to be at the time of the most recent prior decision that the individual was under a disability or continued to be under a disability, and such impairment or com-

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bination of impairments does not result in marked and severe functional limitations; or";

(6) by redesignating subparagraph (D) as subparagraph (C) and by inserting in such subparagraph "in the case of any individual," before "substantial evidence"; and

(7) in the first sentence following subparagraph (C) (as redesignated by paragraph (6)), by—

(A) inserting "(i)" before "to restore"; and

(B) inserting ", or (ii) in the case of an individual under the age of 18, to eliminate or improve the individual's impairment or combination of impairments so that it no longer results in marked and severe functional limitations" immediately before the period.

(e) EFFECTIVE DATES, ETC.—

(1) EFFECTIVE DATES.—

(A) SUBSECTIONS (a) AND (c).—

(i) IN GENERAL.—The provisions of, and amendments made by, subsections (a) and (c) shall apply to any individual who applies for, or whose claim is finally adjudicated with respect to, benefits under title XVI of the Social Security Act on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such provisions and amendments.

(ii) DETERMINATION OF FINAL ADJUDICATION.—For purposes of clause (i), no individual's claim with respect to such benefits may be considered to be finally adjudicated before such date of enactment if, on or after such date, there is pending a request for either administrative or judicial review with respect to such claim that has been denied in whole, or there is pending, with respect to such claim, readjudication by the Commissioner of Social Security pursuant to relief in a class action or implementation by the Commissioner of a court remand order.

(B) SUBSECTION (d).—The amendments made by subsection (d) shall apply with respect to benefits under title XVI of the Social Security Act for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) APPLICATION TO CURRENT RECIPIENTS.—

(A) ELIGIBILITY REDETERMINATIONS.—During the period beginning on the date of the enactment of this Act and ending on the date which is 1 year after such date of enactment, the Commissioner of Social Security shall redetermine the eligibility of any individual under age 18 who is receiving supplemental security income benefits by reason of disability under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the provisions of, or amendments made by, subsections (a) and (c) of this section. With respect to any redetermination under this subparagraph—

(i) section 1614(a)(4) of the Social Security Act (42 U.S.C. 1382c(a)(4)) shall not apply;

(ii) the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under title XVI of such Act;

(iii) the Commissioner shall give such redetermination priority over all continuing eligibility reviews and other reviews under such title; and

(iv) such redetermination shall be counted as a review or redetermination otherwise required to be made under section 208 of the Social Security Independence and Program Improvements Act of 1994 or any other provision of title XVI of the Social Security Act.

(B) GRANDFATHER PROVISION.—The provisions of, and amendments made by, subsections (a) and (c) of this section, and the redetermination under subparagraph (A), shall only apply with respect to the benefits of an individual described in subparagraph (A) for months beginning on or after the later of July 1, 1997, or the date of the redetermination with respect to such individual.

(C) NOTICE.—Not later than January 1, 1997, the Commissioner of Social Security shall notify an individual described in subparagraph (A) of the provisions of this paragraph.

(3) REPORT.—The Commissioner of Social Security shall report to the Congress regarding the progress made in implementing the provisions of, and amendments made by, this section on child disability evaluations not later than 180 days after the date of the enactment of this Act.

(4) REGULATIONS.—Notwithstanding any other provision of law, the Commissioner of Social Security shall submit for review to the committees of jurisdiction in the Congress any final regulation pertaining to the eligibility of individuals under age 18 for benefits under title XVI of the Social Security Act at least 45 days before the effective date of such regulation. The submission under this paragraph shall include supporting documentation providing a cost analysis, workload impact, and projections as to how the regulation will effect the future number of recipients under such title.

(5) APPROPRIATIONS.—

(A) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there are authorized to be appropriated and are hereby appropriated, to remain available without fiscal year limitation, $200,000,000 for fiscal year 1997, $75,000,000 for fiscal year 1998, and $25,000,000 for fiscal year 1999, for the Commissioner of Social Security to utilize only for continuing disability reviews and redeterminations under title XVI of the Social Security Act, with reviews and redeterminations for individuals affected by the provisions of subsection (b) given highest priority.

(B) ADDITIONAL FUNDS.—Amounts appropriated under subparagraph (A) shall be in addition to any funds other-

wise appropriated for continuing disability reviews and redeterminations under title XVI of the Social Security Act.

(6) BENEFITS UNDER TITLE XVI.—For purposes of this subsection, the term "benefits under title XVI of the Social Security Act" includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act, and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.

SEC. 2212. ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY REVIEWS.

(a) CONTINUING DISABILITY REVIEWS RELATING TO CERTAIN CHILDREN.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as redesignated by section 2211(a)(3) of this Act, is amended—

(1) by inserting "(i)" after "(H)"; and

(2) by adding at the end the following new clause:

"(ii)(I) Not less frequently than once every 3 years, the Commissioner shall review in accordance with paragraph (4) the continued eligibility for benefits under this title of each individual who has not attained 18 years of age and is eligible for such benefits by reason of an impairment (or combination of impairments) which is likely to improve (or, at the option of the Commissioner, which is unlikely to improve).

"(II) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.

"(III) If the representative payee refuses to comply without good cause with the requirements of subclause (II), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly suspend payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this title would be served thereby, to the individual.

"(IV) Subclause (II) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual's impairment (or combination of impairments). Section 1631(c) shall not apply to a finding by the Commissioner that the requirements of subclause (II) should not apply to an individual's representative payee.".

(b) DISABILITY ELIGIBILITY REDETERMINATIONS REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS OF AGE.—

(1) IN GENERAL.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsection (a) of this section, is amended by adding at the end the following new clause:

"(iii) If an individual is eligible for benefits under this title by reason of disability for the month preceding the month in which the individual attains the age of 18 years, the Commissioner shall redetermine such eligibility—

"(I) during the 1-year period beginning on the individual's 18th birthday; and

"(II) by applying the criteria used in determining the initial eligibility for applicants who are age 18 or older.

With respect to a redetermination under this clause, paragraph (4) shall not apply and such redetermination shall be considered a substitute for a review or redetermination otherwise required under any other provision of this subparagraph during that 1-year period.".

(2) CONFORMING REPEAL.—Section 207 of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 1382 note; 108 Stat. 1516) is hereby repealed.

(c) CONTINUING DISABILITY REVIEW REQUIRED FOR LOW BIRTH WEIGHT BABIES.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsections (a) and (b) of this section, is amended by adding at the end the following new clause:

"(iv)(I) Not later than 12 months after the birth of an individual, the Commissioner shall review in accordance with paragraph (4) the continuing eligibility for benefits under this title by reason of disability of such individual whose low birth weight is a contributing factor material to the Commissioner's determination that the individual is disabled.

"(II) A review under subclause (I) shall be considered a substitute for a review otherwise required under any other provision of this subparagraph during that 12-month period.

"(III) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.

"(IV) If the representative payee refuses to comply without good cause with the requirements of subclause (III), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly suspend payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this title would be served thereby, to the individual.

"(V) Subclause (III) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual's impairment (or combination of impairments). Section 1631(c) shall not apply to a finding by the Commissioner that the requirements of subclause (III) should not apply to an individual's representative payee.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

SEC. 2213. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.

(a) REQUIREMENT TO ESTABLISH ACCOUNT.—Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended—

(1) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(2) by inserting after subparagraph (E) the following new subparagraph:

"(F)(i)(I) Each representative payee of an eligible individual under the age of 18 who is eligible for the payment of benefits described in subclause (II) shall establish on behalf of such individual an account in a financial institution into which such benefits shall be paid, and shall thereafter maintain such account for use in accordance with clause (ii).

"(II) Benefits described in this subclause are past-due monthly benefits under this title (which, for purposes of this subclause, include State supplementary payments made by the Commissioner pursuant to an agreement under section 1616 or section 212(b) of Public Law 93–66) in an amount (after any withholding by the Commissioner for reimbursement to a State for interim assistance under subsection (g)) that exceeds the product of—

"(aa) 6, and

"(bb) the maximum monthly benefit payable under this title to an eligible individual.

"(ii)(I) A representative payee may use funds in the account established under clause (i) to pay for allowable expenses described in subclause (II).

"(II) An allowable expense described in this subclause is an expense for—

"(aa) education or job skills training;

"(bb) personal needs assistance;

"(cc) special equipment;

"(dd) housing modification;

"(ee) medical treatment;

"(ff) therapy or rehabilitation; or

"(gg) any other item or service that the Commissioner determines to be appropriate;

provided that such expense benefits such individual and, in the case of an expense described in item (cc), (dd), (ff), or (gg), is related to the impairment (or combination of impairments) of such individual.

"(III) The use of funds from an account established under clause (i) in any manner not authorized by this clause—

"(aa) by a representative payee shall be considered a misapplication of benefits for all purposes of this paragraph, and any representative payee who knowingly misapplies benefits from such an account shall be liable to the Commissioner in an amount equal to the total amount of such benefits; and

"(bb) by an eligible individual who is his or her own payee shall be considered a misapplication of benefits for all purposes of this paragraph and the total amount of such benefits so used shall be considered to be the uncompensated value of a disposed resource and shall be subject to the provisions of section 1613(c).

"(IV) This clause shall continue to apply to funds in the account after the child has reached age 18, regardless of whether benefits are paid directly to the beneficiary or through a representative payee.

"(iii) The representative payee may deposit into the account established pursuant to clause (i)—

"(I) past-due benefits payable to the eligible individual in an amount less than that specified in clause (i)(II), and

"(II) any other funds representing an underpayment under this title to such individual, provided that the amount of such underpayment is equal to or exceeds the maximum monthly benefit payable under this title to an eligible individual.

"(iv) The Commissioner of Social Security shall establish a system for accountability monitoring whereby such representative payee shall report, at such time and in such manner as the Commissioner shall require, on activity respecting funds in the account established pursuant to clause (i).".

(b) CONFORMING AMENDMENTS.—

(1) EXCLUSION FROM RESOURCES.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(A) by striking "and" at the end of paragraph (10);

(B) by striking the period at the end of paragraph (11) and inserting "; and"; and

(C) by inserting after paragraph (11) the following new paragraph:

"(12) any account, including accrued interest or other earnings thereon, established and maintained in accordance with section 1631(a)(2)(F).".

(2) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(A) by striking "and" at the end of paragraph (19);

(B) by striking the period at the end of paragraph (20) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(21) the interest or other earnings on any account established and maintained in accordance with section 1631(a)(2)(F).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 2214. REDUCTION IN CASH BENEFITS PAYABLE TO INSTITUTIONALIZED INDIVIDUALS WHOSE MEDICAL COSTS ARE COVERED BY PRIVATE INSURANCE.

(a) IN GENERAL.—Section 1611(e)(1)(B) (42 U.S.C. 1382(e)(1)(B)) is amended—

(1) by striking "title XIX, or" and inserting "title XV or XIX,"; and

(2) by inserting "or, in the case of an eligible individual under the age of 18, receiving payments (with respect to such individual) under any health insurance policy issued by a private provider of such insurance" after "section 1614(f)(2)(B),".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to benefits for months beginning 90 or more days after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

SEC. 2215. REGULATIONS.

Within 3 months after the date of the enactment of this Act, the Commissioner of Social Security shall prescribe such regulations as

may be necessary to implement the amendments made by this subchapter.

Subchapter C—Additional Enforcement Provision

SEC. 2221. INSTALLMENT PAYMENT OF LARGE PAST-DUE SUPPLEMENTAL SECURITY INCOME BENEFITS.

(a) IN GENERAL.—Section 1631(a) (42 U.S.C. 1383) is amended by adding at the end the following new paragraph:

"(10)(A) If an individual is eligible for past-due monthly benefits under this title in an amount that (after any withholding for reimbursement to a State for interim assistance under subsection (g)) equals or exceeds the product of—

"(i) 12, and

"(ii) the maximum monthly benefit payable under this title to an eligible individual (or, if appropriate, to an eligible individual and eligible spouse),

then the payment of such past-due benefits (after any such reimbursement to a State) shall be made in installments as provided in subparagraph (B).

"(B)(i) The payment of past-due benefits subject to this subparagraph shall be made in not to exceed 3 installments that are made at 6-month intervals.

"(ii) Except as provided in clause (iii), the amount of each of the first and second installments may not exceed an amount equal to the product of clauses (i) and (ii) of subparagraph (A).

"(iii) In the case of an individual who has—

"(I) outstanding debt attributable to—

"(aa) food,

"(bb) clothing,

"(cc) shelter, or

"(dd) medically necessary services, supplies or equipment, or medicine; or

"(II) current expenses or expenses anticipated in the near term attributable to—

"(aa) medically necessary services, supplies or equipment, or medicine, or

"(bb) the purchase of a home, and

such debt or expenses are not subject to reimbursement by a public assistance program, the Secretary under title XVIII, a State plan approved under title XV or XIX, or any private entity legally liable to provide payment pursuant to an insurance policy, pre-paid plan, or other arrangement, the limitation specified in clause (ii) may be exceeded by an amount equal to the total of such debt and expenses.

"(C) This paragraph shall not apply to any individual who, at the time of the Commissioner's determination that such individual is eligible for the payment of past-due monthly benefits under this title—

"(i) is afflicted with a medically determinable impairment that is expected to result in death within 12 months; or

"(ii) is ineligible for benefits under this title and the Commissioner determines that such individual is likely to remain ineligible for the next 12 months.

"(D) For purposes of this paragraph, the term 'benefits under this title' includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a), and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.".

(b) CONFORMING AMENDMENT.—Section 1631(a)(1) (42 U.S.C. 1383(a)(1)) is amended by inserting "(subject to paragraph (10))" immediately before "in such installments".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section are effective with respect to past-due benefits payable under title XVI of the Social Security Act after the third month following the month in which this Act is enacted.

(2) BENEFITS PAYABLE UNDER TITLE XVI.—For purposes of this subsection, the term "benefits payable under title XVI of the Social Security Act" includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act, and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.

SEC. 2222. REGULATIONS.

Within 3 months after the date of the enactment of this Act, the Commissioner of Social Security shall prescribe such regulations as may be necessary to implement the amendments made by this subchapter.

Subchapter D—State Supplementation Programs

SEC. 2225. REPEAL OF MAINTENANCE OF EFFORT REQUIREMENTS APPLICABLE TO OPTIONAL STATE PROGRAMS FOR SUPPLEMENTATION OF SSI BENEFITS.

Section 1618 (42 U.S.C. 1382g) is hereby repealed.

Subchapter E—Studies Regarding Supplemental Security Income Program

SEC. 2231. ANNUAL REPORT ON THE SUPPLEMENTAL SECURITY INCOME PROGRAM.

Title XVI (42 U.S.C. 1381 et seq.), as amended by section 2201(c) of this Act, is amended by adding at the end the following new section:

"ANNUAL REPORT ON PROGRAM

"SEC. 1637. (a) Not later than May 30 of each year, the Commissioner of Social Security shall prepare and deliver a report annually to the President and the Congress regarding the program under this title, including—

"(1) a comprehensive description of the program;

"(2) historical and current data on allowances and denials, including number of applications and allowance rates for initial determinations, reconsideration determinations, administrative law judge hearings, appeals council reviews, and Federal court decisions;

"(3) historical and current data on characteristics of recipients and program costs, by recipient group (aged, blind, disabled adults, and disabled children);

"(4) historical and current data on prior enrollment by recipients in public benefit programs, including State programs funded under part A of title IV of the Social Security Act and State general assistance programs;

"(5) projections of future number of recipients and program costs, through at least 25 years;

"(6) number of redeterminations and continuing disability reviews, and the outcomes of such redeterminations and reviews;

"(7) data on the utilization of work incentives;

"(8) detailed information on administrative and other program operation costs;

"(9) summaries of relevant research undertaken by the Social Security Administration, or by other researchers;

"(10) State supplementation program operations;

"(11) a historical summary of statutory changes to this title; and

"(12) such other information as the Commissioner deems useful.

"(b) Each member of the Social Security Advisory Board shall be permitted to provide an individual report, or a joint report if agreed, of views of the program under this title, to be included in the annual report required under this section.".

SEC. 2232. STUDY BY GENERAL ACCOUNTING OFFICE.

Not later than January 1, 1999, the Comptroller General of the United States shall study and report on—

(1) the impact of the amendments made by, and the provisions of, this chapter on the supplemental security income program under title XVI of the Social Security Act; and

(2) extra expenses incurred by families of children receiving benefits under such title that are not covered by other Federal, State, or local programs.

CHAPTER 3—CHILD SUPPORT

SEC. 2300. REFERENCE TO SOCIAL SECURITY ACT.

Except as otherwise specifically provided, wherever in this chapter an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

Subchapter A—Eligibility for Services; Distribution of Payments

SEC. 2301. STATE OBLIGATION TO PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES.

(a) STATE PLAN REQUIREMENTS.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking paragraph (4) and inserting the following new paragraph:

"(4) provide that the State will—

"(A) provide services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obligations, as appropriate, under the plan with respect to—

"(i) each child for whom (I) assistance is provided under the State program funded under part A of this title, (II) benefits or services for foster care maintenance are provided under the State program funded under part E of this title, (III) medical assistance is provided under the State plan under title XV, or (IV) medical assistance is provided under the State plan approved under title XIX, unless, in accordance with paragraph (29), good cause or other exceptions exist;

"(ii) any other child, if an individual applies for such services with respect to the child; and

"(B) enforce any support obligation established with respect to—

"(i) a child with respect to whom the State provides services under the plan; or

"(ii) the custodial parent of such a child;"; and

(2) in paragraph (6)—

(A) by striking "provide that" and inserting "provide that—";

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

"(A) services under the plan shall be made available to residents of other States on the same terms as to residents of the State submitting the plan;";

(C) in subparagraph (B), by inserting "on individuals not receiving assistance under any State program funded under part A" after "such services shall be imposed";

(D) in each of subparagraphs (B), (C), (D), and (E)—

(i) by indenting the subparagraph in the same manner as, and aligning the left margin of the subparagraph with the left margin of, the matter inserted by subparagraph (B) of this paragraph; and

(ii) by striking the final comma and inserting a semicolon; and

(E) in subparagraph (E), by indenting each of clauses (i) and (ii) 2 additional ems.

(b) CONTINUATION OF SERVICES FOR FAMILIES CEASING TO RECEIVE ASSISTANCE UNDER THE STATE PROGRAM FUNDED UNDER PART A.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding after paragraph (24) the following new paragraph:

"(25) provide that if a family with respect to which services are provided under the plan ceases to receive assistance under the State program funded under part A, the State shall provide appropriate notice to the family and continue to provide such services, subject to the same conditions and on the same basis as in the case of other individuals to whom services are fur-

nished under the plan, except that an application or other request to continue services shall not be required of such a family and paragraph (6)(B) shall not apply to the family.".

(c) CONFORMING AMENDMENTS.—

(1) Section 452(b) (42 U.S.C. 652(b)) is amended by striking "454(6)" and inserting "454(4)".

(2) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended by striking "454(6)" each place it appears and inserting "454(4)(A)(ii)".

(3) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "in the case of overdue support which a State has agreed to collect under section 454(6)" and inserting "in any other case".

(4) Section 466(e) (42 U.S.C. 666(e)) is amended by striking "paragraph (4) or (6) of section 454" and inserting "section 454(4)".

SEC. 2302. DISTRIBUTION OF CHILD SUPPORT COLLECTIONS.

(a) IN GENERAL.—Section 457 (42 U.S.C. 657) is amended to read as follows:

"SEC. 457. DISTRIBUTION OF COLLECTED SUPPORT.

"(a) IN GENERAL.—Subject to subsection (e), an amount collected on behalf of a family as support by a State pursuant to a plan approved under this part shall be distributed as follows:

"(1) FAMILIES RECEIVING ASSISTANCE.—In the case of a family receiving assistance from the State, the State shall—

"(A) pay to the Federal Government the Federal share of the amount so collected; and

"(B) retain, or distribute to the family, the State share of the amount so collected.

"(2) FAMILIES THAT FORMERLY RECEIVED ASSISTANCE.—In the case of a family that formerly received assistance from the State:

"(A) CURRENT SUPPORT PAYMENTS.—To the extent that the amount so collected does not exceed the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected to the family.

"(B) PAYMENTS OF ARREARAGES.—To the extent that the amount so collected exceeds the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected as follows:

"(i) DISTRIBUTION OF ARREARAGES THAT ACCRUED AFTER THE FAMILY CEASED TO RECEIVE ASSISTANCE.—

"(I) PRE-OCTOBER 1997.—Except as provided in subclause (II), the provisions of this section (other than subsection (b)(1)) as in effect and applied on the day before the date of the enactment of section 2302 of the Personal Responsibility and Work Opportunity Act of 1996 shall apply with respect to the distribution of support arrearages that—

"(aa) accrued after the family ceased to receive assistance, and

"(bb) are collected before October 1, 1997.

"(II) POST-SEPTEMBER 1997.—With respect to the amount so collected on or after October 1, 1997 (or before such date, at the option of the State)—

"(aa) IN GENERAL.—The State shall first distribute the amount so collected (other than any amount described in clause (iv)) to the family to the extent necessary to satisfy any support arrearages with respect to the family that accrued after the family ceased to receive assistance from the State.

"(bb) REIMBURSEMENT OF GOVERNMENTS FOR ASSISTANCE PROVIDED TO THE FAMILY.—After the application of division (aa) and clause (ii)(II)(aa) with respect to the amount so collected, the State shall retain the State share of the amount so collected, and pay to the Federal Government the Federal share (as defined in subsection (c)(2)) of the amount so collected, but only to the extent necessary to reimburse amounts paid to the family as assistance by the State.

"(cc) DISTRIBUTION OF THE REMAINDER TO THE FAMILY.—To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.

"(ii) DISTRIBUTION OF ARREARAGES THAT ACCRUED BEFORE THE FAMILY RECEIVED ASSISTANCE.—

"(I) PRE-OCTOBER 2000.—Except as provided in subclause (II), the provisions of this section (other than subsection (b)(1)) as in effect and applied on the day before the date of the enactment of section 2302 of the Personal Responsibility and Work Opportunity Act of 1996 shall apply with respect to the distribution of support arrearages that—

"(aa) accrued before the family received assistance, and

"(bb) are collected before October 1, 2000.

"(II) POST-SEPTEMBER 2000.—Unless, based on the report required by paragraph (4), the Congress determines otherwise, with respect to the amount so collected on or after October 1, 2000 (or before such date, at the option of the State)—

"(aa) IN GENERAL.—The State shall first distribute the amount so collected (other than any amount described in clause (iv)) to the family to the extent necessary to satisfy any support arrearages with respect to the family that accrued before the family received assistance from the State.

"(bb) REIMBURSEMENT OF GOVERNMENTS FOR ASSISTANCE PROVIDED TO THE FAMILY.—After the application of clause (i)(II)(aa) and division (aa) with respect to the amount so

collected, the State shall retain the State share of the amount so collected, and pay to the Federal Government the Federal share (as defined in subsection (c)(2)) of the amount so collected, but only to the extent necessary to reimburse amounts paid to the family as assistance by the State.

"(cc) DISTRIBUTION OF THE REMAINDER TO THE FAMILY.—To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.

"(iii) DISTRIBUTION OF ARREARAGES THAT ACCRUED WHILE THE FAMILY RECEIVED ASSISTANCE.—In the case of a family described in this subparagraph, the provisions of paragraph (1) shall apply with respect to the distribution of support arrearages that accrued while the family received assistance.

"(iv) AMOUNTS COLLECTED PURSUANT TO SECTION 464.—Notwithstanding any other provision of this section, any amount of support collected pursuant to section 464 shall be retained by the State to the extent past-due support has been assigned to the State as a condition of receiving assistance from the State, up to the amount necessary to reimburse the State for amounts paid to the family as assistance by the State. The State shall pay to the Federal Government the Federal share of the amounts so retained. To the extent the amount collected pursuant to section 464 exceeds the amount so retained, the State shall distribute the excess to the family.

"(v) ORDERING RULES FOR DISTRIBUTIONS.—For purposes of this subparagraph, unless an earlier effective date is required by this section, effective October 1, 2000, the State shall treat any support arrearages collected, except for amounts collected pursuant to section 464, as accruing in the following order:

"(I) To the period after the family ceased to receive assistance.

"(II) To the period before the family received assistance.

"(III) To the period while the family was receiving assistance.

"(3) FAMILIES THAT NEVER RECEIVED ASSISTANCE.—In the case of any other family, the State shall distribute the amount so collected to the family.

"(4) STUDY AND REPORT.—Not later than October 1, 1998, the Secretary shall report to the Congress the Secretary's findings with respect to—

"(A) whether the distribution of post-assistance arrearages to families has been effective in moving people off of welfare and keeping them off of welfare;

"(B) whether early implementation of a pre-assistance arrearage program by some States has been effective in

moving people off of welfare and keeping them off of welfare;

"(C) what the overall impact has been of the amendments made by the Personal Responsibility and Work Opportunity Act of 1996 with respect to child support enforcement in moving people off of welfare and keeping them off of welfare; and

"(D) based on the information and data the Secretary has obtained, what changes, if any, should be made in the policies related to the distribution of child support arrearages.

"(b) CONTINUATION OF ASSIGNMENTS.—Any rights to support obligations, which were assigned to a State as a condition of receiving assistance from the State under part A and which were in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996, shall remain assigned after such date.

"(c) DEFINITIONS.—As used in subsection (a):

"(1) ASSISTANCE.—The term 'assistance from the State' means—

"(A) assistance under the State program funded under part A or under the State plan approved under part A of this title (as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996); and

"(B) foster care maintenance payments under the State plan approved under part E of this title.

"(2) FEDERAL SHARE.—The term 'Federal share' means that portion of the amount collected resulting from the application of the Federal medical assistance percentage in effect for the fiscal year in which the amount is collected.

"(3) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means—

"(A) the Federal medical assistance percentage (as defined in section 1118), in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa; or

"(B) the Federal medical assistance percentage (as defined in section 1905(b), as in effect on September 30, 1996) in the case of any other State.

"(4) STATE SHARE.—The term 'State share' means 100 percent minus the Federal share.

"(d) HOLD HARMLESS PROVISION.—If the amounts collected which could be retained by the State in the fiscal year (to the extent necessary to reimburse the State for amounts paid to families as assistance by the State) are less than the State share of the amounts collected in fiscal year 1995 (determined in accordance with section 457 as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996), the State share for the fiscal year shall be an amount equal to the State share in fiscal year 1995.

"(e) GAP PAYMENTS NOT SUBJECT TO DISTRIBUTION UNDER THIS SECTION.—At State option, this section shall not apply to any amount collected on behalf of a family as support by the State (and paid to the family in addition to the amount of assistance otherwise

payable to the family) pursuant to a plan approved under this part if such amount would have been paid to the family by the State under section 402(a)(28), as in effect and applied on the day before the date of the enactment of section 2302 of the Personal Responsibility and Work Opportunity Act of 1996. For purposes of subsection (d), the State share of such amount paid to the family shall be considered amounts which could be retained by the State if such payments were reported by the State as part of the State share of amounts collected in fiscal year 1995.".

(b) CONFORMING AMENDMENTS.—

(1) Section 464(a)(1) (42 U.S.C. 664(a)(1)) is amended by striking "section 457(b)(4) or (d)(3)" and inserting "section 457".

(2) Section 454 (42 U.S.C. 654) is amended—

(A) in paragraph (11)—

(i) by striking "(11)" and inserting "(11)(A)"; and

(ii) by inserting after the semicolon "and"; and

(B) by redesignating paragraph (12) as subparagraph (B) of paragraph (11).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall be effective on October 1, 1996, or earlier at the State's option.

(2) CONFORMING AMENDMENTS.—The amendments made by subsection (b)(2) shall become effective on the date of the enactment of this Act.

SEC. 2303. PRIVACY SAFEGUARDS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by section 2301(b) of this Act, is amended—

(1) by striking "and" at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting "; and"; and

(3) by adding after paragraph (25) the following new paragraph:

"(26) will have in effect safeguards, applicable to all confidential information handled by the State agency, that are designed to protect the privacy rights of the parties, including—

"(A) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish or enforce support;

"(B) prohibitions against the release of information on the whereabouts of 1 party to another party against whom a protective order with respect to the former party has been entered; and

"(C) prohibitions against the release of information on the whereabouts of 1 party to another party if the State has reason to believe that the release of the information may result in physical or emotional harm to the former party.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997.

SEC. 2304. RIGHTS TO NOTIFICATION OF HEARINGS.

(a) IN GENERAL.—Section 454 (42 U.S.C. 654), as amended by section 2302(b)(2) of this Act, is amended by inserting after paragraph (11) the following new paragraph:

"(12) provide for the establishment of procedures to require the State to provide individuals who are applying for or receiving services under the State plan, or who are parties to cases in which services are being provided under the State plan—

"(A) with notice of all proceedings in which support obligations might be established or modified; and

"(B) with a copy of any order establishing or modifying a child support obligation, or (in the case of a petition for modification) a notice of determination that there should be no change in the amount of the child support award, within 14 days after issuance of such order or determination;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997.

Subchapter B—Locate and Case Tracking

SEC. 2311. STATE CASE REGISTRY.

Section 454A, as added by section 2344(a)(2) of this Act, is amended by adding at the end the following new subsections:

"(e) STATE CASE REGISTRY.—

"(1) CONTENTS.—The automated system required by this section shall include a registry (which shall be known as the 'State case registry') that contains records with respect to—

"(A) each case in which services are being provided by the State agency under the State plan approved under this part; and

"(B) each support order established or modified in the State on or after October 1, 1998.

"(2) LINKING OF LOCAL REGISTRIES.—The State case registry may be established by linking local case registries of support orders through an automated information network, subject to this section.

"(3) USE OF STANDARDIZED DATA ELEMENTS.—Such records shall use standardized data elements for both parents (such as names, social security numbers and other uniform identification numbers, dates of birth, and case identification numbers), and contain such other information (such as on case status) as the Secretary may require.

"(4) PAYMENT RECORDS.—Each case record in the State case registry with respect to which services are being provided under the State plan approved under this part and with respect to which a support order has been established shall include a record of—

"(A) the amount of monthly (or other periodic) support owed under the order, and other amounts (including arrearages, interest or late payment penalties, and fees) due or overdue under the order;

"(B) any amount described in subparagraph (A) that has been collected;

"(C) the distribution of such collected amounts;

"(D) the birth date of any child for whom the order requires the provision of support; and

"(E) the amount of any lien imposed with respect to the order pursuant to section 466(a)(4).

"(5) UPDATING AND MONITORING.—The State agency operating the automated system required by this section shall promptly establish and update, maintain, and regularly monitor, case records in the State case registry with respect to which services are being provided under the State plan approved under this part, on the basis of—

"(A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;

"(B) information obtained from comparison with Federal, State, or local sources of information;

"(C) information on support collections and distributions; and

"(D) any other relevant information.

"(f) INFORMATION COMPARISONS AND OTHER DISCLOSURES OF INFORMATION.—The State shall use the automated system required by this section to extract information from (at such times, and in such standardized format or formats, as may be required by the Secretary), to share and compare information with, and to receive information from, other data bases and information comparison services, in order to obtain (or provide) information necessary to enable the State agency (or the Secretary or other State or Federal agencies) to carry out this part, subject to section 6103 of the Internal Revenue Code of 1986. Such information comparison activities shall include the following:

"(1) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—Furnishing to the Federal Case Registry of Child Support Orders established under section 453(h) (and update as necessary, with information including notice of expiration of orders) the minimum amount of information on child support cases recorded in the State case registry that is necessary to operate the registry (as specified by the Secretary in regulations).

"(2) FEDERAL PARENT LOCATOR SERVICE.—Exchanging information with the Federal Parent Locator Service for the purposes specified in section 453.

"(3) TEMPORARY FAMILY ASSISTANCE AND MEDICAID AGENCIES.—Exchanging information with State agencies (of the State and of other States) administering programs funded under part A, programs operated under a State plan under title XV or a State plan approved under title XIX, and other programs designated by the Secretary, as necessary to perform State agency responsibilities under this part and under such programs.

"(4) INTRASTATE AND INTERSTATE INFORMATION COMPARISONS.—Exchanging information with other agencies of the State, agencies of other States, and interstate information networks, as necessary and appropriate to carry out (or assist other States to carry out) the purposes of this part.".

SEC. 2312. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 2301(b) and 2303(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting "; and"; and

(3) by adding after paragraph (26) the following new paragraph:

"(27) provide that, on and after October 1, 1998, the State agency will—

"(A) operate a State disbursement unit in accordance with section 454B; and

"(B) have sufficient State staff (consisting of State employees) and (at State option) contractors reporting directly to the State agency to—

"(i) monitor and enforce support collections through the unit in cases being enforced by the State pursuant to section 454(4) (including carrying out the automated data processing responsibilities described in section 454A(g)); and

"(ii) take the actions described in section 466(c)(1) in appropriate cases.".

(b) ESTABLISHMENT OF STATE DISBURSEMENT UNIT.—Part D of title IV (42 U.S.C. 651–669), as amended by section 2344(a)(2) of this Act, is amended by inserting after section 454A the following new section:

"SEC. 454B. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

"(a) STATE DISBURSEMENT UNIT.—

"(1) IN GENERAL.—In order for a State to meet the requirements of this section, the State agency must establish and operate a unit (which shall be known as the 'State disbursement unit') for the collection and disbursement of payments under support orders—

"(A) in all cases being enforced by the State pursuant to section 454(4); and

"(B) in all cases not being enforced by the State under this part in which the support order is initially issued in the State on or after January 1, 1994, and in which the wages of the noncustodial parent are subject to withholding pursuant to section 466(a)(8)(B).

"(2) OPERATION.—The State disbursement unit shall be operated—

"(A) directly by the State agency (or 2 or more State agencies under a regional cooperative agreement), or (to the extent appropriate) by a contractor responsible directly to the State agency; and

"(B) except in cases described in paragraph (1)(B), in coordination with the automated system established by the State pursuant to section 454A.

"(3) LINKING OF LOCAL DISBURSEMENT UNITS.—The State disbursement unit may be established by linking local disbursement units through an automated information network, subject to this section, if the Secretary agrees that the system will not

cost more nor take more time to establish or operate than a centralized system. In addition, employers shall be given 1 location to which income withholding is sent.

"(b) REQUIRED PROCEDURES.—The State disbursement unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures—

"(1) for receipt of payments from parents, employers, and other States, and for disbursements to custodial parents and other obligees, the State agency, and the agencies of other States;

"(2) for accurate identification of payments;

"(3) to ensure prompt disbursement of the custodial parent's share of any payment; and

"(4) to furnish to any parent, upon request, timely information on the current status of support payments under an order requiring payments to be made by or to the parent.

"(c) TIMING OF DISBURSEMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the State disbursement unit shall distribute all amounts payable under section 457(a) within 2 business days after receipt from the employer or other source of periodic income, if sufficient information identifying the payee is provided.

"(2) PERMISSIVE RETENTION OF ARREARAGES.—The State disbursement unit may delay the distribution of collections toward arrearages until the resolution of any timely appeal with respect to such arrearages.

"(d) BUSINESS DAY DEFINED.—As used in this section, the term 'business day' means a day on which State offices are open for regular business.".

(c) USE OF AUTOMATED SYSTEM.—Section 454A, as added by section 2344(a)(2) and as amended by section 2311 of this Act, is amended by adding at the end the following new subsection:

"(g) COLLECTION AND DISTRIBUTION OF SUPPORT PAYMENTS.—

"(1) IN GENERAL.—The State shall use the automated system required by this section, to the maximum extent feasible, to assist and facilitate the collection and disbursement of support payments through the State disbursement unit operated under section 454B, through the performance of functions, including, at a minimum—

"(A) transmission of orders and notices to employers (and other debtors) for the withholding of wages and other income—

"(i) within 2 business days after receipt of notice of, and the income source subject to, such withholding from a court, another State, an employer, the Federal Parent Locator Service, or another source recognized by the State; and

"(ii) using uniform formats prescribed by the Secretary;

"(B) ongoing monitoring to promptly identify failures to make timely payment of support; and

"(C) automatic use of enforcement procedures (including procedures authorized pursuant to section 466(c)) if payments are not timely made.

"(2) BUSINESS DAY DEFINED.—As used in paragraph (1), the term 'business day' means a day on which State offices are open for regular business.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall become effective on October 1, 1998.

(2) LIMITED EXCEPTION TO UNIT HANDLING PAYMENTS.—Notwithstanding section 454B(b)(1) of the Social Security Act, as added by this section, any State which, as of the date of the enactment of this Act, processes the receipt of child support payments through local courts may, at the option of the State, continue to process through September 30, 1999, such payments through such courts as processed such payments on or before such date of enactment.

SEC. 2313. STATE DIRECTORY OF NEW HIRES.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 2301(b), 2303(a) and 2312(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (26);

(2) by striking the period at the end of paragraph (27) and inserting "; and"; and

(3) by adding after paragraph (27) the following new paragraph:

"(28) provide that, on and after October 1, 1997, the State will operate a State Directory of New Hires in accordance with section 453A.".

(b) STATE DIRECTORY OF NEW HIRES.—Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 453 the following new section:

"SEC. 453A. STATE DIRECTORY OF NEW HIRES.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—

"(A) REQUIREMENT FOR STATES THAT HAVE NO DIRECTORY.—Except as provided in subparagraph (B), not later than October 1, 1997, each State shall establish an automated directory (to be known as the 'State Directory of New Hires') which shall contain information supplied in accordance with subsection (b) by employers on each newly hired employee.

"(B) STATES WITH NEW HIRE REPORTING IN EXISTENCE.—A State which has a new hire reporting law in existence on the date of the enactment of this section may continue to operate under the State law, but the State must meet the requirements of subsection (g)(2) not later than October 1, 1997, and the requirements of this section (other than subsection (g)(2)) not later than October 1, 1998.

"(2) DEFINITIONS.—As used in this section:

"(A) EMPLOYEE.—The term 'employee'—

"(i) means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986; and

"(ii) does not include an employee of a Federal or State agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting pursuant to paragraph (1) with respect to the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

"(B) EMPLOYER.—

"(i) IN GENERAL.—The term 'employer' has the meaning given such term in section 3401(d) of the Internal Revenue Code of 1986 and includes any governmental entity and any labor organization.

"(ii) LABOR ORGANIZATION.—The term 'labor organization' shall have the meaning given such term in section 2(5) of the National Labor Relations Act, and includes any entity (also known as a 'hiring hall') which is used by the organization and an employer to carry out requirements described in section 8(f)(3) of such Act of an agreement between the organization and the employer.

"(b) EMPLOYER INFORMATION.—

"(1) REPORTING REQUIREMENT.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), each employer shall furnish to the Directory of New Hires of the State in which a newly hired employee works, a report that contains the name, address, and social security number of the employee, and the name and address of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

"(B) MULTISTATE EMPLOYERS.—An employer that has employees who are employed in 2 or more States and that transmits reports magnetically or electronically may comply with subparagraph (A) by designating 1 State in which such employer has employees to which the employer will transmit the report described in subparagraph (A), and transmitting such report to such State. Any employer that transmits reports pursuant to this subparagraph shall notify the Secretary in writing as to which State such employer designates for the purpose of sending reports.

"(C) FEDERAL GOVERNMENT EMPLOYERS.—Any department, agency, or instrumentality of the United States shall comply with subparagraph (A) by transmitting the report described in subparagraph (A) to the National Directory of New Hires established pursuant to section 453.

"(2) TIMING OF REPORT.—Each State may provide the time within which the report required by paragraph (1) shall be made with respect to an employee, but such report shall be made—

"(A) not later than 20 days after the date the employer hires the employee; or

"(B) in the case of an employer transmitting reports magnetically or electronically, by 2 monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.

"(c) REPORTING FORMAT AND METHOD.—Each report required by subsection (b) shall be made on a W–4 form or, at the option of the employer, an equivalent form, and may be transmitted by 1st class mail, magnetically, or electronically.

"(d) CIVIL MONEY PENALTIES ON NONCOMPLYING EMPLOYERS.—The State shall have the option to set a State civil money penalty which shall be less than—

"(1) $25; or

"(2) $500 if, under State law, the failure is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report.

"(e) ENTRY OF EMPLOYER INFORMATION.—Information shall be entered into the data base maintained by the State Directory of New Hires within 5 business days of receipt from an employer pursuant to subsection (b).

"(f) INFORMATION COMPARISONS.—

"(1) IN GENERAL.—Not later than May 1, 1998, an agency designated by the State shall, directly or by contract, conduct automated comparisons of the social security numbers reported by employers pursuant to subsection (b) and the social security numbers appearing in the records of the State case registry for cases being enforced under the State plan.

"(2) NOTICE OF MATCH.—When an information comparison conducted under paragraph (1) reveals a match with respect to the social security number of an individual required to provide support under a support order, the State Directory of New Hires shall provide the agency administering the State plan approved under this part of the appropriate State with the name, address, and social security number of the employee to whom the social security number is assigned, and the name and address of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

"(g) TRANSMISSION OF INFORMATION.—

"(1) TRANSMISSION OF WAGE WITHHOLDING NOTICES TO EMPLOYERS.—Within 2 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State agency enforcing the employee's child support obligation shall transmit a notice to the employer of the employee directing the employer to withhold from the wages of the employee an amount equal to the monthly (or other periodic) child support obligation (including any past due support obligation) of the employee, unless the employee's wages are not subject to withholding pursuant to section 466(b)(3).

"(2) TRANSMISSIONS TO THE NATIONAL DIRECTORY OF NEW HIRES.—

"(A) NEW HIRE INFORMATION.—Within 3 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires,

the State Directory of New Hires shall furnish the information to the National Directory of New Hires.

"(B) WAGE AND UNEMPLOYMENT COMPENSATION INFORMATION.—The State Directory of New Hires shall, on a quarterly basis, furnish to the National Directory of New Hires extracts of the reports required under section 303(a)(6) to be made to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals, by such dates, in such format, and containing such information as the Secretary of Health and Human Services shall specify in regulations.

"(3) BUSINESS DAY DEFINED.—As used in this subsection, the term 'business day' means a day on which State offices are open for regular business.

"(h) OTHER USES OF NEW HIRE INFORMATION.—

"(1) LOCATION OF CHILD SUPPORT OBLIGORS.—The agency administering the State plan approved under this part shall use information received pursuant to subsection (f)(2) to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations.

"(2) VERIFICATION OF ELIGIBILITY FOR CERTAIN PROGRAMS.—A State agency responsible for administering a program specified in section 1137(b) shall have access to information reported by employers pursuant to subsection (b) of this section for purposes of verifying eligibility for the program.

"(3) ADMINISTRATION OF EMPLOYMENT SECURITY AND WORKERS' COMPENSATION.—State agencies operating employment security and workers' compensation programs shall have access to information reported by employers pursuant to subsection (b) for the purposes of administering such programs.".

(c) QUARTERLY WAGE REPORTING.—Section 1137(a)(3) (42 U.S.C. 1320b–7(a)(3)) is amended—

(1) by inserting "(including State and local governmental entities and labor organizations (as defined in section 453A(a)(2)(B)(iii))" after "employers"; and

(2) by inserting ", and except that no report shall be filed with respect to an employee of a State or local agency performing intelligence or counterintelligence functions, if the head of such agency has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission" after "paragraph (2)".

SEC. 2314. AMENDMENTS CONCERNING INCOME WITHHOLDING.

(a) MANDATORY INCOME WITHHOLDING.—

(1) IN GENERAL.—Section 466(a)(1) (42 U.S.C. 666(a)(1)) is amended to read as follows:

"(1)(A) Procedures described in subsection (b) for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.

"(B) Procedures under which the wages of a person with a support obligation imposed by a support order issued (or modified) in the State before October 1, 1996, if not otherwise subject to withholding under subsection (b), shall become subject to withholding as provided in subsection (b) if arrearages

occur, without the need for a judicial or administrative hearing.".

(2) CONFORMING AMENDMENTS.—

(A) Section 466(b) (42 U.S.C. 666(b)) is amended in the matter preceding paragraph (1), by striking "subsection (a)(1)" and inserting "subsection (a)(1)(A)".

(B) Section 466(b)(4) (42 U.S.C. 666(b)(4)) is amended to read as follows:

"(4)(A) Such withholding must be carried out in full compliance with all procedural due process requirements of the State, and the State must send notice to each noncustodial parent to whom paragraph (1) applies—

"(i) that the withholding has commenced; and

"(ii) of the procedures to follow if the noncustodial parent desires to contest such withholding on the grounds that the withholding or the amount withheld is improper due to a mistake of fact.

"(B) The notice under subparagraph (A) of this paragraph shall include the information provided to the employer under paragraph (6)(A).".

(C) Section 466(b)(5) (42 U.S.C. 666(b)(5)) is amended by striking all that follows "administered by" and inserting "the State through the State disbursement unit established pursuant to section 454B, in accordance with the requirements of section 454B.".

(D) Section 466(b)(6)(A) (42 U.S.C. 666(b)(6)(A)) is amended—

(i) in clause (i), by striking "to the appropriate agency" and all that follows and inserting "to the State disbursement unit within 5 business days after the date the amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part. The employer shall comply with the procedural rules relating to income withholding of the State in which the employee works, regardless of the State where the notice originates.";

(ii) in clause (ii), by inserting "be in a standard format prescribed by the Secretary, and" after "shall"; and

(iii) by adding at the end the following new clause:

"(iii) As used in this subparagraph, the term 'business day' means a day on which State offices are open for regular business.".

(E) Section 466(b)(6)(D) (42 U.S.C. 666(b)(6)(D)) is amended by striking "any employer" and all that follows and inserting "any employer who—

"(i) discharges from employment, refuses to employ, or takes disciplinary action against any noncustodial parent subject to wage withholding required by this subsection because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer; or

"(ii) fails to withhold support from wages or to pay such amounts to the State disbursement unit in accordance with this subsection.".

(F) Section 466(b) (42 U.S.C. 666(b)) is amended by adding at the end the following new paragraph:

"(11) Procedures under which the agency administering the State plan approved under this part may execute a withholding order without advance notice to the obligor, including issuing the withholding order through electronic means.".

(b) CONFORMING AMENDMENT.—Section 466(c) (42 U.S.C. 666(c)) is repealed.

SEC. 2315. LOCATOR INFORMATION FROM INTERSTATE NETWORKS.

Section 466(a) (42 U.S.C. 666(a)) is amended by inserting after paragraph (11) the following new paragraph:

"(12) LOCATOR INFORMATION FROM INTERSTATE NETWORKS.—Procedures to ensure that all Federal and State agencies conducting activities under this part have access to any system used by the State to locate an individual for purposes relating to motor vehicles or law enforcement.".

SEC. 2316. EXPANSION OF THE FEDERAL PARENT LOCATOR SERVICE.

(a) EXPANDED AUTHORITY TO LOCATE INDIVIDUALS AND ASSETS.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (a), by striking all that follows "subsection (c))" and inserting ", for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, or enforcing child custody or visitation orders—

"(1) information on, or facilitating the discovery of, the location of any individual—

"(A) who is under an obligation to pay child support or provide child custody or visitation rights;

"(B) against whom such an obligation is sought;

"(C) to whom such an obligation is owed,

including the individual's social security number (or numbers), most recent address, and the name, address, and employer identification number of the individual's employer;

"(2) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and

"(3) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual."; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "social security" and all that follows through "absent parent" and inserting "information described in subsection (a)"; and

(B) in the flush paragraph at the end, by adding the following: "No information shall be disclosed to any person if the State has notified the Secretary that the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent. Information

received or transmitted pursuant to this section shall be subject to the safeguard provisions contained in section 454(26).".

(b) AUTHORIZED PERSON FOR INFORMATION REGARDING VISITATION RIGHTS.—Section 453(c) (42 U.S.C. 653(c)) is amended—

(1) in paragraph (1), by striking "support" and inserting "support or to seek to enforce orders providing child custody or visitation rights"; and

(2) in paragraph (2), by striking ", or any agent of such court; and" and inserting "or to issue an order against a resident parent for child custody or visitation rights, or any agent of such court;".

(c) REIMBURSEMENT FOR INFORMATION FROM FEDERAL AGENCIES.—Section 453(e)(2) (42 U.S.C. 653(e)(2)) is amended in the 4th sentence by inserting "in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information)" before the period.

(d) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES.—Section 453 (42 U.S.C. 653) is amended by adding at the end the following new subsection:

"(g) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES.—The Secretary may reimburse Federal and State agencies for the costs incurred by such entities in furnishing information requested by the Secretary under this section in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information).".

(e) CONFORMING AMENDMENTS.—

(1) Sections 452(a)(9), 453(a), 453(b), 463(a), 463(e), and 463(f) (42 U.S.C. 652(a)(9), 653(a), 653(b), 663(a), 663(e), and 663(f)) are each amended by inserting "Federal" before "Parent" each place such term appears.

(2) Section 453 (42 U.S.C. 653) is amended in the heading by adding "FEDERAL" before "PARENT".

(f) NEW COMPONENTS.—Section 453 (42 U.S.C. 653), as amended by subsection (d) of this section, is amended by adding at the end the following new subsections:

"(h) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—

"(1) IN GENERAL.—Not later than October 1, 1998, in order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated registry (which shall be known as the 'Federal Case Registry of Child Support Orders'), which shall contain abstracts of support orders and other information described in paragraph (2) with respect to each case in each State case registry maintained pursuant to section 454A(e), as furnished (and regularly updated), pursuant to section 454A(f), by State agencies administering programs under this part.

"(2) CASE INFORMATION.—The information referred to in paragraph (1) with respect to a case shall be such information as the Secretary may specify in regulations (including the

names, social security numbers or other uniform identification numbers, and State case identification numbers) to identify the individuals who owe or are owed support (or with respect to or on behalf of whom support obligations are sought to be established), and the State or States which have the case.

"(i) NATIONAL DIRECTORY OF NEW HIRES.—

"(1) IN GENERAL.—In order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the other purposes specified in this section, the Secretary shall, not later than October 1, 1997, establish and maintain in the Federal Parent Locator Service an automated directory to be known as the National Directory of New Hires, which shall contain the information supplied pursuant to section 453A(g)(2).

"(2) ENTRY OF DATA.—Information shall be entered into the data base maintained by the National Directory of New Hires within 2 business days of receipt pursuant to section 453A(g)(2).

"(3) ADMINISTRATION OF FEDERAL TAX LAWS.—The Secretary of the Treasury shall have access to the information in the National Directory of New Hires for purposes of administering section 32 of the Internal Revenue Code of 1986, or the advance payment of the earned income tax credit under section 3507 of such Code, and verifying a claim with respect to employment in a tax return.

"(4) LIST OF MULTISTATE EMPLOYERS.—The Secretary shall maintain within the National Directory of New Hires a list of multistate employers that report information regarding newly hired employees pursuant to section 453A(b)(1)(B), and the State which each such employer has designated to receive such information.

"(j) INFORMATION COMPARISONS AND OTHER DISCLOSURES.—

"(1) VERIFICATION BY SOCIAL SECURITY ADMINISTRATION.—

"(A) IN GENERAL.—The Secretary shall transmit information on individuals and employers maintained under this section to the Social Security Administration to the extent necessary for verification in accordance with subparagraph (B).

"(B) VERIFICATION BY SSA.—The Social Security Administration shall verify the accuracy of, correct, or supply to the extent possible, and report to the Secretary, the following information supplied by the Secretary pursuant to subparagraph (A):

"(i) The name, social security number, and birth date of each such individual.

"(ii) The employer identification number of each such employer.

"(2) INFORMATION COMPARISONS.—For the purpose of locating individuals in a paternity establishment case or a case involving the establishment, modification, or enforcement of a support order, the Secretary shall—

"(A) compare information in the National Directory of New Hires against information in the support case ab-

stracts in the Federal Case Registry of Child Support Orders not less often than every 2 business days; and

"(B) within 2 business days after such a comparison reveals a match with respect to an individual, report the information to the State agency responsible for the case.

"(3) INFORMATION COMPARISONS AND DISCLOSURES OF INFORMATION IN ALL REGISTRIES FOR TITLE IV PROGRAM PURPOSES.—To the extent and with the frequency that the Secretary determines to be effective in assisting States to carry out their responsibilities under programs operated under this part and programs funded under part A, the Secretary shall—

"(A) compare the information in each component of the Federal Parent Locator Service maintained under this section against the information in each other such component (other than the comparison required by paragraph (2)), and report instances in which such a comparison reveals a match with respect to an individual to State agencies operating such programs; and

"(B) disclose information in such registries to such State agencies.

"(4) PROVISION OF NEW HIRE INFORMATION TO THE SOCIAL SECURITY ADMINISTRATION.—The National Directory of New Hires shall provide the Commissioner of Social Security with all information in the National Directory.

"(5) RESEARCH.—The Secretary may provide access to information reported by employers pursuant to section 453A(b) for research purposes found by the Secretary to be likely to contribute to achieving the purposes of part A or this part, but without personal identifiers.

"(k) FEES.—

"(1) FOR SSA VERIFICATION.—The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, for the costs incurred by the Commissioner in performing the verification services described in subsection (j).

"(2) FOR INFORMATION FROM STATE DIRECTORIES OF NEW HIRES.—The Secretary shall reimburse costs incurred by State directories of new hires in furnishing information as required by subsection (j)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, compiling, or maintaining such information).

"(3) FOR INFORMATION FURNISHED TO STATE AND FEDERAL AGENCIES.—A State or Federal agency that receives information from the Secretary pursuant to this section shall reimburse the Secretary for costs incurred by the Secretary in furnishing the information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and comparing the information).

"(l) RESTRICTION ON DISCLOSURE AND USE.—Information in the Federal Parent Locator Service, and information resulting from comparisons using such information, shall not be used or disclosed except as expressly provided in this section, subject to section 6103 of the Internal Revenue Code of 1986.

"(m) INFORMATION INTEGRITY AND SECURITY.—The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to—

"(1) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and

"(2) restrict access to confidential information in the Federal Parent Locator Service to authorized persons, and restrict use of such information to authorized purposes.

"(n) FEDERAL GOVERNMENT REPORTING.—Each department, agency, and instrumentality of the United States shall on a quarterly basis report to the Federal Parent Locator Service the name and social security number of each employee and the wages paid to the employee during the previous quarter, except that such a report shall not be filed with respect to an employee of a department, agency, or instrumentality performing intelligence or counterintelligence functions, if the head of such department, agency, or instrumentality has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.".

(g) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV OF THE SOCIAL SECURITY ACT.—

(A) Section 454(8)(B) (42 U.S.C. 654(8)(B)) is amended to read as follows:

"(B) the Federal Parent Locator Service established under section 453;".

(B) Section 454(13) (42 U.S.C.654(13)) is amended by inserting "and provide that information requests by parents who are residents of other States be treated with the same priority as requests by parents who are residents of the State submitting the plan" before the semicolon.

(2) TO FEDERAL UNEMPLOYMENT TAX ACT.—Section 3304(a)(16) of the Internal Revenue Code of 1986 is amended—

(A) by striking "Secretary of Health, Education, and Welfare" each place such term appears and inserting "Secretary of Health and Human Services";

(B) in subparagraph (B), by striking "such information" and all that follows and inserting "information furnished under subparagraph (A) or (B) is used only for the purposes authorized under such subparagraph;";

(C) by striking "and" at the end of subparagraph (A);

(D) by redesignating subparagraph (B) as subparagraph (C); and

(E) by inserting after subparagraph (A) the following new subparagraph:

"(B) wage and unemployment compensation information contained in the records of such agency shall be furnished to the Secretary of Health and Human Services (in accordance with regulations promulgated by such Secretary) as necessary for the purposes of the National Directory of New Hires established under section 453(i) of the Social Security Act, and".

(3) TO STATE GRANT PROGRAM UNDER TITLE III OF THE SOCIAL SECURITY ACT.—Subsection (h) of section 303 (42 U.S.C. 503) is amended to read as follows:

"(h)(1) The State agency charged with the administration of the State law shall, on a reimbursable basis—

"(A) disclose quarterly, to the Secretary of Health and Human Services, wage and claim information, as required pursuant to section 453(i)(1), contained in the records of such agency;

"(B) ensure that information provided pursuant to subparagraph (A) meets such standards relating to correctness and verification as the Secretary of Health and Human Services, with the concurrence of the Secretary of Labor, may find necessary; and

"(C) establish such safeguards as the Secretary of Labor determines are necessary to insure that information disclosed under subparagraph (A) is used only for purposes of section 453(i)(1) in carrying out the child support enforcement program under title IV.

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, the Secretary shall make no future certification to the Secretary of the Treasury with respect to the State.

"(3) For purposes of this subsection—

"(A) the term 'wage information' means information regarding wages paid to an individual, the social security account number of such individual, and the name, address, State, and the Federal employer identification number of the employer paying such wages to such individual; and

"(B) the term 'claim information' means information regarding whether an individual is receiving, has received, or has made application for, unemployment compensation, the amount of any such compensation being received (or to be received by such individual), and the individual's current (or most recent) home address.".

(4) DISCLOSURE OF CERTAIN INFORMATION TO AGENTS OF CHILD SUPPORT ENFORCEMENT AGENCIES.—

(A) IN GENERAL.—Paragraph (6) of section 6103(l) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local child support enforcement agencies) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) DISCLOSURE TO CERTAIN AGENTS.—The following information disclosed to any child support enforcement agency under subparagraph (A) with respect to any individual with respect to whom child support obligations are sought to be established or enforced may be disclosed by such agency to any agent of such agency which is under contract with such agency to carry out the purposes described in subparagraph (C):

"(i) The address and social security account number (or numbers) of such individual.

"(ii) The amount of any reduction under section 6402(c) (relating to offset of past-due support against overpayments) in any overpayment otherwise payable to such individual.".

(B) CONFORMING AMENDMENTS.—

(i) Paragraph (3) of section 6103(a) of such Code is amended by striking "(l)(12)" and inserting "paragraph (6) or (12) of subsection (l)".

(ii) Subparagraph (C) of section 6103(l)(6) of such Code, as redesignated by subsection (a), is amended to read as follows:

"(C) RESTRICTION ON DISCLOSURE.—Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.".

(iii) The material following subparagraph (F) of section 6103(p)(4) of such Code is amended by striking "subsection (l)(12)(B)" and inserting "paragraph (6)(A) or (12)(B) of subsection (l)".

(h) REQUIREMENT FOR COOPERATION.—The Secretary of Labor and the Secretary of Health and Human Services shall work jointly to develop cost-effective and efficient methods of accessing the information in the various State directories of new hires and the National Directory of New Hires as established pursuant to the amendments made by this subchapter. In developing these methods the Secretaries shall take into account the impact, including costs, on the States, and shall also consider the need to insure the proper and authorized use of wage record information.

SEC. 2317. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR USE IN CHILD SUPPORT ENFORCEMENT.

Section 466(a) (42 U.S.C. 666(a)), as amended by section 2315 of this Act, is amended by inserting after paragraph (12) the following new paragraph:

"(13) RECORDING OF SOCIAL SECURITY NUMBERS IN CERTAIN FAMILY MATTERS.—Procedures requiring that the social security number of—

"(A) any applicant for a professional license, commercial driver's license, occupational license, or marriage license be recorded on the application;

"(B) any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter; and

"(C) any individual who has died be placed in the records relating to the death and be recorded on the death certificate.

For purposes of subparagraph (A), if a State allows the use of a number other than the social security number, the State shall so advise any applicants.".

Subchapter C—Streamlining and Uniformity of Procedures

SEC. 2321. ADOPTION OF UNIFORM STATE LAWS.

Section 466 (42 U.S.C. 666) is amended by adding at the end the following new subsection:

"(f) UNIFORM INTERSTATE FAMILY SUPPORT ACT.—

"(1) ENACTMENT AND USE.—In order to satisfy section 454(20)(A), on and after January 1, 1998, each State must have in effect the Uniform Interstate Family Support Act, as approved by the American Bar Association on February 9, 1993, together with any amendments officially adopted before January 1, 1998 by the National Conference of Commissioners on Uniform State Laws.

"(2) EMPLOYERS TO FOLLOW PROCEDURAL RULES OF STATE WHERE EMPLOYEE WORKS.—The State law enacted pursuant to paragraph (1) shall provide that an employer that receives an income withholding order or notice pursuant to section 501 of the Uniform Interstate Family Support Act follow the procedural rules that apply with respect to such order or notice under the laws of the State in which the obligor works.".

SEC. 2322. IMPROVEMENTS TO FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.

Section 1738B of title 28, United States Code, is amended—

(1) in subsection (a)(2), by striking "subsection (e)" and inserting "subsections (e), (f), and (i)";

(2) in subsection (b), by inserting after the 2nd undesignated paragraph the following:

"'child's home State' means the State in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the State in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the 6-month period.";

(3) in subsection (c), by inserting "by a court of a State" before "is made";

(4) in subsection (c)(1), by inserting "and subsections (e), (f), and (g)" after "located";

(5) in subsection (d)—

(A) by inserting "individual" before "contestant"; and

(B) by striking "subsection (e)" and inserting "subsections (e) and (f)";

(6) in subsection (e), by striking "make a modification of a child support order with respect to a child that is made" and inserting "modify a child support order issued";

(7) in subsection (e)(1), by inserting "pursuant to subsection (i)" before the semicolon;

(8) in subsection (e)(2)—

(A) by inserting "individual" before "contestant" each place such term appears; and

(B) by striking "to that court's making the modification and assuming" and inserting "with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume";

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(10) by inserting after subsection (e) the following new subsection:

"(f) RECOGNITION OF CHILD SUPPORT ORDERS.—If 1 or more child support orders have been issued with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

"(1) If only 1 court has issued a child support order, the order of that court must be recognized.

"(2) If 2 or more courts have issued child support orders for the same obligor and child, and only 1 of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

"(3) If 2 or more courts have issued child support orders for the same obligor and child, and more than 1 of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.

"(4) If 2 or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court may issue a child support order, which must be recognized.

"(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction.";

(11) in subsection (g) (as so redesignated)—

(A) by striking "PRIOR" and inserting "MODIFIED"; and

(B) by striking "subsection (e)" and inserting "subsections (e) and (f)";

(12) in subsection (h) (as so redesignated)—

(A) in paragraph (2), by inserting "including the duration of current payments and other obligations of support" before the comma; and

(B) in paragraph (3), by inserting "arrears under" after "enforce"; and

(13) by adding at the end the following new subsection:

"(i) REGISTRATION FOR MODIFICATION.—If there is no individual contestant or child residing in the issuing State, the party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another State shall register that order in a State with jurisdiction over the nonmovant for the purpose of modification.".

SEC. 2323. ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 2315 and 2317(a) of this Act, is amended by inserting after paragraph (13) the following new paragraph:

"(14) ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.—Procedures under which—

"(A)(i) the State shall respond within 5 business days to a request made by another State to enforce a support order; and

"(ii) the term 'business day' means a day on which State offices are open for regular business;

"(B) the State may, by electronic or other means, transmit to another State a request for assistance in a case involving the enforcement of a support order, which request—

"(i) shall include such information as will enable the State to which the request is transmitted to compare the information about the case to the information in the data bases of the State; and

"(ii) shall constitute a certification by the requesting State—

"(I) of the amount of support under the order the payment of which is in arrears; and

"(II) that the requesting State has complied with all procedural due process requirements applicable to the case;

"(C) if the State provides assistance to another State pursuant to this paragraph with respect to a case, neither State shall consider the case to be transferred to the caseload of such other State; and

"(D) the State shall maintain records of—

"(i) the number of such requests for assistance received by the State;

"(ii) the number of cases for which the State collected support in response to such a request; and

"(iii) the amount of such collected support.".

SEC. 2324. USE OF FORMS IN INTERSTATE ENFORCEMENT.

(a) PROMULGATION.—Section 452(a) (42 U.S.C. 652(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

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

"(11) not later than October 1, 1996, after consulting with the State directors of programs under this part, promulgate forms to be used by States in interstate cases for—

"(A) collection of child support through income withholding;

"(B) imposition of liens; and

"(C) administrative subpoenas.".

(b) USE BY STATES.—Section 454(9) (42 U.S.C. 654(9)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by inserting "and" at the end of subparagraph (D); and

(3) by adding at the end the following new subparagraph:

"(E) not later than March 1, 1997, in using the forms promulgated pursuant to section 452(a)(11) for income withholding, imposition of liens, and issuance of administrative subpoenas in interstate child support cases;".

SEC. 2325. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

(a) STATE LAW REQUIREMENTS.—Section 466 (42 U.S.C. 666), as amended by section 2314 of this Act, is amended—

(1) in subsection (a)(2), by striking the first sentence and inserting the following: "Expedited administrative and judicial procedures (including the procedures specified in subsection (c)) for establishing paternity and for establishing, modifying, and enforcing support obligations."; and

(2) by inserting after subsection (b) the following new subsection:

"(c) EXPEDITED PROCEDURES.—The procedures specified in this subsection are the following:

"(1) ADMINISTRATIVE ACTION BY STATE AGENCY.—Procedures which give the State agency the authority to take the following actions relating to establishment of paternity or to establishment, modification, or enforcement of support orders, without the necessity of obtaining an order from any other judicial or administrative tribunal, and to recognize and enforce the authority of State agencies of other States to take the following actions:

"(A) GENETIC TESTING.—To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).

"(B) FINANCIAL OR OTHER INFORMATION.—To subpoena any financial or other information needed to establish, modify, or enforce a support order, and to impose penalties for failure to respond to such a subpoena.

"(C) RESPONSE TO STATE AGENCY REQUEST.—To require all entities in the State (including for-profit, nonprofit, and governmental employers) to provide promptly, in response to a request by the State agency of that or any other State administering a program under this part, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor, and to sanction failure to respond to any such request.

"(D) ACCESS TO CERTAIN RECORDS.—To obtain access, subject to safeguards on privacy and information security, to the following records (including automated access, in the case of records maintained in automated data bases):

"(i) Records of other State and local government agencies, including—

"(I) vital statistics (including records of marriage, birth, and divorce);

"(II) State and local tax and revenue records (including information on residence address, employer, income, and assets);

"(III) records concerning real and titled personal property;

"(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

"(V) employment security records;

"(VI) records of agencies administering public assistance programs;

"(VII) records of the motor vehicle department; and

"(VIII) corrections records.

"(ii) Certain records held by private entities with respect to individuals who owe or are owed support (or against or with respect to whom a support obligation is sought), consisting of—

"(I) the names and addresses of such individuals and the names and addresses of the employers of such individuals, as appearing in customer records of public utilities and cable television companies; and

"(II) information (including information on assets and liabilities) on such individuals held by financial institutions,

subject to the nonliability of such entities arising from affording such access under this subparagraph.

"(E) CHANGE IN PAYEE.—In cases in which support is subject to an assignment in order to comply with a requirement imposed pursuant to part A or section 1912, or to a requirement to pay through the State disbursement unit established pursuant to section 454B, upon providing notice to obligor and obligee, to direct the obligor or other payor to change the payee to the appropriate government entity.

"(F) INCOME WITHHOLDING.—To order income withholding in accordance with subsections (a)(1)(A) and (b) of section 466.

"(G) SECURING ASSETS.—In cases in which there is a support arrearage, to secure assets to satisfy the arrearage by—

"(i) intercepting or seizing periodic or lump-sum payments from—

"(I) a State or local agency, including unemployment compensation, workers' compensation, and other benefits; and

"(II) judgments, settlements, and lotteries;

"(ii) attaching and seizing assets of the obligor held in financial institutions;

"(iii) attaching public and private retirement funds; and

"(iv) imposing liens in accordance with subsection (a)(4) and, in appropriate cases, to force sale of property and distribution of proceeds.

"(H) INCREASE MONTHLY PAYMENTS.—For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrearages, subject to such conditions or limitations as the State may provide.

Such procedures shall be subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to

contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal.

"(2) SUBSTANTIVE AND PROCEDURAL RULES.—The expedited procedures required under subsection (a)(2) shall include the following rules and authority, applicable with respect to all proceedings to establish paternity or to establish, modify, or enforce support orders:

"(A) LOCATOR INFORMATION; PRESUMPTIONS CONCERNING NOTICE.—Procedures under which—

"(i) each party to any paternity or child support proceeding is required (subject to privacy safeguards) to file with the tribunal and the State case registry upon entry of an order, and to update as appropriate, information on location and identity of the party, including social security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and telephone number of employer; and

"(ii) in any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the tribunal may deem State due process requirements for notice and service of process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the tribunal pursuant to clause (i).

"(B) STATEWIDE JURISDICTION.—Procedures under which—

"(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties; and

"(ii) in a State in which orders are issued by courts or administrative tribunals, a case may be transferred between local jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.

"(3) COORDINATION WITH ERISA.—Notwithstanding subsection (d) of section 514 of the Employee Retirement Income Security Act of 1974 (relating to effect on other laws), nothing in this subsection shall be construed to alter, amend, modify, invalidate, impair, or supersede subsections (a), (b), and (c) of such section 514 as it applies with respect to any procedure referred to in paragraph (1) and any expedited procedure referred to in paragraph (2), except to the extent that such procedure would be consistent with the requirements of section 206(d)(3) of such Act (relating to qualified domestic relations orders) or the requirements of section 609(a) of such Act (relating to qualified medical child support orders) if the reference in such section 206(d)(3) to a domestic relations order and the reference in such section 609(a) to a medical child support order were a reference to a support order referred to in paragraphs (1) and (2) relating to the same matters, respectively.".

(b) AUTOMATION OF STATE AGENCY FUNCTIONS.—Section 454A, as added by section 2344(a)(2) and as amended by sections 2311 and 2312(c) of this Act, is amended by adding at the end the following new subsection:

"(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—The automated system required by this section shall be used, to the maximum extent feasible, to implement the expedited administrative procedures required by section 466(c).".

Subchapter D—Paternity Establishment

SEC. 2331. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.

(a) STATE LAWS REQUIRED.—Section 466(a)(5) (42 U.S.C. 666(a)(5)) is amended to read as follows:

"(5) PROCEDURES CONCERNING PATERNITY ESTABLISHMENT.—

"(A) ESTABLISHMENT PROCESS AVAILABLE FROM BIRTH UNTIL AGE 18.—

"(i) Procedures which permit the establishment of the paternity of a child at any time before the child attains 18 years of age.

"(ii) As of August 16, 1984, clause (i) shall also apply to a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was then in effect in the State.

"(B) PROCEDURES CONCERNING GENETIC TESTING.—

"(i) GENETIC TESTING REQUIRED IN CERTAIN CONTESTED CASES.—Procedures under which the State is required, in a contested paternity case (unless otherwise barred by State law) to require the child and all other parties (other than individuals found under section 454(29) to have good cause and other exceptions for refusing to cooperate) to submit to genetic tests upon the request of any such party, if the request is supported by a sworn statement by the party—

"(I) alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

"(II) denying paternity, and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties.

"(ii) OTHER REQUIREMENTS.—Procedures which require the State agency, in any case in which the agency orders genetic testing—

"(I) to pay costs of such tests, subject to recoupment (if the State so elects) from the alleged father if paternity is established; and

"(II) to obtain additional testing in any case if an original test result is contested, upon request and advance payment by the contestant.

"(C) VOLUNTARY PATERNITY ACKNOWLEDGMENT.—

"(i) SIMPLE CIVIL PROCESS.—Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledg-

ment of paternity, the mother and the putative father must be given notice, orally and in writing, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

"(ii) HOSPITAL-BASED PROGRAM.—Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child, unless good cause and other exceptions exist which—

"(I) shall be defined, taking into account the best interests of the child, and

"(II) shall be applied in each case,

by, at the option of the State, the State agency administering the State program under part A, this part, title XV, or title XIX.

"(iii) PATERNITY ESTABLISHMENT SERVICES.—

"(I) STATE-OFFERED SERVICES.—Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

"(II) REGULATIONS.—

"(aa) SERVICES OFFERED BY HOSPITALS AND BIRTH RECORD AGENCIES.—The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies.

"(bb) SERVICES OFFERED BY OTHER ENTITIES.—The Secretary shall prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services, and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, use the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as the provision of such services is evaluated by, voluntary paternity establishment programs of hospitals and birth record agencies.

"(iv) USE OF PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Such procedures must require the State to develop and use an affidavit for the voluntary acknowledgment of paternity which includes the minimum requirements of the affidavit specified by the Secretary under section 452(a)(7) for the voluntary acknowledgment of paternity, and to give full faith and credit to such an affidavit signed in any other State according to its procedures.

"(D) STATUS OF SIGNED PATERNITY ACKNOWLEDGMENT.—

"(i) INCLUSION IN BIRTH RECORDS.—Procedures under which the name of the father shall be included on the record of birth of the child of unmarried parents only if—

"(I) the father and mother have signed a voluntary acknowledgment of paternity; or

"(II) a court or an administrative agency of competent jurisdiction has issued an adjudication of paternity.

Nothing in this clause shall preclude a State agency from obtaining an admission of paternity from the father for submission in a judicial or administrative proceeding, or prohibit the issuance of an order in a judicial or administrative proceeding which bases a legal finding of paternity on an admission of paternity by the father and any other additional showing required by State law.

"(ii) LEGAL FINDING OF PATERNITY.—Procedures under which a signed voluntary acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within the earlier of—

"(I) 60 days; or

"(II) the date of an administrative or judicial proceeding relating to the child (including a proceeding to establish a support order) in which the signatory is a party.

"(iii) CONTEST.—Procedures under which, after the 60-day period referred to in clause (ii), a signed voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown.

"(E) BAR ON ACKNOWLEDGMENT RATIFICATION PROCEEDINGS.—Procedures under which judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.

"(F) ADMISSIBILITY OF GENETIC TESTING RESULTS.—Procedures—

"(i) requiring the admission into evidence, for purposes of establishing paternity, of the results of any genetic test that is—

"(I) of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary; and

"(II) performed by a laboratory approved by such an accreditation body;

"(ii) requiring an objection to genetic testing results to be made in writing not later than a specified number of days before any hearing at which the results

may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of the results); and

"(iii) making the test results admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy, unless objection is made.

"(G) PRESUMPTION OF PATERNITY IN CERTAIN CASES.—Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity upon genetic testing results indicating a threshold probability that the alleged father is the father of the child.

"(H) DEFAULT ORDERS.—Procedures requiring a default order to be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by State law.

"(I) NO RIGHT TO JURY TRIAL.—Procedures providing that the parties to an action to establish paternity are not entitled to a trial by jury.

"(J) TEMPORARY SUPPORT ORDER BASED ON PROBABLE PATERNITY IN CONTESTED CASES.—Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, if there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

"(K) PROOF OF CERTAIN SUPPORT AND PATERNITY ESTABLISHMENT COSTS.—Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child.

"(L) STANDING OF PUTATIVE FATHERS.—Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.

"(M) FILING OF ACKNOWLEDGMENTS AND ADJUDICATIONS IN STATE REGISTRY OF BIRTH RECORDS.—Procedures under which voluntary acknowledgments and adjudications of paternity by judicial or administrative processes are filed with the State registry of birth records for comparison with information in the State case registry.".

(b) NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended by inserting ", and specify the minimum requirements of an affidavit to be used for the voluntary acknowledgment of paternity which shall include the social security number of each parent and, after consultation with the States, other common elements as determined by such designee" before the semicolon.

(c) CONFORMING AMENDMENT.—Section 468 (42 U.S.C. 668) is amended by striking "a simple civil process for voluntarily acknowledging paternity and".

SEC. 2332. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

Section 454(23) (42 U.S.C. 654(23)) is amended by inserting "and will publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support by means the State deems appropriate" before the semicolon.

SEC. 2333. COOPERATION BY APPLICANTS FOR AND RECIPIENTS OF PART A ASSISTANCE.

Section 454 (42 U.S.C. 654), as amended by sections 2301(b), 2303(a), 2312(a), and 2313(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by inserting after paragraph (28) the following new paragraph:

"(29) provide that the State agency responsible for administering the State plan—

"(A) shall make the determination (and redetermination at appropriate intervals) as to whether an individual who has applied for or is receiving assistance under the State program funded under part A, the State program under title XV, or the State program under title XIX is cooperating in good faith with the State in establishing the paternity of, or in establishing, modifying, or enforcing a support order for, any child of the individual by providing the State agency with the name of, and such other information as the State agency may require with respect to, the noncustodial parent of the child, subject to good cause and other exceptions which—

"(i) shall be defined, taking into account the best interests of the child, and

"(ii) shall be applied in each case,

by, at the option of the State, the State agency administering the State program under part A, this part, title XV, or title XIX;

"(B) shall require the individual to supply additional necessary information and appear at interviews, hearings, and legal proceedings;

"(C) shall require the individual and the child to submit to genetic tests pursuant to judicial or administrative order;

"(D) may request that the individual sign a voluntary acknowledgment of paternity, after notice of the rights and consequences of such an acknowledgment, but may not require the individual to sign an acknowledgment or otherwise relinquish the right to genetic tests as a condition of cooperation and eligibility for assistance under the State program funded under part A, the State program under title XV, or the State program under title XIX; and

"(E) shall promptly notify the individual and the State agency administering the State program funded under part A, the State agency administering the State program under title XV, and the State agency administering the State program under title XIX, of each such determination, and if noncooperation is determined, the basis therefore.".

Subchapter E—Program Administration and Funding

SEC. 2341. PERFORMANCE-BASED INCENTIVES AND PENALTIES.

(a) DEVELOPMENT OF NEW SYSTEM.—The Secretary of Health and Human Services, in consultation with State directors of programs under part D of title IV of the Social Security Act, shall develop a new incentive system to replace, in a revenue neutral manner, the system under section 458 of such Act. The new system shall provide additional payments to any State based on such State's performance under such a program. Not later than November 1, 1996, the Secretary shall report on the new system to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(b) CONFORMING AMENDMENTS TO PRESENT SYSTEM.—Section 458 (42 U.S.C. 658) is amended—

(1) in subsection (a), by striking "aid to families with dependent children under a State plan approved under part A of this title" and inserting "assistance under a program funded under part A";

(2) in subsection (b)(1)(A), by striking "section 402(a)(26)" and inserting "section 408(a)(4)";

(3) in subsections (b) and (c)—

(A) by striking "AFDC collections" each place it appears and inserting "title IV–A collections", and

(B) by striking "non-AFDC collections" each place it appears and inserting "non-title IV–A collections"; and

(4) in subsection (c), by striking "combined AFDC/non-AFDC administrative costs" both places it appears and inserting "combined title IV–A/non-title IV–A administrative costs".

(c) CALCULATION OF PATERNITY ESTABLISHMENT PERCENTAGE.—

(1) Section 452(g)(1)(A) (42 U.S.C. 652(g)(1)(A)) is amended by striking "75" and inserting "90".

(2) Section 452(g)(1) (42 U.S.C. 652(g)(1)) is amended—

(A) by redesignating subparagraphs (B) through (E) as subparagraphs (C) through (F), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) for a State with a paternity establishment percentage of not less than 75 percent but less than 90 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 2 percentage points;"; and

(B) by adding at the end the following new flush sentence:

"In determining compliance under this section, a State may use as its paternity establishment percentage either the State's IV–D paternity establishment percentage (as defined in paragraph (2)(A)) or the State's statewide paternity establishment percentage (as defined in paragraph (2)(B)).".

(3) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) by striking "paternity establishment percentage" and inserting "IV–D paternity establishment percentage"; and

(II) by striking "(or all States, as the case may be)"; and

(ii) by striking "and" at the end thereof;

(B) by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) the term 'statewide paternity establishment percentage' means, with respect to a State for a fiscal year, the ratio (expressed as a percentage) that the total number of minor children—

"(i) who have been born out of wedlock, and

"(ii) the paternity of whom has been established or acknowledged during the fiscal year,

bears to the total number of children born out of wedlock during the preceding fiscal year; and".

(4) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is amended—

(A) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(B) in subparagraph (A) (as so redesignated), by striking "the percentage of children born out-of-wedlock in a State" and inserting "the percentage of children in a State who are born out of wedlock or for whom support has not been established".

(d) EFFECTIVE DATES.—

(1) INCENTIVE ADJUSTMENTS.—

(A) IN GENERAL.—The system developed under subsection (a) and the amendments made by subsection (b) shall become effective on October 1, 1998, except to the extent provided in subparagraph (B).

(B) APPLICATION OF SECTION 458.—Section 458 of the Social Security Act, as in effect on the day before the date of the enactment of this section, shall be effective for purposes of incentive payments to States for fiscal years before fiscal year 1999.

(2) PENALTY REDUCTIONS.—The amendments made by subsection (c) shall become effective with respect to calendar quarters beginning on or after the date of the enactment of this Act.

SEC. 2342. FEDERAL AND STATE REVIEWS AND AUDITS.

(a) STATE AGENCY ACTIVITIES.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (14), by striking "(14)" and inserting "(14)(A)";

(2) by redesignating paragraph (15) as subparagraph (B) of paragraph (14); and

(3) by inserting after paragraph (14) the following new paragraph:

"(15) provide for—

"(A) a process for annual reviews of and reports to the Secretary on the State program operated under the State plan approved under this part, including such information

as may be necessary to measure State compliance with Federal requirements for expedited procedures, using such standards and procedures as are required by the Secretary, under which the State agency will determine the extent to which the program is operated in compliance with this part; and

"(B) a process of extracting from the automated data processing system required by paragraph (16) and transmitting to the Secretary data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators (including paternity establishment percentages) to the extent necessary for purposes of sections 452(g) and 458;".

(b) FEDERAL ACTIVITIES.—Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended to read as follows:

"(4)(A) review data and calculations transmitted by State agencies pursuant to section 454(15)(B) on State program accomplishments with respect to performance indicators for purposes of subsection (g) of this section and section 458;

"(B) review annual reports submitted pursuant to section 454(15)(A) and, as appropriate, provide to the State comments, recommendations for additional or alternative corrective actions, and technical assistance; and

"(C) conduct audits, in accordance with the Government auditing standards of the Comptroller General of the United States—

"(i) at least once every 3 years (or more frequently, in the case of a State which fails to meet the requirements of this part concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the data and the accuracy of the reporting systems used in calculating performance indicators under subsection (g) of this section and section 458;

"(ii) of the adequacy of financial management of the State program operated under the State plan approved under this part, including assessments of—

"(I) whether Federal and other funds made available to carry out the State program are being appropriately expended, and are properly and fully accounted for; and

"(II) whether collections and disbursements of support payments are carried out correctly and are fully accounted for; and

"(iii) for such other purposes as the Secretary may find necessary;".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to calendar quarters beginning 12 months or more after the date of the enactment of this Act.

SEC. 2343. REQUIRED REPORTING PROCEDURES.

(a) ESTABLISHMENT.—Section 452(a)(5) (42 U.S.C. 652(a)(5)) is amended by inserting ", and establish procedures to be followed by States for collecting and reporting information required to be provided under this part, and establish uniform definitions (including those necessary to enable the measurement of State compliance

with the requirements of this part relating to expedited processes) to be applied in following such procedures" before the semicolon.

(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 2301(b), 2303(a), 2312(a), 2313(a), and 2333 of this Act, is amended—

(1) by striking "and" at the end of paragraph (28);

(2) by striking the period at the end of paragraph (29) and inserting "; and"; and

(3) by adding after paragraph (29) the following new paragraph:

"(30) provide that the State shall use the definitions established under section 452(a)(5) in collecting and reporting information as required under this part.".

SEC. 2344. AUTOMATED DATA PROCESSING REQUIREMENTS.

(a) REVISED REQUIREMENTS.—

(1) IN GENERAL.—Section 454(16) (42 U.S.C. 654(16)) is amended—

(A) by striking ", at the option of the State,";

(B) by inserting "and operation by the State agency" after "for the establishment";

(C) by inserting "meeting the requirements of section 454A" after "information retrieval system";

(D) by striking "in the State and localities thereof, so as (A)" and inserting "so as";

(E) by striking "(i)"; and

(F) by striking "(including" and all that follows and inserting a semicolon.

(2) AUTOMATED DATA PROCESSING.—Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 454 the following new section:

"SEC. 454A. AUTOMATED DATA PROCESSING.

"(a) IN GENERAL.—In order for a State to meet the requirements of this section, the State agency administering the State program under this part shall have in operation a single statewide automated data processing and information retrieval system which has the capability to perform the tasks specified in this section with the frequency and in the manner required by or under this part.

"(b) PROGRAM MANAGEMENT.—The automated system required by this section shall perform such functions as the Secretary may specify relating to management of the State program under this part, including—

"(1) controlling and accounting for use of Federal, State, and local funds in carrying out the program; and

"(2) maintaining the data necessary to meet Federal reporting requirements under this part on a timely basis.

"(c) CALCULATION OF PERFORMANCE INDICATORS.—In order to enable the Secretary to determine the incentive payments and penalty adjustments required by sections 452(g) and 458, the State agency shall—

"(1) use the automated system—

"(A) to maintain the requisite data on State performance with respect to paternity establishment and child support enforcement in the State; and

"(B) to calculate the paternity establishment percentage for the State for each fiscal year; and

"(2) have in place systems controls to ensure the completeness and reliability of, and ready access to, the data described in paragraph (1)(A), and the accuracy of the calculations described in paragraph (1)(B).

"(d) INFORMATION INTEGRITY AND SECURITY.—The State agency shall have in effect safeguards on the integrity, accuracy, and completeness of, access to, and use of data in the automated system required by this section, which shall include the following (in addition to such other safeguards as the Secretary may specify in regulations):

"(1) POLICIES RESTRICTING ACCESS.—Written policies concerning access to data by State agency personnel, and sharing of data with other persons, which—

"(A) permit access to and use of data only to the extent necessary to carry out the State program under this part; and

"(B) specify the data which may be used for particular program purposes, and the personnel permitted access to such data.

"(2) SYSTEMS CONTROLS.—Systems controls (such as passwords or blocking of fields) to ensure strict adherence to the policies described in paragraph (1).

"(3) MONITORING OF ACCESS.—Routine monitoring of access to and use of the automated system, through methods such as audit trails and feedback mechanisms, to guard against and promptly identify unauthorized access or use.

"(4) TRAINING AND INFORMATION.—Procedures to ensure that all personnel (including State and local agency staff and contractors) who may have access to or be required to use confidential program data are informed of applicable requirements and penalties (including those in section 6103 of the Internal Revenue Code of 1986), and are adequately trained in security procedures.

"(5) PENALTIES.—Administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential data.".

(3) REGULATIONS.—The Secretary of Health and Human Services shall prescribe final regulations for implementation of section 454A of the Social Security Act not later than 2 years after the date of the enactment of this Act.

(4) IMPLEMENTATION TIMETABLE.—Section 454(24) (42 U.S.C. 654(24)), as amended by section 2303(a)(1) of this Act, is amended to read as follows:

"(24) provide that the State will have in effect an automated data processing and information retrieval system—

"(A) by October 1, 1997, which meets all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988, and

"(B) by October 1, 2000, which meets all requirements of this part enacted on or before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996, except that such deadline shall be extended by 1

day for each day (if any) by which the Secretary fails to meet the deadline imposed by section 2344(a)(3) of the Personal Responsibility and Work Opportunity Act of 1996;".

(b) SPECIAL FEDERAL MATCHING RATE FOR DEVELOPMENT COSTS OF AUTOMATED SYSTEMS.—

(1) IN GENERAL.—Section 455(a) (42 U.S.C. 655(a)) is amended—

(A) in paragraph (1)(B)—

(i) by striking "90 percent" and inserting "the percent specified in paragraph (3)";

(ii) by striking "so much of"; and

(iii) by striking "which the Secretary" and all that follows and inserting ", and"; and

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

"(3)(A) The Secretary shall pay to each State, for each quarter in fiscal years 1996 and 1997, 90 percent of so much of the State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16) (as in effect on September 30, 1995) but limited to the amount approved for States in the advance planning documents of such States submitted on or before September 30, 1995. Notwithstanding the preceding sentence, any payment to a State with respect to fiscal year 1997 shall be made in one payment in fiscal year 1998.

"(B)(i) The Secretary shall pay to each State, for each quarter in fiscal years 1996 through 2001, the percentage specified in clause (ii) of so much of the State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements of sections 454(16) and 454A.

"(ii) The percentage specified in this clause is 80 percent.".

(2) TEMPORARY LIMITATION ON PAYMENTS UNDER SPECIAL FEDERAL MATCHING RATE.—

(A) IN GENERAL.—The Secretary of Health and Human Services may not pay more than $400,000,000 in the aggregate under section 455(a)(3)(B) of the Social Security Act for fiscal years 1996 through 2001.

(B) ALLOCATION OF LIMITATION AMONG STATES.—The total amount payable to a State under section 455(a)(3)(B) of such Act for fiscal years 1996 through 2001 shall not exceed the limitation determined for the State by the Secretary of Health and Human Services in regulations.

(C) ALLOCATION FORMULA.—The regulations referred to in subparagraph (B) shall prescribe a formula for allocating the amount specified in subparagraph (A) among States with plans approved under part D of title IV of the Social Security Act, which shall take into account—

(i) the relative size of State caseloads under such part; and

(ii) the level of automation needed to meet the automated data processing requirements of such part.

(c) CONFORMING AMENDMENT.—Section 123(c) of the Family Support Act of 1988 (102 Stat. 2352; Public Law 100–485) is repealed.

SEC. 2345. TECHNICAL ASSISTANCE.

(a) FOR TRAINING OF FEDERAL AND STATE STAFF, RESEARCH AND DEMONSTRATION PROGRAMS, AND SPECIAL PROJECTS OF REGIONAL

OR NATIONAL SIGNIFICANCE.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following new subsection:

"(j) Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year (beginning with fiscal year 1998) an amount equal to 1 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the 3rd calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for—

"(1) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs under this part (including technical assistance concerning State automated systems required by this part); and

"(2) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part.

The amount appropriated under this subsection shall remain available until expended.".

(b) OPERATION OF FEDERAL PARENT LOCATOR SERVICE.—Section 453 (42 U.S.C. 653), as amended by section 2316 of this Act, is amended by adding at the end the following new subsection:

"(o) RECOVERY OF COSTS.—Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 2 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the 3rd calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for operation of the Federal Parent Locator Service under this section, to the extent such costs are not recovered through user fees.".

SEC. 2346. REPORTS AND DATA COLLECTION BY THE SECRETARY.

(a) ANNUAL REPORT TO CONGRESS.—

(1) Section 452(a)(10)(A) (42 U.S.C. 652(a)(10)(A)) is amended—

(A) by striking "this part;" and inserting "this part, including—"; and

(B) by adding at the end the following new clauses:

"(i) the total amount of child support payments collected as a result of services furnished during the fiscal year to individuals receiving services under this part;

"(ii) the cost to the States and to the Federal Government of so furnishing the services; and

"(iii) the number of cases involving families—

"(I) who became ineligible for assistance under State programs funded under part A during a month in the fiscal year; and

"(II) with respect to whom a child support payment was received in the month;".

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) in the matter preceding clause (i)—

(i) by striking "with the data required under each clause being separately stated for cases" and inserting "separately stated for cases";

(ii) by striking "cases where the child was formerly receiving" and inserting "or formerly received";

(iii) by inserting "or 1912" after "471(a)(17)"; and

(iv) by inserting "for" before "all other";

(B) in each of clauses (i) and (ii), by striking ", and the total amount of such obligations";

(C) in clause (iii), by striking "described in" and all that follows and inserting "in which support was collected during the fiscal year;";

(D) by striking clause (iv); and

(E) by redesignating clause (v) as clause (vii), and inserting after clause (iii) the following new clauses:

"(iv) the total amount of support collected during such fiscal year and distributed as current support;

"(v) the total amount of support collected during such fiscal year and distributed as arrearages;

"(vi) the total amount of support due and unpaid for all fiscal years; and".

(3) Section 452(a)(10)(G) (42 U.S.C. 652(a)(10)(G)) is amended by striking "on the use of Federal courts and".

(4) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended—

(A) in subparagraph (H), by striking "and";

(B) in subparagraph (I), by striking the period and inserting "; and"; and

(C) by inserting after subparagraph (I) the following new subparagraph:

"(J) compliance, by State, with the standards established pursuant to subsections (h) and (i).".

(5) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended by striking all that follows subparagraph (J), as added by paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to fiscal year 1997 and succeeding fiscal years.

Subchapter F—Establishment and Modification of Support Orders

SEC. 2351. SIMPLIFIED PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS.

Section 466(a)(10) (42 U.S.C. 666(a)(10)) is amended to read as follows:

"(10) REVIEW AND ADJUSTMENT OF SUPPORT ORDERS UPON REQUEST.—Procedures under which the State shall review and adjust each support order being enforced under this part if there is an assignment under part A or upon the request of either parent, and may review and adjust any other support order being enforced under this part. Such procedures shall provide the following:

"(A) IN GENERAL.—

"(i) 3-YEAR CYCLE.—Except as provided in subparagraphs (B) and (C), the State shall review and, as appropriate, adjust the support order every 3 years, taking into account the best interests of the child involved.

"(ii) METHODS OF ADJUSTMENT.—The State may elect to review and, if appropriate, adjust an order pursuant to clause (i) by—

"(I) reviewing and, if appropriate, adjusting the order in accordance with the guidelines established pursuant to section 467(a) if the amount of the child support award under the order differs from the amount that would be awarded in accordance with the guidelines; or

"(II) applying a cost-of-living adjustment to the order in accordance with a formula developed by the State and permit either party to contest the adjustment, within 30 days after the date of the notice of the adjustment, by making a request for review and, if appropriate, adjustment of the order in accordance with the child support guidelines established pursuant to section 467(a).

"(iii) NO PROOF OF CHANGE IN CIRCUMSTANCES NECESSARY.—Any adjustment under this subparagraph (A) shall be made without a requirement for proof or showing of a change in circumstances.

"(B) AUTOMATED METHOD.—The State may use automated methods (including automated comparisons with wage or State income tax data) to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment to the orders eligible for adjustment under the threshold established by the State.

"(C) REQUEST UPON SUBSTANTIAL CHANGE IN CIRCUMSTANCES.—The State shall, at the request of either parent subject to such an order or of any State child support enforcement agency, review and, if appropriate, adjust the order in accordance with the guidelines established pursuant to section 467(a) based upon a substantial change in the circumstances of either parent.

"(D) NOTICE OF RIGHT TO REVIEW.—The State shall provide notice not less than once every 3 years to the parents subject to such an order informing them of their right to request the State to review and, if appropriate, adjust the order pursuant to this paragraph. The notice may be included in the order.".

SEC. 2352. FURNISHING CONSUMER REPORTS FOR CERTAIN PURPOSES RELATING TO CHILD SUPPORT.

Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended by adding at the end the following new paragraphs:

"(4) In response to a request by the head of a State or local child support enforcement agency (or a State or local government official

authorized by the head of such an agency), if the person making the request certifies to the consumer reporting agency that—

"(A) the consumer report is needed for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of such payments;

"(B) the paternity of the consumer for the child to which the obligation relates has been established or acknowledged by the consumer in accordance with State laws under which the obligation arises (if required by those laws);

"(C) the person has provided at least 10 days' prior notice to the consumer whose report is requested, by certified or registered mail to the last known address of the consumer, that the report will be requested; and

"(D) the consumer report will be kept confidential, will be used solely for a purpose described in subparagraph (A), and will not be used in connection with any other civil, administrative, or criminal proceeding, or for any other purpose.

"(5) To an agency administering a State plan under section 454 of the Social Security Act (42 U.S.C. 654) for use to set an initial or modified child support award.".

SEC. 2353. NONLIABILITY FOR FINANCIAL INSTITUTIONS PROVIDING FINANCIAL RECORDS TO STATE CHILD SUPPORT ENFORCEMENT AGENCIES IN CHILD SUPPORT CASES.

Part D of title IV (42 U.S.C. 651–669) is amended by adding at the end the following:

"SEC. 469A. NONLIABILITY FOR FINANCIAL INSTITUTIONS PROVIDING FINANCIAL RECORDS TO STATE CHILD SUPPORT ENFORCEMENT AGENCIES IN CHILD SUPPORT CASES.

"(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, a financial institution shall not be liable under any Federal or State law to any person for disclosing any financial record of an individual to a State child support enforcement agency attempting to establish, modify, or enforce a child support obligation of such individual.

"(b) PROHIBITION OF DISCLOSURE OF FINANCIAL RECORD OBTAINED BY STATE CHILD SUPPORT ENFORCEMENT AGENCY.—A State child support enforcement agency which obtains a financial record of an individual from a financial institution pursuant to subsection (a) may disclose such financial record only for the purpose of, and to the extent necessary in, establishing, modifying, or enforcing a child support obligation of such individual.

"(c) CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE.—

"(1) DISCLOSURE BY STATE OFFICER OR EMPLOYEE.—If any person knowingly, or by reason of negligence, discloses a financial record of an individual in violation of subsection (b), such individual may bring a civil action for damages against such person in a district court of the United States.

"(2) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this subsection with respect to any disclosure which results from a good faith, but erroneous, interpretation of subsection (b).

"(3) DAMAGES.—In any action brought under paragraph (1), upon a finding of liability on the part of the defendant, the de-

fendant shall be liable to the plaintiff in an amount equal to the sum of—

"(A) the greater of—

"(i) $1,000 for each act of unauthorized disclosure of a financial record with respect to which such defendant is found liable; or

"(ii) the sum of—

"(I) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure; plus

"(II) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages; plus

"(B) the costs (including attorney's fees) of the action.

"(d) DEFINITIONS.—For purposes of this section—

"(1) FINANCIAL INSTITUTION.—The term 'financial institution' means—

"(A) a depository institution, as defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

"(B) an institution-affiliated party, as defined in section 3(u) of such Act (12 U.S.C. 1813(u));

"(C) any Federal credit union or State credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752), including an institution-affiliated party of such a credit union, as defined in section 206(r) of such Act (12 U.S.C. 1786(r)); and

"(D) any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity authorized to do business in the State.

"(2) FINANCIAL RECORD.—The term 'financial record' has the meaning given such term in section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401).".

Subchapter G—Enforcement of Support Orders

SEC. 2361. INTERNAL REVENUE SERVICE COLLECTION OF ARREARAGES.

(a) COLLECTION OF FEES.—Section 6305(a) of the Internal Revenue Code of 1986 (relating to collection of certain liability) is amended—

(1) by striking "and" at the end of paragraph (3);

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

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

"(5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor."; and

(4) by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1997.

SEC. 2362. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) CONSOLIDATION AND STREAMLINING OF AUTHORITIES.—Section 459 (42 U.S.C. 659) is amended to read as follows:

"SEC. 459. CONSENT BY THE UNITED STATES TO INCOME WITHHOLDING, GARNISHMENT, AND SIMILAR PROCEEDINGS FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS.

"(a) CONSENT TO SUPPORT ENFORCEMENT.—Notwithstanding any other provision of law (including section 207 of this Act and section 5301 of title 38, United States Code), effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States or the District of Columbia (including any agency, subdivision, or instrumentality thereof) to any individual, including members of the Armed Forces of the United States, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to withholding in accordance with State law enacted pursuant to subsections (a)(1) and (b) of section 466 and regulations of the Secretary under such subsections, and to any other legal process brought, by a State agency administering a program under a State plan approved under this part or by an individual obligee, to enforce the legal obligation of the individual to provide child support or alimony.

"(b) CONSENT TO REQUIREMENTS APPLICABLE TO PRIVATE PERSON.—With respect to notice to withhold income pursuant to subsection (a)(1) or (b) of section 466, or any other order or process to enforce support obligations against an individual (if the order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), each governmental entity specified in subsection (a) shall be subject to the same requirements as would apply if the entity were a private person, except as otherwise provided in this section.

"(c) DESIGNATION OF AGENT; RESPONSE TO NOTICE OR PROCESS—

"(1) DESIGNATION OF AGENT.—The head of each agency subject to this section shall—

"(A) designate an agent or agents to receive orders and accept service of process in matters relating to child support or alimony; and

"(B) annually publish in the Federal Register the designation of the agent or agents, identified by title or position, mailing address, and telephone number.

"(2) RESPONSE TO NOTICE OR PROCESS.—If an agent designated pursuant to paragraph (1) of this subsection receives notice pursuant to State procedures in effect pursuant to subsection (a)(1) or (b) of section 466, or is effectively served with any order, process, or interrogatory, with respect to an individual's child support or alimony payment obligations, the agent shall—

"(A) as soon as possible (but not later than 15 days) thereafter, send written notice of the notice or service (together with a copy of the notice or service) to the individual at the duty station or last-known home address of the individual;

"(B) within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to such State procedures, comply with all applicable provisions of section 466; and

"(C) within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatory, respond to the order, process, or interrogatory.

"(d) PRIORITY OF CLAIMS.—If a governmental entity specified in subsection (a) receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than 1 person—

"(1) support collection under section 466(b) must be given priority over any other process, as provided in section 466(b)(7);

"(2) allocation of moneys due or payable to an individual among claimants under section 466(b) shall be governed by section 466(b) and the regulations prescribed under such section; and

"(3) such moneys as remain after compliance with paragraphs (1) and (2) shall be available to satisfy any other such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.

"(e) NO REQUIREMENT TO VARY PAY CYCLES.—A governmental entity that is affected by legal process served for the enforcement of an individual's child support or alimony payment obligations shall not be required to vary its normal pay and disbursement cycle in order to comply with the legal process.

"(f) RELIEF FROM LIABILITY.—

"(1) Neither the United States, nor the government of the District of Columbia, nor any disbursing officer shall be liable with respect to any payment made from moneys due or payable from the United States to any individual pursuant to legal process regular on its face, if the payment is made in accordance with this section and the regulations issued to carry out this section.

"(2) No Federal employee whose duties include taking actions necessary to comply with the requirements of subsection (a) with regard to any individual shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by the employee in connection with the carrying out of such actions.

"(g) REGULATIONS.—Authority to promulgate regulations for the implementation of this section shall, insofar as this section applies to moneys due from (or payable by)—

"(1) the United States (other than the legislative or judicial branches of the Federal Government) or the government of the District of Columbia, be vested in the President (or the designee of the President);

"(2) the legislative branch of the Federal Government, be vested jointly in the President pro tempore of the Senate and

the Speaker of the House of Representatives (or their designees), and

"(3) the judicial branch of the Federal Government, be vested in the Chief Justice of the United States (or the designee of the Chief Justice).

"(h) MONEYS SUBJECT TO PROCESS.—

"(1) IN GENERAL.—Subject to paragraph (2), moneys paid or payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section—

"(A) consist of—

"(i) compensation paid or payable for personal services of the individual, whether the compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay);

"(ii) periodic benefits (including a periodic benefit as defined in section 228(h)(3)) or other payments—

"(I) under the insurance system established by title II;

"(II) under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;

"(III) as compensation for death under any Federal program;

"(IV) under any Federal program established to provide 'black lung' benefits; or

"(V) by the Secretary of Veterans Affairs as compensation for a service-connected disability paid by the Secretary to a former member of the Armed Forces who is in receipt of retired or retainer pay if the former member has waived a portion of the retired or retainer pay in order to receive such compensation; and

"(iii) worker's compensation benefits paid under Federal or State law but

"(B) do not include any payment—

"(i) by way of reimbursement or otherwise, to defray expenses incurred by the individual in carrying out duties associated with the employment of the individual; or

"(ii) as allowances for members of the uniformed services payable pursuant to chapter 7 of title 37, United States Code, as prescribed by the Secretaries concerned (defined by section 101(5) of such title) as necessary for the efficient performance of duty.

"(2) CERTAIN AMOUNTS EXCLUDED.—In determining the amount of any moneys due from, or payable by, the United States to any individual, there shall be excluded amounts which—

"(A) are owed by the individual to the United States;

"(B) are required by law to be, and are, deducted from the remuneration or other payment involved, including Federal employment taxes, and fines and forfeitures ordered by court-martial;

"(C) are properly withheld for Federal, State, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he was entitled (the withholding of additional amounts pursuant to section 3402(i) of the Internal Revenue Code of 1986 may be permitted only when the individual presents evidence of a tax obligation which supports the additional withholding);

"(D) are deducted as health insurance premiums;

"(E) are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage); or

"(F) are deducted as normal life insurance premiums from salary or other remuneration for employment (not including amounts deducted for supplementary coverage).

"(i) DEFINITIONS.—For purposes of this section—

"(1) UNITED STATES.—The term 'United States' includes any department, agency, or instrumentality of the legislative, judicial, or executive branch of the Federal Government, the United States Postal Service, the Postal Rate Commission, any Federal corporation created by an Act of Congress that is wholly owned by the Federal Government, and the governments of the territories and possessions of the United States.

"(2) CHILD SUPPORT.—The term 'child support', when used in reference to the legal obligations of an individual to provide such support, means amounts required to be paid under a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages or reimbursement, and which may include other related costs and fees, interest and penalties, income withholding, attorney's fees, and other relief.

"(3) ALIMONY.—

"(A) IN GENERAL.—The term 'alimony', when used in reference to the legal obligations of an individual to provide the same, means periodic payments of funds for the support and maintenance of the spouse (or former spouse) of the individual, and (subject to and in accordance with State law) includes separate maintenance, alimony pendente lite, maintenance, and spousal support, and includes attorney's fees, interest, and court costs when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction.

"(B) EXCEPTIONS.—Such term does not include—

"(i) any child support; or

"(ii) any payment or transfer of property or its value by an individual to the spouse or a former spouse of the individual in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

"(4) PRIVATE PERSON.—The term 'private person' means a person who does not have sovereign or other special immunity or privilege which causes the person not to be subject to legal process.

"(5) LEGAL PROCESS.—The term 'legal process' means any writ, order, summons, or other similar process in the nature of garnishment—

"(A) which is issued by—

"(i) a court or an administrative agency of competent jurisdiction in any State, territory, or possession of the United States;

"(ii) a court or an administrative agency of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor the process; or

"(iii) an authorized official pursuant to an order of such a court or an administrative agency of competent jurisdiction or pursuant to State or local law; and

"(B) which is directed to, and the purpose of which is to compel, a governmental entity which holds moneys which are otherwise payable to an individual to make a payment from the moneys to another party in order to satisfy a legal obligation of the individual to provide child support or make alimony payments.".

(b) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV.—Sections 461 and 462 (42 U.S.C. 661 and 662) are repealed.

(2) TO TITLE 5, UNITED STATES CODE.—Section 5520a of title 5, United States Code, is amended, in subsections (h)(2) and (i), by striking "sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)" and inserting "section 459 of the Social Security Act (42 U.S.C. 659)".

(c) MILITARY RETIRED AND RETAINER PAY.—

(1) DEFINITION OF COURT.—Section 1408(a)(1) of title 10, United States Code, is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding after subparagraph (C) the following new subparagraph:

"(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a program under a State plan approved under part D of title IV of the Social Security Act), and, for purposes of this subparagraph, the term 'State' includes the District of Columbia, the Com-

monwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.".

(2) DEFINITION OF COURT ORDER.—Section 1408(a)(2) of such title is amended—

(A) by inserting "or a support order, as defined in section 453(p) of the Social Security Act (42 U.S.C. 653(p))," before "which—";

(B) in subparagraph (B)(i), by striking "(as defined in section 462(b) of the Social Security Act (42 U.S.C. 662(b)))" and inserting "(as defined in section 459(i)(2) of the Social Security Act (42 U.S.C. 659(i)(2)))"; and

(C) in subparagraph (B)(ii), by striking "(as defined in section 462(c) of the Social Security Act (42 U.S.C. 662(c)))" and inserting "(as defined in section 459(i)(3) of the Social Security Act (42 U.S.C. 659(i)(3)))".

(3) PUBLIC PAYEE.—Section 1408(d) of such title is amended—

(A) in the heading, by inserting "(OR FOR BENEFIT OF)" before "SPOUSE OR"; and

(B) in paragraph (1), in the 1st sentence, by inserting "(or for the benefit of such spouse or former spouse to a State disbursement unit established pursuant to section 454B of the Social Security Act or other public payee designated by a State, in accordance with part D of title IV of the Social Security Act, as directed by court order, or as otherwise directed in accordance with such part D)" before "in an amount sufficient".

(4) RELATIONSHIP TO PART D OF TITLE IV.—Section 1408 of such title is amended by adding at the end the following new subsection:

"(j) RELATIONSHIP TO OTHER LAWS.—In any case involving an order providing for payment of child support (as defined in section 459(i)(2) of the Social Security Act) by a member who has never been married to the other parent of the child, the provisions of this section shall not apply, and the case shall be subject to the provisions of section 459 of such Act.".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective 6 months after the date of the enactment of this Act.

SEC. 2363. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.

(a) AVAILABILITY OF LOCATOR INFORMATION.—

(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Transportation, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

(2) TYPE OF ADDRESS.—

(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.

(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

(ii) with respect to whom the Secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.

(3) UPDATING OF LOCATOR INFORMATION.—Within 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.

(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service established under section 453 of the Social Security Act.

(b) FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS.—

(1) REGULATIONS.—The Secretary of each military department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to facilitate the granting of leave to a member of the Armed Forces under the jurisdiction of that Secretary in a case in which—

(A) the leave is needed for the member to attend a hearing described in paragraph (2);

(B) the member is not serving in or with a unit deployed in a contingency operation (as defined in section 101 of title 10, United States Code); and

(C) the exigencies of military service (as determined by the Secretary concerned) do not otherwise require that such leave not be granted.

(2) COVERED HEARINGS.—Paragraph (1) applies to a hearing that is conducted by a court or pursuant to an administrative process established under State law, in connection with a civil action—

(A) to determine whether a member of the Armed Forces is a natural parent of a child; or

(B) to determine an obligation of a member of the Armed Forces to provide child support.

(3) DEFINITIONS.—For purposes of this subsection—

(A) The term "court" has the meaning given that term in section 1408(a) of title 10, United States Code.

(B) The term "child support" has the meaning given such term in section 459(i) of the Social Security Act (42 U.S.C. 659(i)).

(c) PAYMENT OF MILITARY RETIRED PAY IN COMPLIANCE WITH CHILD SUPPORT ORDERS.—

(1) DATE OF CERTIFICATION OF COURT ORDER.—Section 1408 of title 10, United States Code, as amended by section 2362(c)(4) of this Act, is amended—

(A) by redesignating subsections (i) and (j) as subsections (j) and (k), respectively; and

(B) by inserting after subsection (h) the following new subsection:

"(i) CERTIFICATION DATE.—It is not necessary that the date of a certification of the authenticity or completeness of a copy of a court order for child support received by the Secretary concerned for the purposes of this section be recent in relation to the date of receipt by the Secretary.".

(2) PAYMENTS CONSISTENT WITH ASSIGNMENTS OF RIGHTS TO STATES.—Section 1408(d)(1) of such title is amended by inserting after the 1st sentence the following new sentence: "In the case of a spouse or former spouse who, pursuant to section 408(a)(4) of the Social Security Act (42 U.S.C. 608(a)(4)), assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with that assignment of rights.".

(3) ARREARAGES OWED BY MEMBERS OF THE UNIFORMED SERVICES.—Section 1408(d) of such title is amended by adding at the end the following new paragraph:

"(6) In the case of a court order for which effective service is made on the Secretary concerned on or after the date of the enactment of this paragraph and which provides for payments from the disposable retired pay of a member to satisfy the amount of child support set forth in the order, the authority provided in paragraph (1) to make payments from the disposable retired pay of a member to satisfy the amount of child support set forth in a court order shall apply to payment of any amount of child support arrearages set forth in that order as well as to amounts of child support that currently become due.".

(4) PAYROLL DEDUCTIONS.—The Secretary of Defense shall begin payroll deductions within 30 days after receiving notice of withholding, or for the 1st pay period that begins after such 30-day period.

SEC. 2364. VOIDING OF FRAUDULENT TRANSFERS.

Section 466 (42 U.S.C. 666), as amended by section 2321 of this Act, is amended by adding at the end the following new subsection:

"(g) LAWS VOIDING FRAUDULENT TRANSFERS.—In order to satisfy section 454(20)(A), each State must have in effect—

"(1)(A) the Uniform Fraudulent Conveyance Act of 1981;

"(B) the Uniform Fraudulent Transfer Act of 1984; or

"(C) another law, specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to avoid payment to a child support creditor, which the Secretary finds affords comparable rights to child support creditors; and

"(2) procedures under which, in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must—

"(A) seek to void such transfer; or

"(B) obtain a settlement in the best interests of the child support creditor.".

SEC. 2365. WORK REQUIREMENT FOR PERSONS OWING PAST-DUE CHILD SUPPORT.

(a) IN GENERAL.—Section 466(a) (42 U.S.C. 666(a)), as amended by sections 2315, 2317(a), and 2323 of this Act, is amended by inserting after paragraph (14) the following new paragraph:

"(15) PROCEDURES TO ENSURE THAT PERSONS OWING PAST-DUE SUPPORT WORK OR HAVE A PLAN FOR PAYMENT OF SUCH SUPPORT.—

"(A) IN GENERAL.—Procedures under which the State has the authority, in any case in which an individual owes past-due support with respect to a child receiving assistance under a State program funded under part A, to issue an order or to request that a court or an administrative process established pursuant to State law issue an order that requires the individual to—

"(i) pay such support in accordance with a plan approved by the court, or, at the option of the State, a plan approved by the State agency administering the State program under this part; or

"(ii) if the individual is subject to such a plan and is not incapacitated, participate in such work activities (as defined in section 407(d)) as the court, or, at the option of the State, the State agency administering the State program under this part, deems appropriate.

"(B) PAST-DUE SUPPORT DEFINED.—For purposes of subparagraph (A), the term 'past-due support' means the amount of a delinquency, determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a child, or of a child and the parent with whom the child is living.".

(b) CONFORMING AMENDMENT.—The flush paragraph at the end of section 466(a) (42 U.S.C.666(a)) is amended by striking "and (7)" and inserting "(7), and (15)".

SEC. 2366. DEFINITION OF SUPPORT ORDER.

Section 453 (42 U.S.C. 653) as amended by sections 2316 and 2345(b) of this Act, is amended by adding at the end the following new subsection:

"(p) SUPPORT ORDER DEFINED.—As used in this part, the term 'support order' means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees, and other relief.".

SEC. 2367. REPORTING ARREARAGES TO CREDIT BUREAUS.

Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended to read as follows:

"(7) REPORTING ARREARAGES TO CREDIT BUREAUS.—

"(A) IN GENERAL.—Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) the name of any noncustodial parent who is delinquent in the payment of support, and the amount of overdue support owed by such parent.

"(B) SAFEGUARDS.—Procedures ensuring that, in carrying out subparagraph (A), information with respect to a noncustodial parent is reported—

"(i) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and

"(ii) only to an entity that has furnished evidence satisfactory to the State that the entity is a consumer reporting agency (as so defined).".

SEC. 2368. LIENS.

Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended to read as follows:

"(4) LIENS.—Procedures under which—

"(A) liens arise by operation of law against real and personal property for amounts of overdue support owed by a noncustodial parent who resides or owns property in the State; and

"(B) the State accords full faith and credit to liens described in subparagraph (A) arising in another State, when the State agency, party, or other entity seeking to enforce such a lien complies with the procedural rules relating to recording or serving liens that arise within the State, except that such rules may not require judicial notice or hearing prior to the enforcement of such a lien.".

SEC. 2369. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 2315, 2317(a), 2323, and 2365 of this Act, is amended by inserting after paragraph (15) the following:

"(16) AUTHORITY TO WITHHOLD OR SUSPEND LICENSES.—Procedures under which the State has (and uses in appropriate cases) authority to withhold or suspend, or to restrict the use of driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.".

SEC. 2370. DENIAL OF PASSPORTS FOR NONPAYMENT OF CHILD SUPPORT.

(a) HHS CERTIFICATION PROCEDURE.—

(1) SECRETARIAL RESPONSIBILITY.—Section 452 (42 U.S.C. 652), as amended by section 2345 of this Act, is amended by adding at the end the following new subsection:

"(k)(1) If the Secretary receives a certification by a State agency in accordance with the requirements of section 454(31) that an individual owes arrearages of child support in an amount exceeding

$5,000, the Secretary shall transmit such certification to the Secretary of State for action (with respect to denial, revocation, or limitation of passports) pursuant to paragraph (2).

"(2) The Secretary of State shall, upon certification by the Secretary transmitted under paragraph (1), refuse to issue a passport to such individual, and may revoke, restrict, or limit a passport issued previously to such individual.

"(3) The Secretary and the Secretary of State shall not be liable to an individual for any action with respect to a certification by a State agency under this section.".

(2) STATE AGENCY RESPONSIBILITY.—Section 454 (42 U.S.C. 654), as amended by sections 2301(b), 2303(a), 2312(b), 2313(a), 2333, and 2343(b) of this Act, is amended—

(A) by striking "and" at the end of paragraph (29);

(B) by striking the period at the end of paragraph (30) and inserting "; and"; and

(C) by adding after paragraph (30) the following new paragraph:

"(31) provide that the State agency will have in effect a procedure for certifying to the Secretary, for purposes of the procedure under section 452(k), determinations that individuals owe arrearages of child support in an amount exceeding $5,000, under which procedure—

"(A) each individual concerned is afforded notice of such determination and the consequences thereof, and an opportunity to contest the determination; and

"(B) the certification by the State agency is furnished to the Secretary in such format, and accompanied by such supporting documentation, as the Secretary may require.".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective October 1, 1997.

SEC. 2371. INTERNATIONAL SUPPORT ENFORCEMENT.

(a) AUTHORITY FOR INTERNATIONAL AGREEMENTS.—Part D of title IV, as amended by section 2362(a) of this Act, is amended by adding after section 459 the following new section:

"SEC. 459A. INTERNATIONAL SUPPORT ENFORCEMENT.

"(a) AUTHORITY FOR DECLARATIONS.—

"(1) DECLARATION.—The Secretary of State, with the concurrence of the Secretary of Health and Human Services, is authorized to declare any foreign country (or a political subdivision thereof) to be a foreign reciprocating country if the foreign country has established, or undertakes to establish, procedures for the establishment and enforcement of duties of support owed to obligees who are residents of the United States, and such procedures are substantially in conformity with the standards prescribed under subsection (b).

"(2) REVOCATION.—A declaration with respect to a foreign country made pursuant to paragraph (1) may be revoked if the Secretaries of State and Health and Human Services determine that—

"(A) the procedures established by the foreign country regarding the establishment and enforcement of duties of support have been so changed, or the foreign country's im-

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plementation of such procedures is so unsatisfactory, that such procedures do not meet the criteria for such a declaration; or

"(B) continued operation of the declaration is not consistent with the purposes of this part.

"(3) FORM OF DECLARATION.—A declaration under paragraph (1) may be made in the form of an international agreement, in connection with an international agreement or corresponding foreign declaration, or on a unilateral basis.

"(b) STANDARDS FOR FOREIGN SUPPORT ENFORCEMENT PROCEDURES.—

"(1) MANDATORY ELEMENTS.—Support enforcement procedures of a foreign country which may be the subject of a declaration pursuant to subsection (a)(1) shall include the following elements:

"(A) The foreign country (or political subdivision thereof) has in effect procedures, available to residents of the United States—

"(i) for establishment of paternity, and for establishment of orders of support for children and custodial parents; and

"(ii) for enforcement of orders to provide support to children and custodial parents, including procedures for collection and appropriate distribution of support payments under such orders.

"(B) The procedures described in subparagraph (A), including legal and administrative assistance, are provided to residents of the United States at no cost.

"(C) An agency of the foreign country is designated as a Central Authority responsible for—

"(i) facilitating support enforcement in cases involving residents of the foreign country and residents of the United States; and

"(ii) ensuring compliance with the standards established pursuant to this subsection.

"(2) ADDITIONAL ELEMENTS.—The Secretary of Health and Human Services and the Secretary of State, in consultation with the States, may establish such additional standards as may be considered necessary to further the purposes of this section.

"(c) DESIGNATION OF UNITED STATES CENTRAL AUTHORITY.—It shall be the responsibility of the Secretary of Health and Human Services to facilitate support enforcement in cases involving residents of the United States and residents of foreign countries that are the subject of a declaration under this section, by activities including—

"(1) development of uniform forms and procedures for use in such cases;

"(2) notification of foreign reciprocating countries of the State of residence of individuals sought for support enforcement purposes, on the basis of information provided by the Federal Parent Locator Service; and

"(3) such other oversight, assistance, and coordination activities as the Secretary may find necessary and appropriate.

"(d) EFFECT ON OTHER LAWS.—States may enter into reciprocal arrangements for the establishment and enforcement of support obligations with foreign countries that are not the subject of a declaration pursuant to subsection (a), to the extent consistent with Federal law.".

(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 2301(b), 2303(a), 2312(b), 2313(a), 2333, 2343(b), and 2370(a)(2) of this Act, is amended—

(1) by striking "and" at the end of paragraph (30);

(2) by striking the period at the end of paragraph (31) and inserting "; and"; and

(3) by adding after paragraph (31) the following new paragraph:

"(32)(A) provide that any request for services under this part by a foreign reciprocating country or a foreign country with which the State has an arrangement described in section 459A(d)(2) shall be treated as a request by a State;

"(B) provide, at State option, notwithstanding paragraph (4) or any other provision of this part, for services under the plan for enforcement of a spousal support order not described in paragraph (4)(B) entered by such a country (or subdivision); and

"(C) provide that no applications will be required from, and no costs will be assessed for such services against, the foreign reciprocating country or foreign obligee (but costs may at State option be assessed against the obligor).".

SEC. 2372. FINANCIAL INSTITUTION DATA MATCHES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 2315, 2317(a), 2323, 2365, and 2369 of this Act, is amended by inserting after paragraph (16) the following new paragraph:

"(17) FINANCIAL INSTITUTION DATA MATCHES.—

"(A) IN GENERAL.—Procedures under which the State agency shall enter into agreements with financial institutions doing business in the State—

"(i) to develop and operate, in coordination with such financial institutions, a data match system, using automated data exchanges to the maximum extent feasible, in which each such financial institution is required to provide for each calendar quarter the name, record address, social security number or other taxpayer identification number, and other identifying information for each noncustodial parent who maintains an account at such institution and who owes past-due support, as identified by the State by name and social security number or other taxpayer identification number; and

"(ii) in response to a notice of lien or levy, encumber or surrender, as the case may be, assets held by such institution on behalf of any noncustodial parent who is subject to a child support lien pursuant to paragraph (4).

"(B) REASONABLE FEES.—The State agency may pay a reasonable fee to a financial institution for conducting the

data match provided for in subparagraph (A)(i), not to exceed the actual costs incurred by such financial institution.

"(C) LIABILITY.—A financial institution shall not be liable under any Federal or State law to any person—

"(i) for any disclosure of information to the State agency under subparagraph (A)(i);

"(ii) for encumbering or surrendering any assets held by such financial institution in response to a notice of lien or levy issued by the State agency as provided for in subparagraph (A)(ii); or

"(iii) for any other action taken in good faith to comply with the requirements of subparagraph (A).

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) FINANCIAL INSTITUTION.—The term 'financial institution' has the meaning given to such term by section 469A(d)(1).

"(ii) ACCOUNT.—The term 'account' means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.".

SEC. 2373. ENFORCEMENT OF ORDERS AGAINST PATERNAL OR MATERNAL GRANDPARENTS IN CASES OF MINOR PARENTS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 2315, 2317(a), 2323, 2365, 2369, and 2372 of this Act, is amended by inserting after paragraph (17) the following new paragraph:

"(18) ENFORCEMENT OF ORDERS AGAINST PATERNAL OR MATERNAL GRANDPARENTS.—Procedures under which, at the State's option, any child support order enforced under this part with respect to a child of minor parents, if the custodial parent of such child is receiving assistance under the State program under part A, shall be enforceable, jointly and severally, against the parents of the noncustodial parent of such child.".

SEC. 2374. NONDISCHARGEABILITY IN BANKRUPTCY OF CERTAIN DEBTS FOR THE SUPPORT OF A CHILD.

(a) AMENDMENT TO TITLE 11 OF THE UNITED STATES CODE.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting "; or";

(3) by adding at the end the following:

"(18) owed under State law to a State or municipality that is—

"(A) in the nature of support, and

"(B) enforceable under part D of title IV of the Social Security Act (42 U.S.C. 601 et seq.).", and

(3) in paragraph (5), by striking "section 402(a)(26)" and inserting "section 408(a)(4)".

(b) AMENDMENT TO THE SOCIAL SECURITY ACT.—Section 456(b) (42 U.S.C. 656(b)) is amended to read as follows:

"(b) NONDISCHARGEABILITY.—A debt (as defined in section 101 of title 11 of the United States Code) owed under State law to a State (as defined in such section) or municipality (as defined in such section) that is in the nature of support and that is enforceable under

this part is not released by a discharge in bankruptcy under title 11 of the United States Code.".

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply only with respect to cases commenced under title 11 of the United States Code after the date of the enactment of this Act.

Subchapter H—Medical Support

SEC. 2376. CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER.

(a) IN GENERAL.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended—

(1) by striking "issued by a court of competent jurisdiction";

(2) by striking the period at the end of clause (ii) and inserting a comma; and

(3) by adding, after and below clause (ii), the following:

"if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued through an administrative process established under State law and has the force and effect of law under applicable State law.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1997.—Any amendment to a plan required to be made by an amendment made by this section shall not be required to be made before the 1st plan year beginning on or after January 1, 1997, if—

(A) during the period after the date before the date of the enactment of this Act and before such 1st plan year, the plan is operated in accordance with the requirements of the amendments made by this section; and

(B) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such 1st plan year.

A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.

SEC. 2377. ENFORCEMENT OF ORDERS FOR HEALTH CARE COVERAGE.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 2315, 2317(a), 2323, 2365, 2369, 2372, and 2373 of this Act, is amended by inserting after paragraph (18) the following new paragraph:

"(19) HEALTH CARE COVERAGE.—Procedures under which all child support orders enforced pursuant to this part shall include a provision for the health care coverage of the child, and in the case in which a noncustodial parent provides such coverage and changes employment, and the new employer provides health care coverage, the State agency shall transfer notice of the provision to the employer, which notice shall operate to enroll the child in the noncustodial parent's health plan, unless the noncustodial parent contests the notice.".

Subchapter I—Enhancing Responsibility and Opportunity for Non-Residential Parents

SEC. 2381. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

Part D of title IV (42 U.S.C. 651–669), as amended by section 2353 of this Act, is amended by adding at the end the following new section:

"SEC. 469B. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

"(a) IN GENERAL.—The Administration for Children and Families shall make grants under this section to enable States to establish and administer programs to support and facilitate noncustodial parents' access to and visitation of their children, by means of activities including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision and neutral drop-off and pickup), and development of guidelines for visitation and alternative custody arrangements.

"(b) AMOUNT OF GRANT.—The amount of the grant to be made to a State under this section for a fiscal year (beginning with fiscal year 1998) shall be an amount equal to the lesser of—

"(1) 90 percent of State expenditures during the fiscal year for activities described in subsection (a); or

"(2) the allotment of the State under subsection (c) for the fiscal year.

"(c) ALLOTMENTS TO STATES.—

"(1) IN GENERAL.—The allotment of a State for a fiscal year is the amount that bears the same ratio to $10,000,000 for grants under this section for the fiscal year as the number of children in the State living with only 1 biological parent bears to the total number of such children in all States.

"(2) MINIMUM ALLOTMENT.—The Administration for Children and Families shall adjust allotments to States under paragraph (1) as necessary to ensure that no State is allotted less than—

"(A) $50,000 for fiscal year 1998 or 1999 or

"(B) $100,000 for any succeeding fiscal year.

"(d) NO SUPPLANTATION OF STATE EXPENDITURES FOR SIMILAR ACTIVITIES.—A State to which a grant is made under this section may not use the grant to supplant expenditures by the State for activities specified in subsection (a), but shall use the grant to supplement such expenditures at a level at least equal to the level of such expenditures for fiscal year 1995.

"(e) STATE ADMINISTRATION.—Each State to which a grant is made under this section—

"(1) may administer State programs funded with the grant, directly or through grants to or contracts with courts, local public agencies, or nonprofit private entities;

"(2) shall not be required to operate such programs on a statewide basis; and

"(3) shall monitor, evaluate, and report on such programs in accordance with regulations prescribed by the Secretary.".

Subchapter J—Effective Dates and Conforming Amendments

SEC. 2391. EFFECTIVE DATES AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—Except as otherwise specifically provided (but subject to subsections (b) and (c))—

(1) the provisions of this chapter requiring the enactment or amendment of State laws under section 466 of the Social Security Act, or revision of State plans under section 454 of such Act, shall be effective with respect to periods beginning on and after October 1, 1996; and

(2) all other provisions of this chapter shall become effective upon the date of the enactment of this Act.

(b) GRACE PERIOD FOR STATE LAW CHANGES.—The provisions of this chapter shall become effective with respect to a State on the later of—

(1) the date specified in this chapter, or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions,

but in no event later than the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) GRACE PERIOD FOR STATE CONSTITUTIONAL AMENDMENT.—A State shall not be found out of compliance with any requirement enacted by this chapter if the State is unable to so comply without amending the State constitution until the earlier of—

(1) 1 year after the effective date of the necessary State constitutional amendment; or

(2) 5 years after the date of the enactment of this Act.

(d) CONFORMING AMENDMENTS.—

(1) The following provisions are amended by striking "absent" each place it appears and inserting "noncustodial":

(A) Section 451 (42 U.S.C. 651).

(B) Subsections (a)(1), (a)(8), (a)(10)(E), (a)(10)(F), (f), and (h) of section 452 (42 U.S.C. 652).

(C) Section 453(f) (42 U.S.C. 653(f)).

(D) Paragraphs (8), (13), and (21)(A) of section 454 (42 U.S.C. 654).

(E) Section 455(e)(1) (42 U.S.C. 655(e)(1)).

(F) Section 458(a) (42 U.S.C. 658(a)).

(G) Subsections (a), (b), and (c) of section 463 (42 U.S.C. 663).

(H) Subsections (a)(3)(A), (a)(3)(C), (a)(6), and (a)(8)(B)(ii), the last sentence of subsection (a), and subsections (b)(1), (b)(3)(B), (b)(3)(B)(i), (b)(6)(A)(i), (b)(8), (b)(9), and (e) of section 466 (42 U.S.C. 666).

(2) The following provisions are amended by striking "an absent" each place it appears and inserting "a noncustodial":

(A) Paragraphs (2) and (3) of section 453(c) (42 U.S.C. 653(c)).

(B) Subparagraphs (B) and (C) of section 454(9) (42 U.S.C. 654(9)).

(C) Section 456(a)(3) (42 U.S.C. 656(a)(3)).

(D) Subsections (a)(3)(A), (a)(6), (a)(8)(B)(i), (b)(3)(A), and (b)(3)(B) of section 466 (42 U.S.C. 666).

(E) Paragraphs (2) and (4) of section 469(b) (42 U.S.C. 669(b)).

CHAPTER 4—RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

SEC. 2400. STATEMENTS OF NATIONAL POLICY CONCERNING WELFARE AND IMMIGRATION.

The Congress makes the following statements concerning national policy with respect to welfare and immigration:

(1) Self-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration statutes.

(2) It continues to be the immigration policy of the United States that—

(A) aliens within the Nation's borders not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations, and

(B) the availability of public benefits not constitute an incentive for immigration to the United States.

(3) Despite the principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State, and local governments at increasing rates.

(4) Current eligibility rules for public assistance and unenforceable financial support agreements have proved wholly incapable of assuring that individual aliens not burden the public benefits system.

(5) It is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens be self-reliant in accordance with national immigration policy.

(6) It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.

(7) With respect to the State authority to make determinations concerning the eligibility of qualified aliens for public benefits in this chapter, a State that chooses to follow the Federal classification in determining the eligibility of such aliens for public assistance shall be considered to have chosen the least restrictive means available for achieving the compelling governmental interest of assuring that aliens be self-reliant in accordance with national immigration policy.

Subchapter A—Eligibility for Federal Benefits

SEC. 2401. ALIENS WHO ARE NOT QUALIFIED ALIENS INELIGIBLE FOR FEDERAL PUBLIC BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), an alien who is not a

qualified alien (as defined in section 2431) is not eligible for any Federal public benefit (as defined in subsection (c)).

(b) EXCEPTIONS.—

(1) Subsection (a) shall not apply with respect to the following Federal public benefits:

(A) Emergency medical services under title XV or XIX of the Social Security Act.

(B) Short-term, non-cash, in-kind emergency disaster relief.

(C)(i) Public health assistance for immunizations.

(ii) Public health assistance for testing and treatment of a communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(D) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.

(E) Programs for housing or community development assistance or financial assistance administered by the Secretary of Housing and Urban Development, any program under title V of the Housing Act of 1949, or any assistance under section 306C of the Consolidated Farm and Rural Development Act, to the extent that the alien is receiving such a benefit on the date of the enactment of this Act.

(2) Subsection (a) shall not apply to any benefit payable under title II of the Social Security Act to an alien who is lawfully present in the United States as determined by the Attorney General, to any benefit if nonpayment of such benefit would contravene an international agreement described in section 233 of the Social Security Act, to any benefit if nonpayment would be contrary to section 202(t) of the Social Security Act, or to any benefit payable under title II of the Social Security Act to which entitlement is based on an application filed in or before the month in which this Act becomes law.

(c) FEDERAL PUBLIC BENEFIT DEFINED.—

(1) Except as provided in paragraph (2), for purposes of this chapter the term "Federal public benefit" means—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

(B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of

the United States or by appropriated funds of the United States.

(2) Such term shall not apply—

(A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States; or

(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Attorney General, after consultation with the Secretary of State.

SEC. 2402. LIMITED ELIGIBILITY OF QUALIFIED ALIENS FOR CERTAIN FEDERAL PROGRAMS.

(a) LIMITED ELIGIBILITY FOR SPECIFIED FEDERAL PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in paragraph (2), an alien who is a qualified alien (as defined in section 2431) is not eligible for any specified Federal program (as defined in paragraph (3)).

(2) EXCEPTIONS.—

(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—Paragraph (1) shall not apply to an alien until 5 years after the date—

(i) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

(ii) an alien is granted asylum under section 208 of such Act; or

(iii) an alien's deportation is withheld under section 243(h) of such Act.

(B) CERTAIN PERMANENT RESIDENT ALIENS.—Paragraph (1) shall not apply to an alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(ii)(I) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 435, and (II) did not receive any Federal means-tested public benefit (as defined in section 2403(c)) during any such quarter.

(C) VETERAN AND ACTIVE DUTY EXCEPTION.—Paragraph (1) shall not apply to an alien who is lawfully residing in any State and is—

(i) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii).

(D) TRANSITION FOR ALIENS CURRENTLY RECEIVING BENEFITS.—

(i) SSI.—

(I) IN GENERAL.—With respect to the specified Federal program described in paragraph (3)(A), during the period beginning on the date of the enactment of this Act and ending on the date which is 1 year after such date of enactment, the Commissioner of Social Security shall redetermine the eligibility of any individual who is receiving benefits under such program as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the provisions of this subsection.

(II) REDETERMINATION CRITERIA.— With respect to any redetermination under subclause (I), the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under such program.

(III) GRANDFATHER PROVISION.—The provisions of this subsection and the redetermination under subclause (I), shall only apply with respect to the benefits of an individual described in subclause (I) for months beginning on or after the date of the redetermination with respect to such individual.

(IV) NOTICE.—Not later than January 1, 1997, the Commissioner of Social Security shall notify an individual described in subclause (I) of the provisions of this clause.

(ii) FOOD STAMPS.—

(I) IN GENERAL.—With respect to the specified Federal program described in paragraph (3)(B), during the period beginning on the date of enactment of this Act and ending on the date which is 1 year after the date of enactment, the State agency shall, at the time of the recertification, recertify the eligibility of any individual who is receiving benefits under such program as of the date of enactment of this Act and whose eligibility for such benefits may terminate by reason of the provisions of this subsection.

(II) RECERTIFICATION CRITERIA.—With respect to any recertification under subclause (I), the State agency shall apply the eligibility criteria for applicants for benefits under such program.

(III) GRANDFATHER PROVISION.—The provisions of this subsection and the recertification under subclause (I) shall only apply with respect to the eligibility of an alien for a program for months beginning on or after the date of recertification, if on the date of enactment of this Act the alien is lawfully residing in any State and is receiving benefits under such program on such date of enactment.

(3) SPECIFIED FEDERAL PROGRAM DEFINED.—For purposes of this chapter, the term "specified Federal program" means any of the following:

(A) SSI.—The supplemental security income program under title XVI of the Social Security Act, including supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.

(B) FOOD STAMPS.—The food stamp program as defined in section 3(h) of the Food Stamp Act of 1977.

(b) LIMITED ELIGIBILITY FOR DESIGNATED FEDERAL PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in section 2403 and paragraph (2), a State is authorized to determine the eligibility of an alien who is a qualified alien (as defined in section 2431) for any designated Federal program (as defined in paragraph (3)).

(2) EXCEPTIONS.—Qualified aliens under this paragraph shall be eligible for any designated Federal program.

(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

(i) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until 5 years after the date of an alien's entry into the United States.

(ii) An alien who is granted asylum under section 208 of such Act until 5 years after the date of such grant of asylum.

(iii) An alien whose deportation is being withheld under section 243(h) of such Act until 5 years after such withholding.

(B) CERTAIN PERMANENT RESIDENT ALIENS.—An alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(ii)(I) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 2435, and (II) did not receive any Federal means-tested public benefit (as defined in section 2403(c)) during any such quarter.

(C) VETERAN AND ACTIVE DUTY EXCEPTION.—An alien who is lawfully residing in any State and is—

(i) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii).

(D) TRANSITION FOR THOSE CURRENTLY RECEIVING BENEFITS.—An alien who on the date of the enactment of this Act is lawfully residing in any State and is receiving bene-

fits under such program on the date of the enactment of this Act shall continue to be eligible to receive such benefits until January 1, 1997.

(3) DESIGNATED FEDERAL PROGRAM DEFINED.—For purposes of this chapter, the term "designated Federal program" means any of the following:

(A) TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.—The program of block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act.

(B) SOCIAL SERVICES BLOCK GRANT.—The program of block grants to States for social services under title XX of the Social Security Act.

(C) MEDICAID.—The program of medical assistance under title XV and XIX of the Social Security Act.

SEC. 2403. FIVE-YEAR LIMITED ELIGIBILITY OF QUALIFIED ALIENS FOR FEDERAL MEANS-TESTED PUBLIC BENEFIT.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), an alien who is a qualified alien (as defined in section 2431) and who enters the United States on or after the date of the enactment of this Act is not eligible for any Federal means-tested public benefit (as defined in subsection (c)) for a period of five years beginning on the date of the alien's entry into the United States with a status within the meaning of the term "qualified alien".

(b) EXCEPTIONS.—The limitation under subsection (a) shall not apply to the following aliens:

(1) EXCEPTION FOR REFUGEES AND ASYLEES.—

(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act.

(B) An alien who is granted asylum under section 208 of such Act.

(C) An alien whose deportation is being withheld under section 243(h) of such Act.

(2) VETERAN AND ACTIVE DUTY EXCEPTION.—An alien who is lawfully residing in any State and is—

(A) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(B) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B).

(c) FEDERAL MEANS-TESTED PUBLIC BENEFIT DEFINED.—

(1) Except as provided in paragraph (2), for purposes of this chapter, the term "Federal means-tested public benefit" means a public benefit (including cash, medical, housing, and food assistance and social services) of the Federal Government in which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(2) Such term does not include the following:

(A) Emergency medical services under title XV or XIX of the Social Security Act.

(B) Short-term, non-cash, in-kind emergency disaster relief.

(C) Assistance or benefits under the National School Lunch Act.

(D) Assistance or benefits under the Child Nutrition Act of 1966.

(E)(i) Public health assistance for immunizations.

(ii) Public health assistance for testing and treatment of a communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(F) Payments for foster care and adoption assistance under part E of title IV of the Social Security Act for a child who would, in the absence of subsection (a), be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent or parents of such child are not described under subsection (a).

(G) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.

(H) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965.

(I) Means-tested programs under the Elementary and Secondary Education Act of 1965.

SEC. 2404. NOTIFICATION AND INFORMATION REPORTING.

(a) NOTIFICATION.—Each Federal agency that administers a program to which section 2401, 2402, or 2403 applies shall, directly or through the States, post information and provide general notification to the public and to program recipients of the changes regarding eligibility for any such program pursuant to this subchapter.

(b) INFORMATION REPORTING UNDER TITLE IV OF THE SOCIAL SECURITY ACT.—Part A of title IV of the Social Security Act, as amended by section 2103(a) of this Act, is amended by inserting the following new section after section 411:

"SEC. 411A. STATE REQUIRED TO PROVIDE CERTAIN INFORMATION.

"Each State to which a grant is made under section 403 shall, at least 4 times annually and upon request of the Immigration and Naturalization Service, furnish the Immigration and Naturalization Service with the name and address of, and other identifying information on, any individual who the State knows is unlawfully in the United States.".

(c) SSI.—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended—

(1) by redesignating the paragraphs (6) and (7) inserted by sections 206(d)(2) and 206(f)(1) of the Social Security Independence and Programs Improvement Act of 1994 (Public Law 103–296; 108 Stat. 1514, 1515) as paragraphs (7) and (8), respectively; and

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

"(9) Notwithstanding any other provision of law, the Commissioner shall, at least 4 times annually and upon request of the Immigration and Naturalization Service (hereafter in this paragraph referred to as the 'Service'), furnish the Service with the name and address of, and other identifying information on, any individual who the Commissioner knows is unlawfully in the United States, and shall ensure that each agreement entered into under section 1616(a) with a State provides that the State shall furnish such information at such times with respect to any individual who the State knows is unlawfully in the United States.".

(d) INFORMATION REPORTING FOR HOUSING PROGRAMS.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 27. PROVISION OF INFORMATION TO LAW ENFORCEMENT AND OTHER AGENCIES.

"Notwithstanding any other provision of law, the Secretary shall, at least 4 times annually and upon request of the Immigration and Naturalization Service (hereafter in this section referred to as the 'Service'), furnish the Service with the name and address of, and other identifying information on, any individual who the Secretary knows is unlawfully in the United States, and shall ensure that each contract for assistance entered into under section 6 or 8 of this Act with a public housing agency provides that the public housing agency shall furnish such information at such times with respect to any individual who the public housing agency knows is unlawfully in the United States.".

Subchapter B—Eligibility for State and Local Public Benefits Programs

SEC. 2411. ALIENS WHO ARE NOT QUALIFIED ALIENS OR NONIMMIGRANTS INELIGIBLE FOR STATE AND LOCAL PUBLIC BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsections (b) and (d), an alien who is not—

(1) a qualified alien (as defined in section 2431),

(2) a nonimmigrant under the Immigration and Nationality Act, or

(3) an alien who is pāroled into the United States under section 212(d)(5) of such Act for less than one year,

is not eligible for any State or local public benefit (as defined in subsection (c)).

(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following State or local public benefits:

(1) Emergency medical services under title XV or XIX of the Social Security Act.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3)(A) Public health assistance for immunizations.

(B) Public health assistance for testing and treatment of a communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(4) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

(c) STATE OR LOCAL PUBLIC BENEFIT DEFINED.—

(1) Except as provided in paragraph (2), for purposes of this subchapter the term "State or local public benefit" means—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and

(B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.

(2) Such term shall not apply—

(A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States; or

(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Secretary of State, after consultation with the Attorney General.

(d) STATE AUTHORITY TO PROVIDE FOR ELIGIBILITY OF ILLEGAL ALIENS FOR STATE AND LOCAL PUBLIC BENEFITS.—A State may provide that an alien who is not lawfully present in the United States is eligible for any State or local public benefit for which such alien would otherwise be ineligible under subsection (a) only through the enactment of a State law after the date of the enactment of this Act which affirmatively provides for such eligibility.

SEC. 2412. STATE AUTHORITY TO LIMIT ELIGIBILITY OF QUALIFIED ALIENS FOR STATE PUBLIC BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), a State is authorized to determine the eligibility for any State public benefits (as defined in

subsection (c) of an alien who is a qualified alien (as defined in section 2431), a nonimmigrant under the Immigration and Nationality Act, or an alien who is paroled into the United States under section 212(d)(5) of such Act for less than one year.

(b) EXCEPTIONS.—Qualified aliens under this subsection shall be eligible for any State public benefits.

(1) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until 5 years after the date of an alien's entry into the United States.

(B) An alien who is granted asylum under section 208 of such Act until 5 years after the date of such grant of asylum.

(C) An alien whose deportation is being withheld under section 243(h) of such Act until 5 years after such withholding.

(2) CERTAIN PERMANENT RESIDENT ALIENS.—An alien who—

(A) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(B)(i) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 2435, and (ii) did not receive any Federal means-tested public benefit (as defined in section 2403(c)) during any such quarter.

(3) VETERAN AND ACTIVE DUTY EXCEPTION.—An alien who is lawfully residing in any State and is—

(A) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(B) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B).

(4) TRANSITION FOR THOSE CURRENTLY RECEIVING BENEFITS.—An alien who on the date of the enactment of this Act is lawfully residing in any State and is receiving benefits on the date of the enactment of this Act shall continue to be eligible to receive such benefits until January 1, 1997.

(c) STATE PUBLIC BENEFITS DEFINED.—The term "State public benefits" means any means-tested public benefit of a State or political subdivision of a State under which the State or political subdivision specifies the standards for eligibility, and does not include any Federal public benefit.

Subchapter C—Attribution of Income and Affidavits of Support

SEC. 2421. FEDERAL ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN.

(a) IN GENERAL.—Notwithstanding any other provision of law, in determining the eligibility and the amount of benefits of an alien for any Federal means-tested public benefits program (as defined

in section 2403(c)), the income and resources of the alien shall be deemed to include the following:

(1) The income and resources of any person who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as added by section 2423) on behalf of such alien.

(2) The income and resources of the spouse (if any) of the person.

(b) APPLICATION.—Subsection (a) shall apply with respect to an alien until such time as the alien—

(1) achieves United States citizenship through naturalization pursuant to chapter 2 of title III of the Immigration and Nationality Act; or

(2)(A) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 2435, and (B) did not receive any Federal means-tested public benefit (as defined in section 2403(c)) during any such quarter.

(c) REVIEW OF INCOME AND RESOURCES OF ALIEN UPON REAPPLICATION.—Whenever an alien is required to reapply for benefits under any Federal means-tested public benefits program, the applicable agency shall review the income and resources attributed to the alien under subsection (a).

(d) APPLICATION.—

(1) If on the date of the enactment of this Act, a Federal means-tested public benefits program attributes a sponsor's income and resources to an alien in determining the alien's eligibility and the amount of benefits for an alien, this section shall apply to any such determination beginning on the day after the date of the enactment of this Act.

(2) If on the date of the enactment of this Act, a Federal means-tested public benefits program does not attribute a sponsor's income and resources to an alien in determining the alien's eligibility and the amount of benefits for an alien, this section shall apply to any such determination beginning 180 days after the date of the enactment of this Act.

SEC. 2422. AUTHORITY FOR STATES TO PROVIDE FOR ATTRIBUTION OF SPONSORS INCOME AND RESOURCES TO THE ALIEN WITH RESPECT TO STATE PROGRAMS.

(a) OPTIONAL APPLICATION TO STATE PROGRAMS.—Except as provided in subsection (b), in determining the eligibility and the amount of benefits of an alien for any State public benefits (as defined in section 2412(c)), the State or political subdivision that offers the benefits is authorized to provide that the income and resources of the alien shall be deemed to include—

(1) the income and resources of any individual who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as added by section 2423) on behalf of such alien, and

(2) the income and resources of the spouse (if any) of the individual.

(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following State public benefits:

(1) Emergency medical services.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3) Programs comparable to assistance or benefits under the National School Lunch Act.

(4) Programs comparable to assistance or benefits under the Child Nutrition Act of 1966.

(5)(A) Public health assistance for immunizations.

(B) Public health assistance for testing and treatment of a communicable disease if the appropriate chief State health official determines that it is necessary to prevent the spread of such disease.

(6) Payments for foster care and adoption assistance.

(7) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General of a State, after consultation with appropriate agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

SEC. 2423. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act is amended by inserting after section 213 the following new section:

"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"SEC. 213A. (a) ENFORCEABILITY.—(1) No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) unless such affidavit is executed as a contract—

"(A) which is legally enforceable against the sponsor by the sponsored alien, the Federal Government, and by any State (or any political subdivision of such State) which provides any means-tested public benefits program, but not later than 10 years after the alien last receives any such benefit;

"(B) in which the sponsor agrees to financially support the alien, so that the alien will not become a public charge; and

"(C) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (e)(2).

"(2) A contract under paragraph (1) shall be enforceable with respect to benefits provided to the alien until such time as the alien achieves United States citizenship through naturalization pursuant to chapter 2 of title III.

"(b) FORMS.—Not later than 90 days after the date of enactment of this section, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall formulate an affidavit of support consistent with the provisions of this section.

"(c) REMEDIES.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and pay-

ment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.

"(d) NOTIFICATION OF CHANGE OF ADDRESS.—

"(1) IN GENERAL.—The sponsor shall notify the Attorney General and the State in which the sponsored alien is currently resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(2).

"(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of—

"(A) not less than $250 or more than $2,000, or

"(B) if such failure occurs with knowledge that the alien has received any means-tested public benefit, not less than $2,000 or more than $5,000.

"(e) REIMBURSEMENT OF GOVERNMENT EXPENSES.—(1)(A) Upon notification that a sponsored alien has received any benefit under any means-tested public benefits program, the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such assistance.

"(B) The Attorney General, in consultation with the Secretary of Health and Human Services, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

"(2) If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought against the sponsor pursuant to the affidavit of support.

"(3) If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

"(4) No cause of action may be brought under this subsection later than 10 years after the alien last received any benefit under any means-tested public benefits program.

"(5) If, pursuant to the terms of this subsection, a Federal, State, or local agency requests reimbursement from the sponsor in the amount of assistance provided, or brings an action against the sponsor pursuant to the affidavit of support, the appropriate agency may appoint or hire an individual or other person to act on behalf of such agency acting under the authority of law for purposes of collecting any moneys owed. Nothing in this subsection shall preclude any appropriate Federal, State, or local agency from directly requesting reimbursement from a sponsor for the amount of assistance provided, or from bringing an action against a sponsor pursuant to an affidavit of support.

"(f) DEFINITIONS.—For the purposes of this section—

"(1) SPONSOR.—The term 'sponsor' means an individual who—

"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

"(B) is 18 years of age or over;

"(C) is domiciled in any of the 50 States or the District of Columbia; and

"(D) is the person petitioning for the admission of the alien under section 204.

"(2) MEANS-TESTED PUBLIC BENEFITS PROGRAM.—The term 'means-tested public benefits program' means a program of public benefits (including cash, medical, housing, and food assistance and social services) of the Federal Government or of a State or political subdivision of a State in which the eligibility of an individual, household, or family eligibility unit for benefits under the program, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 213 the following:

"Sec. 213A. Requirements for sponsor's affidavit of support.".

(c) EFFECTIVE DATE.—Subsection (a) of section 213A of the Immigration and Nationality Act, as inserted by subsection (a) of this section, shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under subsection (b) of such section.

(d) BENEFITS NOT SUBJECT TO REIMBURSEMENT.—Requirements for reimbursement by a sponsor for benefits provided to a sponsored alien pursuant to an affidavit of support under section 213A of the Immigration and Nationality Act shall not apply with respect to the following:

(1) Emergency medical services under title XV or XIX of the Social Security Act.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3) Assistance or benefits under the National School Lunch Act.

(4) Assistance or benefits under the Child Nutrition Act of 1966.

(5)(A) Public health assistance for immunizations.

(B) Public health assistance for testing and treatment of a communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(6) Payments for foster care and adoption assistance under part E of title IV of the Social Security Act for a child, but only if the foster or adoptive parent or parents of such child are not otherwise ineligible pursuant to section 2403 of this Act.

(7) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision

of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

(8) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965.

SEC. 2424. COSIGNATURE OF ALIEN STUDENT LOANS.

Section 484(b) of the Higher Education Act of 1965 (20 U.S.C. 1091(b)) is amended by adding at the end the following new paragraph:

"(6) Notwithstanding sections 427(a)(2)(A), 428B(a), 428C(b)(4)(A), and 464(c)(1)(E), or any other provision of this title, a student who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act shall not be eligible for a loan under this title unless the loan is endorsed and cosigned by the alien's sponsor under section 213A of the Immigration and Nationality Act or by another creditworthy individual who is a United States citizen.".

Subchapter D—General Provisions

SEC. 2431. DEFINITIONS.

(a) IN GENERAL.—Except as otherwise provided in this chapter, the terms used in this chapter have the same meaning given such terms in section 101(a) of the Immigration and Nationality Act.

(b) QUALIFIED ALIEN.—For purposes of this chapter, the term "qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is—

(1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act,

(2) an alien who is granted asylum under section 208 of such Act,

(3) a refugee who is admitted to the United States under section 207 of such Act,

(4) an alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year,

(5) an alien whose deportation is being withheld under section 243(h) of such Act, or

(6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980.

SEC. 2432. VERIFICATION OF ELIGIBILITY FOR FEDERAL PUBLIC BENEFITS.

(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Attorney General of the United States, after consultation with the Secretary of Health and Human Services, shall promulgate regulations requiring verification that a person applying for a Federal public benefit (as defined in section 2401(c)), to which the limitation under section 2401 applies, is a qualified alien and is eligible to receive such benefit. Such regulations shall, to the extent feasible, require that information requested and exchanged be similar in form and manner to information requested and exchanged under section 1137 of the Social Security Act.

(b) STATE COMPLIANCE.—Not later than 24 months after the date the regulations described in subsection (a) are adopted, a State that administers a program that provides a Federal public benefit shall have in effect a verification system that complies with the regulations.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this section.

SEC. 2433. STATUTORY CONSTRUCTION.

(a) LIMITATION.—

(1) Nothing in this chapter may be construed as an entitlement or a determination of an individual's eligibility or fulfillment of the requisite requirements for any Federal, State, or local governmental program, assistance, or benefits. For purposes of this chapter, eligibility relates only to the general issue of eligibility or ineligibility on the basis of alienage.

(2) Nothing in this chapter may be construed as addressing alien eligibility for a basic public education as determined by the Supreme Court of the United States under Plyler v. Doe (457 U.S. 202) (1982).

(b) NOT APPLICABLE TO FOREIGN ASSISTANCE.—This chapter does not apply to any Federal, State, or local governmental program, assistance, or benefits provided to an alien under any program of foreign assistance as determined by the Secretary of State in consultation with the Attorney General.

(c) SEVERABILITY.—If any provision of this chapter or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this chapter and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 2434. COMMUNICATION BETWEEN STATE AND LOCAL GOVERNMENT AGENCIES AND THE IMMIGRATION AND NATURALIZATION SERVICE.

Notwithstanding any other provision of Federal, State, or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States.

SEC. 2435. QUALIFYING QUARTERS.

For purposes of this chapter, in determining the number of qualifying quarters of coverage under title II of the Social Security Act an alien shall be credited with—

(1) all of the qualifying quarters of coverage as defined under title II of the Social Security Act worked by a parent of such alien while the alien was under age 18 if the parent did not receive any Federal means-tested public benefit (as defined in section 2403(c)) during any such quarter, and

(2) all of the qualifying quarters worked by a spouse of such alien during their marriage if the spouse did not receive any Federal means-tested public benefit (as defined in section 2403(c)) during any such quarter and the alien remains married to such spouse or such spouse is deceased.

Subchapter E—Conforming Amendments Relating to Assisted Housing

SEC. 2441. CONFORMING AMENDMENTS RELATING TO ASSISTED HOUSING.

(a) LIMITATIONS ON ASSISTANCE.—Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) is amended—

(1) by striking "Secretary of Housing and Urban Development" each place it appears and inserting "applicable Secretary";

(2) in subsection (b), by inserting after "National Housing Act," the following: "the direct loan program under section 502 of the Housing Act of 1949 or section 502(c)(5)(D), 504, 521(a)(2)(A), or 542 of such Act, subtitle A of title III of the Cranston-Gonzalez National Affordable Housing Act,";

(3) in paragraphs (2) through (6) of subsection (d), by striking "Secretary" each place it appears and inserting "applicable Secretary";

(4) in subsection (d), in the matter following paragraph (6), by striking "the term 'Secretary'" and inserting "the term 'applicable Secretary'"; and

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

"(h) For purposes of this section, the term 'applicable Secretary' means—

"(1) the Secretary of Housing and Urban Development, with respect to financial assistance administered by such Secretary and financial assistance under subtitle A of title III of the Cranston-Gonzalez National Affordable Housing Act; and

"(2) the Secretary of Agriculture, with respect to financial assistance administered by such Secretary.".

(b) CONFORMING AMENDMENTS.—Section 501(h) of the Housing Act of 1949 (42 U.S.C. 1471(h)) is amended—

(1) by striking "(1)";

(2) by striking "by the Secretary of Housing and Urban Development"; and

(3) by striking paragraph (2).

Subchapter F—Earned Income Credit Denied to Unauthorized Employees

SEC. 2451. EARNED INCOME CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) of the Internal Revenue Code of 1986 (relating to individuals eligible to claim the earned income credit) is amended by adding at the end the following new subparagraph:

"(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

"(i) such individual's taxpayer identification number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse.".

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 of such Code is amended by adding at the end the following new subsection:

"(l) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act).".

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) of such Code (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting after subparagraph (E) the following new subparagraphs:

"(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income tax credit) to be included on a return, and

"(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

CHAPTER 5—REDUCTIONS IN FEDERAL GOVERNMENT POSITIONS

SEC. 2501. REDUCTIONS.

(a) DEFINITIONS.—As used in this section:

(1) APPROPRIATE EFFECTIVE DATE.—The term "appropriate effective date", used with respect to a Department referred to in this section, means the date on which all provisions of this Act (other than chapter 2 of this subtitle) that the Department is required to carry out, and amendments and repeals made by such Act to provisions of Federal law that the Department is required to carry out, are effective.

(2) COVERED ACTIVITY.—The term "covered activity", used with respect to a Department referred to in this section, means an activity that the Department is required to carry out under—

(A) a provision of this Act (other than chapter 2 of this subtitle); or

(B) a provision of Federal law that is amended or repealed by this Act (other than chapter 2 of this subtitle).

(b) REPORTS.—

(1) CONTENTS.—Not later than December 31, 1996, each Secretary referred to in paragraph (2) shall prepare and submit to the relevant committees described in paragraph (3) a report containing—

(A) the determinations described in subsection (c);

(B) appropriate documentation in support of such determinations; and

(C) a description of the methodology used in making such determinations.

(2) SECRETARY.—The Secretaries referred to in this paragraph are—

(A) the Secretary of Agriculture;

(B) the Secretary of Education;

(C) the Secretary of Labor;

(D) the Secretary of Housing and Urban Development; and

(E) the Secretary of Health and Human Services.

(3) RELEVANT COMMITTEES.—The relevant Committees described in this paragraph are the following:

(A) With respect to each Secretary described in paragraph (2), the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(B) With respect to the Secretary of Agriculture, the Committee on Agriculture and the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(C) With respect to the Secretary of Education, the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(D) With respect to the Secretary of Labor, the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(E) With respect to the Secretary of Housing and Urban Development, the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(F) With respect to the Secretary of Health and Human Services, the Committee on Economic and Educational Opportunities of the House of Representatives, the Committee on Labor and Human Resources of the Senate, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate.

(4) REPORT ON CHANGES.—Not later than December 31, 1997, and each December 31 thereafter, each Secretary referred to in paragraph (2) shall prepare and submit to the relevant Committees described in paragraph (3), a report concerning any changes with respect to the determinations made under subsection (c) for the year in which the report is being submitted.

(c) DETERMINATIONS.—Not later than December 31, 1996, each Secretary referred to in subsection (b)(2) shall determine—

(1) the number of full-time equivalent positions required by the Department headed by such Secretary to carry out the covered activities of the Department, as of the day before the date of enactment of this Act;

(2) the number of such positions required by the Department to carry out the activities, as of the appropriate effective date for the Department; and

(3) the difference obtained by subtracting the number referred to in paragraph (2) from the number referred to in paragraph (1).

(d) ACTIONS.—Each Secretary referred to in subsection (b)(2) shall take such actions as may be necessary, including reduction in force actions, consistent with sections 3502 and 3595 of title 5, United States Code, to reduce the number of positions of personnel of the Department—

(1) not later than 30 days after the appropriate effective date for the Department involved, by at least 50 percent of the difference referred to in subsection (c)(3); and

(2) not later than 13 months after such appropriate effective date, by at least the remainder of such difference (after the application of paragraph (1)).

(e) CONSISTENCY.—

(1) EDUCATION.—The Secretary of Education shall carry out this section in a manner that enables the Secretary to meet the requirements of this section.

(2) LABOR.—The Secretary of Labor shall carry out this section in a manner that enables the Secretary to meet the requirements of this section.

(3) HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services shall carry out this section in a manner that enables the Secretary to meet the requirements of this section and sections 502 and 503.

(f) CALCULATION.—In determining, under subsection (c), the number of full-time equivalent positions required by a Department to carry out a covered activity, a Secretary referred to in subsection (b)(2) shall include the number of such positions occupied by personnel carrying out program functions or other functions (including budgetary, legislative, administrative, planning, evaluation, and legal functions) related to the activity.

(g) GENERAL ACCOUNTING OFFICE REPORT.—Not later than July 1, 1997, the Comptroller General of the United States shall prepare and submit to the committees described in subsection (b)(3), a report concerning the determinations made by each Secretary under subsection (c). Such report shall contain an analysis of the determinations made by each Secretary under subsection (c) and a determination as to whether further reductions in full-time equivalent positions are appropriate.

SEC. 2502. REDUCTIONS IN FEDERAL BUREAUCRACY.

(a) IN GENERAL.—The Secretary of Health and Human Services shall reduce the Federal workforce within the Department of Health and Human Services by an amount equal to the sum of—

(1) 75 percent of the full-time equivalent positions at such Department that relate to any direct spending program, or any program funded through discretionary spending, that has been converted into a block grant program under this Act and the amendments made by this Act; and

(2) an amount equal to 75 percent of that portion of the total full-time equivalent departmental management positions at such Department that bears the same relationship to the amount appropriated for the programs referred to in paragraph

(1) as such amount relates to the total amount appropriated for use by such Department.

(b) REDUCTIONS IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Notwithstanding any other provision of this Act, the Secretary of Health and Human Services shall take such actions as may be necessary, including reductions in force actions, consistent with sections 3502 and 3595 of title 5, United States Code, to reduce the full-time equivalent positions within the Department of Health and Human Services—

(1) by 245 full-time equivalent positions related to the program converted into a block grant under the amendment made by section 103; and

(2) by 60 full-time equivalent managerial positions in the Department.

SEC. 2503. REDUCING PERSONNEL IN WASHINGTON, D.C. AREA.

In making reductions in full-time equivalent positions, the Secretary of Health and Human Services is encouraged to reduce personnel in the Washington, D.C., area office (agency headquarters) before reducing field personnel.

SEC. 2504. DOWNWARD ADJUSTMENT OF DISCRETIONARY SPENDING LIMITS.

The discretionary spending limits (new budget authority and outlays) for fiscal years 1997 and 1998 set forth in section 601(a)(2) of the Congressional Budget Act of 1974, as adjusted in strict conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, shall be reduced, as calculated by the Director of the Office of Management and Budget, in amounts equal to the aggregate amounts of savings resulting from the reductions imposed as a result of this chapter in each of fiscal years 1997 and 1998.

CHAPTER 6—REFORM OF PUBLIC HOUSING

SEC. 2601. FAILURE TO COMPLY WITH OTHER WELFARE AND PUBLIC ASSISTANCE PROGRAMS.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), as amended by section 2404(d) of this Act, is amended by adding at the end the following new section:

"SEC. 28. FAILURE TO COMPLY WITH OTHER WELFARE AND PUBLIC ASSISTANCE PROGRAMS.

"(a) IN GENERAL.—If the benefits of a family are reduced under a Federal, State, or local law relating to welfare or a public assistance program for the failure of any member of the family to perform an action required under the law or program, the family may not, for the duration of the reduction, receive any increased assistance under this Act as the result of a decrease in the income of the family to the extent that the decrease in income is the result of the benefits reduction.

"(b) EXCEPTION.—Subsection (a) shall not apply in any case in which the benefits of a family are reduced because the welfare or public assistance program to which the Federal, State, or local law relates limits the period during which benefits may be provided under the program.".

SEC. 2602. FRAUD UNDER MEANS-TESTED WELFARE AND PUBLIC ASSISTANCE PROGRAMS.

(a) IN GENERAL.—If an individual's benefits under a Federal, State, or local law relating to a means-tested welfare or a public assistance program are reduced because of an act of fraud by the individual under the law or program, the individual may not, for the duration of the reduction, receive an increased benefit under any other means-tested welfare or public assistance program for which Federal funds are appropriated as a result of a decrease in the income of the individual (determined under the applicable program) attributable to such reduction.

(b) WELFARE OR PUBLIC ASSISTANCE PROGRAMS FOR WHICH FEDERAL FUNDS ARE APPROPRIATED.—For purposes of subsection (a), the term "means-tested welfare or public assistance program for which Federal funds are appropriated" includes the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), any program of public or assisted housing under title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), and State programs funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

CHAPTER 7—TECHNICAL AMENDMENTS RELATING TO CHILD PROTECTION PROGRAMS

SEC. 2701. EXTENSION OF ENHANCED FUNDING FOR IMPLEMENTATION OF STATEWIDE AUTOMATED CHILD WELFARE INFORMATION SYSTEMS.

Section 474(a)(3)(B) of the Social Security Act (42 U.S.C. 674(a)(3)(B)) is amended by inserting "(of, if the quarter is in fiscal year 1997, 75 percent)" after "50 percent" each place it appears.

SEC. 2702. REDESIGNATION OF SECTION 1123.

The Social Security Act is amended by redesignating section 1123, the second place it appears (42 U.S.C. 1320a–1a), as section 1123A.

CHAPTER 8—CHILD CARE

SEC. 2801. SHORT TITLE AND REFERENCES.

(a) SHORT TITLE.—This chapter may be cited as the "Child Care and Development Block Grant Amendments of 1996".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this chapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

SEC. 2802. GOALS.

(a) GOALS.—Section 658A (42 U.S.C. 9801 note) is amended—

(1) in the section heading by inserting "AND GOALS" after "TITLE";

(2) by inserting "(a) SHORT TITLE.—" before "This"; and

(3) by adding at the end the following:

"(b) GOALS.—The goals of this subchapter are—

"(1) to allow each State maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within such State;

"(2) to promote parental choice to empower working parents to make their own decisions on the child care that best suits their family's needs;

"(3) to encourage States to provide consumer education information to help parents make informed choices about child care;

"(4) to assist States to provide child care to parents trying to achieve independence from public assistance; and

"(5) to assist States in implementing the health, safety, licensing, and registration standards established in State regulations.".

SEC. 2803. AUTHORIZATION OF APPROPRIATIONS AND ENTITLEMENT AUTHORITY.

(a) IN GENERAL.—Section 658B (42 U.S.C. 9858) is amended to read as follows:

"SEC. 658B. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this subchapter $1,000,000,000 for each of the fiscal years 1996 through 2002.".

(b) SOCIAL SECURITY ACT.—Part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by adding at the end the following:

"SEC. 418. FUNDING FOR CHILD CARE.

"(a) GENERAL CHILD CARE ENTITLEMENT.—

"(1) GENERAL ENTITLEMENT.—Subject to the amount appropriated under paragraph (3), each State shall, for the purpose of providing child care assistance, be entitled to payments under a grant under this subsection for a fiscal year in an amount equal to—

"(A) the sum of the total amount required to be paid to the State under former section 403 for fiscal year 1994 or 1995 (whichever is greater) with respect to amounts expended for child care under section—

"(i) 402(g) of this Act (as such section was in effect before October 1, 1995); and

"(ii) 402(i) of this Act (as so in effect); or

"(B) the average of the total amounts required to be paid to the State for fiscal years 1992 through 1994 under the sections referred to in subparagraph (A);

whichever is greater.

"(2) REMAINDER.—

"(A) GRANTS.—The Secretary shall use any amounts appropriated for a fiscal year under paragraph (3), and remaining after the reservation described in paragraph (4) and after grants are awarded under paragraph (1), to make grants to States under this paragraph.

"(B) AMOUNT.—Subject to subparagraph (C), the amount of a grant awarded to a State for a fiscal year under this paragraph shall be based on the formula used for determining the amount of Federal payments to the State

under section 403(n) (as such section was in effect before October 1, 1995).

"(C) MATCHING REQUIREMENT.—The Secretary shall pay to each eligible State in a fiscal year an amount, under a grant under subparagraph (A), equal to the Federal medical assistance percentage for such State for fiscal year 1995 (as defined in section 1905(b)) of so much of the expenditures by the State for child care in such year as exceed the State set-aside for such State under paragraph (1)(A) for such year and the amount of State expenditures in fiscal year 1994 (or fiscal year 1995, whichever is greater) that equal the non-Federal share for the programs described in subparagraph (A) of paragraph (1).

"(D) REDISTRIBUTION.—

"(i) IN GENERAL.—With respect to any fiscal year, if the Secretary determines (in accordance with clause (ii)) that amounts under any grant awarded to a State under this paragraph for such fiscal year will not be used by such State during such fiscal year for carrying out the purpose for which the grant is made, the Secretary shall make such amounts available in the subsequent fiscal year for carrying out such purpose to 1 or more States which apply for such funds to the extent the Secretary determines that such States will be able to use such additional amounts for carrying out such purpose. Such available amounts shall be redistributed to a State pursuant to section 402(i) (as such section was in effect before October 1, 1995) by substituting 'the number of children residing in all States applying for such funds' for 'the number of children residing in the United States in the second preceding fiscal year'.

"(ii) TIME OF DETERMINATION AND DISTRIBUTION.—The determination of the Secretary under clause (i) for a fiscal year shall be made not later than the end of the first quarter of the subsequent fiscal year. The redistribution of amounts under clause (i) shall be made as close as practicable to the date on which such determination is made. Any amount made available to a State from an appropriation for a fiscal year in accordance with this subparagraph shall, for purposes of this part, be regarded as part of such State's payment (as determined under this subsection) for the fiscal year in which the redistribution is made.

"(3) APPROPRIATION.—There are authorized to be appropriated, and there are appropriated, to carry out this section—

"(A) $1,967,000,000 for fiscal year 1997;

"(B) $2,067,000,000 for fiscal year 1998;

"(C) $2,167,000,000 for fiscal year 1999;

"(D) $2,367,000,000 for fiscal year 2000;

"(E) $2,567,000,000 for fiscal year 2001; and

"(F) $2,717,000,000 for fiscal year 2002.

"(4) INDIAN TRIBES.—The Secretary shall reserve not more than 1 percent of the aggregate amount appropriated to carry

out this section in each fiscal year for payments to Indian tribes and tribal organizations.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Amounts received by a State under this section shall only be used to provide child care assistance. Amounts received by a State under a grant under subsection (a)(1) shall be available for use by the State without fiscal year limitation.

"(2) USE FOR CERTAIN POPULATIONS.—A State shall ensure that not less than 70 percent of the total amount of funds received by the State in a fiscal year under this section are used to provide child care assistance to families who are receiving assistance under a State program under this part, families who are attempting through work activities to transition off of such assistance program, and families who are at risk of becoming dependent on such assistance program.

"(c) APPLICATION OF CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT of 1990.—Notwithstanding any other provision of law, amounts provided to a State under this section shall be transferred to the lead agency under the Child Care and Development Block Grant Act of 1990, integrated by the State into the programs established by the State under such Act, and be subject to requirements and limitations of such Act.

"(d) DEFINITION.—As used in this section, the term 'State' means each of the 50 States or the District of Columbia.".

SEC. 2804. LEAD AGENCY.

Section 658D(b) (42 U.S.C. 9858b(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "State" the first place that such appears and inserting "governmental or nongovernmental"; and

(B) in subparagraph (C), by inserting "with sufficient time and Statewide distribution of the notice of such hearing," after "hearing in the State"; and

(2) in paragraph (2), by striking the second sentence.

SEC. 2805. APPLICATION AND PLAN.

Section 658E (42 U.S.C. 9858c) is amended—

(1) in subsection (b)—

(A) by striking "implemented—" and all that follows through "(2)" and inserting "implemented"; and

(B) by striking "for subsequent State plans";

(2) in subsection (c)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) in clause (i) by striking ", other than through assistance provided under paragraph (3)(C),"; and

(II) by striking "except" and all that follows through "1992", and inserting "and provide a detailed description of the procedures the State will implement to carry out the requirements of this subparagraph";

(ii) in subparagraph (B)—

(I) by striking "Provide assurances" and inserting "Certify"; and

(II) by inserting before the period at the end "and provide a detailed description of such procedures";

(iii) in subparagraph (C)—

(I) by striking "Provide assurances" and inserting "Certify"; and

(II) by inserting before the period at the end "and provide a detailed description of how such record is maintained and is made available";

(iv) by amending subparagraph (D) to read as follows:

"(D) CONSUMER EDUCATION INFORMATION.—Certify that the State will collect and disseminate to parents of eligible children and the general public, consumer education information that will promote informed child care choices.";

(v) in subparagraph (E), to read as follows:

"(E) COMPLIANCE WITH STATE LICENSING REQUIREMENTS.—

"(i) IN GENERAL.—Certify that the State has in effect licensing requirements applicable to child care services provided within the State, and provide a detailed description of such requirements and of how such requirements are effectively enforced. Nothing in the preceding sentence shall be construed to require that licensing requirements be applied to specific types of providers of child care services.

"(ii) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—In lieu of any licensing and regulatory requirements applicable under State and local law, the Secretary, in consultation with Indian tribes and tribal organizations, shall develop minimum child care standards (that appropriately reflect tribal needs and available resources) that shall be applicable to Indian tribes and tribal organizations receiving assistance under this subchapter.";

(vi) by striking subparagraph (F);

(vii) in subparagraph (G)—

(I) by redesignating such subparagraph as subparagraph (F);

(II) by striking "Provide assurances" and inserting "Certify"; and

(III) by striking "as described in subparagraph (F)"; and

(viii) by striking subparagraphs (H), (I), and (J) and inserting the following:

"(G) MEETING THE NEEDS OF CERTAIN POPULATIONS.—Demonstrate the manner in which the State will meet the specific child care needs of families who are receiving assistance under a State program under part A of title IV of the Social Security Act, families who are attempting through work activities to transition off of such assistance

program, and families that are at risk of becoming dependent on such assistance program.";

(B) in paragraph (3)—

(i) in subparagraph (A), by striking "(B) and (C)" and inserting "(B) through (D)";

(ii) in subparagraph (B)—

(I) by striking ".—Subject to the reservation contained in subparagraph (C), the" and inserting "AND RELATED ACTIVITIES.—The";

(II) in clause (i) by striking "; and" at the end and inserting a period;

(III) by striking "for—" and all that follows through "section 658E(c)(2)(A)" and inserting "for child care services on sliding fee scale basis, activities that improve the quality or availability of such services, and any other activity that the State deems appropriate to realize any of the goals specified in paragraphs (2) through (5) of section 658A(b)"; and

(IV) by striking clause (ii);

(iii) by amending subparagraph (C) to read as follows:

"(C) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 5 percent of the aggregate amount of funds available to the State to carry out this subchapter by a State in each fiscal year may be expended for administrative costs incurred by such State to carry out all of its functions and duties under this subchapter. As used in the preceding sentence, the term 'administrative costs' shall not include the costs of providing direct services."; and

(iv) by adding at the end thereof the following:

"(D) ASSISTANCE FOR CERTAIN FAMILIES.—A State shall ensure that a substantial portion of the amounts available (after the State has complied with the requirement of section 418(b)(2) of the Social Security Act with respect to each of the fiscal years 1997 through 2002) to the State to carry out activities under this subchapter in each fiscal year is used to provide assistance to low-income working families other than families described in paragraph (2)(F)."; and

(C) in paragraph (4)(A)—

(i) by striking "provide assurances" and inserting "certify";

(ii) in the first sentence by inserting "and shall provide a summary of the facts relied on by the State to determine that such rates are sufficient to ensure such access" before the period; and

(iii) by striking the last sentence.

SEC. 2806. LIMITATION ON STATE ALLOTMENTS.

Section 658F(b) (42 U.S.C. 9858d(b)) is amended—

(1) in paragraph (1), by striking "No" and inserting "Except as provided for in section 658O(c)(6), no"; and

(2) in paragraph (2), by striking "referred to in section 658E(c)(2)(F)".

SEC. 2807. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

Section 658G (42 U.S.C. 9858e) is amended to read as follows:

"SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

"A State that receives funds to carry out this subchapter for a fiscal year, shall use not less than 3 percent of the amount of such funds for activities that are designed to provide comprehensive consumer education to parents and the public, activities that increase parental choice, and activities designed to improve the quality and availability of child care (such as resource and referral services).".

SEC. 2808. REPEAL OF EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL CARE REQUIREMENT.

Section 658H (42 U.S.C. 9858f) is repealed.

SEC. 2809. ADMINISTRATION AND ENFORCEMENT.

Section 658I(b) (42 U.S.C. 9858g(b)) is amended—

(1) in paragraph (1), by striking ", and shall have" and all that follows through "(2)"; and

(2) in the matter following clause (ii) of paragraph (2)(A), by striking "finding and that" and all that follows through the period and inserting "finding and shall require that the State reimburse the Secretary for any funds that were improperly expended for purposes prohibited or not authorized by this subchapter, that the Secretary deduct from the administrative portion of the State allotment for the following fiscal year an amount that is less than or equal to any improperly expended funds, or a combination of such options.".

SEC. 2810. PAYMENTS.

Section 658J(c) (42 U.S.C. 9858h(c)) is amended by striking "expended" and inserting "obligated".

SEC. 2811. ANNUAL REPORT AND AUDITS.

Section 658K (42 U.S.C. 9858i) is amended—

(1) in the section heading by striking "ANNUAL REPORT" and inserting "REPORTS";

(2) in subsection (a), to read as follows:

"(a) REPORTS.—

"(1) COLLECTION OF INFORMATION BY STATES.—

"(A) IN GENERAL.—A State that receives funds to carry out this subchapter shall collect the information described in subparagraph (B) on a monthly basis.

"(B) REQUIRED INFORMATION.—The information required under this subparagraph shall include, with respect to a family unit receiving assistance under this subchapter information concerning—

"(i) family income;

"(ii) county of residence;

"(iii) the gender, race, and age of children receiving such assistance;

"(iv) whether the family includes only 1 parent;

"(v) the sources of family income, including the amount obtained from (and separately identified)—

"(I) employment, including self-employment;

"(II) cash or other assistance under part A of title IV of the Social Security Act;

"(III) housing assistance;

"(IV) assistance under the Food Stamp Act of 1977; and

"(V) other assistance programs;

"(vi) the number of months the family has received benefits;

"(vii) the type of child care in which the child was enrolled (such as family child care, home care, or center-based child care);

"(viii) whether the child care provider involved was a relative;

"(ix) the cost of child care for such families; and

"(x) the average hours per week of such care;

during the period for which such information is required to be submitted.

"(C) SUBMISSION TO SECRETARY.—A State described in subparagraph (A) shall, on a quarterly basis, submit the information required to be collected under subparagraph (B) to the Secretary.

"(D) SAMPLING.—The Secretary may disapprove the information collected by a State under this paragraph if the State uses sampling methods to collect such information.

"(2) BIANNUAL REPORTS.—Not later than December 31, 1997, and every 6 months thereafter, a State described in paragraph (1)(A) shall prepare and submit to the Secretary a report that includes aggregate data concerning—

"(A) the number of child care providers that received funding under this subchapter as separately identified based on the types of providers listed in section 658P(5);

"(B) the monthly cost of child care services, and the portion of such cost that is paid for with assistance provided under this subchapter, listed by the type of child care services provided;

"(C) the number of payments made by the State through vouchers, contracts, cash, and disregards under public benefit programs, listed by the type of child care services provided;

"(D) the manner in which consumer education information was provided to parents and the number of parents to whom such information was provided; and

"(E) the total number (without duplication) of children and families served under this subchapter;

during the period for which such report is required to be submitted."; and

(2) in subsection (b)—

(A) in paragraph (1) by striking "a application" and inserting "an application";

(B) in paragraph (2) by striking "any agency administering activities that receive" and inserting "the State that receives"; and

(C) in paragraph (4) by striking "entitles" and inserting "entitled".

SEC. 2812. REPORT BY THE SECRETARY.

Section 658L (42 U.S.C. 9858j) is amended—

(1) by striking "1993" and inserting "1997";

(2) by striking "annually" and inserting "biennially"; and

(3) by striking "Education and Labor" and inserting "Economic and Educational Opportunities".

SEC. 2813. ALLOTMENTS.

Section 658O (42 U.S.C. 9858m) is amended—

(1) in subsection (a)—

(A) in paragraph (1)

(i) by striking "POSSESSIONS" and inserting "POSSESSIONS";

(ii) by inserting "and" after "States,"; and

(iii) by striking ", and the Trust Territory of the Pacific Islands"; and

(B) in paragraph (2), by striking "3 percent" and inserting "1 percent";

(2) in subsection (c)—

(A) in paragraph (5) by striking "our" and inserting "out"; and

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

"(6) CONSTRUCTION OR RENOVATION OF FACILITIES.—

"(A) REQUEST FOR USE OF FUNDS.—An Indian tribe or tribal organization may submit to the Secretary a request to use amounts provided under this subsection for construction or renovation purposes.

"(B) DETERMINATION.—With respect to a request submitted under subparagraph (A), and except as provided in subparagraph (C), upon a determination by the Secretary that adequate facilities are not otherwise available to an Indian tribe or tribal organization to enable such tribe or organization to carry out child care programs in accordance with this subchapter, and that the lack of such facilities will inhibit the operation of such programs in the future, the Secretary may permit the tribe or organization to use assistance provided under this subsection to make payments for the construction or renovation of facilities that will be used to carry out such programs.

"(C) LIMITATION.—The Secretary may not permit an Indian tribe or tribal organization to use amounts provided under this subsection for construction or renovation if such use will result in a decrease in the level of child care services provided by the tribe or organization as compared to the level of such services provided by the tribe or organization in the fiscal year preceding the year for which the determination under subparagraph (A) is being made.

"(D) UNIFORM PROCEDURES.—The Secretary shall develop and implement uniform procedures for the solicitation and consideration of requests under this paragraph."; and

(3) in subsection (e), by adding at the end thereof the following new paragraph:

"(4) INDIAN TRIBES OR TRIBAL ORGANIZATIONS.—Any portion of a grant or contract made to an Indian tribe or tribal organization under subsection (c) that the Secretary determines is not being used in a manner consistent with the provision of this subchapter in the period for which the grant or contract is made available, shall be allotted by the Secretary to other tribes or organizations that have submitted applications under subsection (c) in accordance with their respective needs.".

SEC. 2814. DEFINITIONS.

Section 658P (42 U.S.C. 9858n) is amended—

(1) in paragraph (2), in the first sentence by inserting "or as a deposit for child care services if such a deposit is required of other children being cared for by the provider" after "child care services"; and

(2) by striking paragraph (3);

(3) in paragraph (4)(B), by striking "75 percent" and inserting "85 percent";

(4) in paragraph (5)(B)—

(A) by inserting "great grandchild, sibling (if such provider lives in a separate residence)," after "grandchild,";

(B) by striking "is registered and"; and

(C) by striking "State" and inserting "applicable".

(5) by striking paragraph (10);

(6) in paragraph (13)—

(A) by inserting "or" after "Samoa,"; and

(B) by striking ", and the Trust Territory of the Pacific Islands";

(7) in paragraph (14)—

(A) by striking "The term" and inserting the following: "(A) IN GENERAL.—The term"; and

(B) by adding at the end thereof the following new subparagraph:

"(B) OTHER ORGANIZATIONS.—Such term includes a Native Hawaiian Organization, as defined in section 4009(4) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4909(4)) and a private nonprofit organization established for the purpose of serving youth who are Indians or Native Hawaiians.".

SEC. 2815. REPEALS.

(a) CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE ACT OF 1985.—Title VI of the Human Services Reauthorization Act of 1986 (42 U.S.C. 10901–10905) is repealed.

(b) STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT.—Subchapter E of chapter 8 of subtitle A of title VI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9871–9877) is repealed.

(c) PROGRAMS OF NATIONAL SIGNIFICANCE.—Title X of the Elementary and Secondary Education Act of 1965, as amended by Public Law 103–382 (108 Stat. 3809 et seq.), is amended—

(1) in section 10413(a) by striking paragraph (4),

(2) in section 10963(b)(2) by striking subparagraph (G), and

(3) in section 10974(a)(6) by striking subparagraph (G).

(d) NATIVE HAWAIIAN FAMILY-BASED EDUCATION CENTERS.—Section 9205 of the Native Hawaiian Education Act, as amended by section 101 of Public Law 103–382, (108 Stat. 3794) is repealed.

SEC. 2816. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this chapter and the amendments made by this chapter shall take effect on October 1, 1996.

(b) EXCEPTION.—The amendment made by section 2803(a) shall take effect on the date of enactment of this Act.

CHAPTER 9—MISCELLANEOUS

SEC. 2901. APPROPRIATION BY STATE LEGISLATURES.

(a) IN GENERAL.—Any funds received by a State under the provisions of law specified in subsection (b) shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under such provisions of law.

(b) PROVISIONS OF LAW.—The provisions of law specified in this subsection are the following:

(1) Part A of title IV of the Social Security Act (relating to block grants for temporary assistance for needy families).

(2) Section 27 of the Food Stamp Act of 1977 (relating to the optional State food assistance block grant).

(3) The Child Care and Development Block Grant Act of 1990 (relating to block grants for child care).

SEC. 2902. SANCTIONING FOR TESTING POSITIVE FOR CONTROLLED SUBSTANCES.

Notwithstanding any other provision of law, States shall not be prohibited by the Federal Government from testing welfare recipients for use of controlled substances nor from sanctioning welfare recipients who test positive for use of controlled substances.

SEC. 2903. REDUCTION IN BLOCK GRANTS TO STATES FOR SOCIAL SERVICES.

Section 2003(c) of the Social Security Act (42 U.S.C. 1397b(c)) is amended—

(1) by striking "and" at the end of paragraph (4); and

(2) by striking paragraph (5) and inserting the following:

"(5) $2,800,000,000 for each of the fiscal years 1990 through 1995;

"(6) $2,381,000,000 for the fiscal year 1996;

"(7) $2,240,000,000 for each of the fiscal years 1997 through 2002; and

"(8) $2,800,000,000 for the fiscal year 2003 and each succeeding fiscal year.".

SEC. 2904. ELIMINATION OF HOUSING ASSISTANCE WITH RESPECT TO FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.

(a) ELIGIBILITY FOR ASSISTANCE.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) in section 6(l)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period at the end and inserting "; and"; and

(C) by inserting immediately after paragraph (6) the following new paragraph:

"(7) provide that it shall be cause for immediate termination of the tenancy of a public housing tenant if such tenant—

"(A) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(2) is violating a condition of probation or parole imposed under Federal or State law."; and

(2) in section 8(d)(1)(B)—

(A) in clause (iii), by striking "and" at the end;

(B) in clause (iv), by striking the period at the end and inserting "; and"; and

(C) by adding after clause (iv) the following new clause:

"(v) it shall be cause for termination of the tenancy of a tenant if such tenant—

"(I) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(II) is violating a condition of probation or parole imposed under Federal or State law;".

(b) PROVISION OF INFORMATION TO LAW ENFORCEMENT AGENCIES.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), as amended by sections 2404(d) and 2601 of this Act, is amended by adding at the end the following:

"SEC. 29. EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.

"Notwithstanding any other provision of law, each public housing agency that enters into a contract for assistance under section 6 or 8 of this Act with the Secretary shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of assistance under this Act, if the officer—

"(1) furnishes the public housing agency with the name of the recipient; and

"(2) notifies the agency that—

"(A) such recipient—

"(i) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(ii) is violating a condition of probation or parole imposed under Federal or State law; or

"(iii) has information that is necessary for the officer to conduct the officer's official duties;

"(B) the location or apprehension of the recipient is within such officer's official duties; and

"(C) the request is made in the proper exercise of the officer's official duties.".

SEC. 2905. SENSE OF THE SENATE REGARDING ENTERPRISE ZONES.

(a) FINDINGS.—The Senate finds that:

(1) Many of the Nation's urban centers are places with high levels of poverty, high rates of welfare dependency, high crime rates, poor schools, and joblessness;

(2) Federal tax incentives and regulatory reforms can encourage economic growth, job creation and small business formation in many urban centers;

(3) Encouraging private sector investment in America's economically distressed urban and rural areas is essential to breaking the cycle of poverty and the related ills of crime, drug abuse, illiteracy, welfare dependency, and unemployment;

(4) The empowerment zones enacted in 1993 should be enhanced by providing incentives to increase entrepreneurial growth, capital formation, job creation, educational opportunities, and home ownership in the designated communities and zones.

(b) SENSE OF THE SENATE.—Therefore, it is the Sense of the Senate that the Congress should adopt enterprise zone legislation in the One Hundred Fourth Congress, and that such enterprise zone legislation provide the following incentives and provisions:

(1) Federal tax incentives that expand access to capital, increase the formation and expansion of small businesses, and promote commercial revitalization;

(2) Regulatory reforms that allow localities to petition Federal agencies, subject to the relevant agencies' approval, for waivers or modifications of regulations to improve job creation, small business formation and expansion, community development, or economic revitalization objectives of the enterprise zones;

(3) Home ownership incentives and grants to encourage resident management of public housing and home ownership of public housing;

(4) School reform pilot projects in certain designated enterprise zones to provide low-income parents with new and expanded educational options for their children's elementary and secondary schooling.

SEC. 2906. SENSE OF THE SENATE REGARDING THE INABILITY OF THE NON-CUSTODIAL PARENT TO PAY CHILD SUPPORT.

It is the sense of the Senate that—

(a) States should diligently continue their efforts to enforce child support payments by the non-custodial parent to the custodial parent, regardless of the employment status or location of the non-custodial parent; and

(b) States are encouraged to pursue pilot programs in which the parents of a non-adult, non-custodial parent who refuses to or is unable to pay child support must—

(1) pay or contribute to the child support owed by the non-custodial parent; or

(2) otherwise fulfill all financial obligations and meet all conditions imposed on the non-custodial parent, such as participation in a work program or other related activity.

SEC. 2907. ESTABLISHING NATIONAL GOALS TO PREVENT TEENAGE PREGNANCIES.

(a) IN GENERAL.—Not later than January 1, 1997, the Secretary of Health and Human Services shall establish and implement a strategy for—

(1) preventing out-of-wedlock teenage pregnancies, and

(2) assuring that at least 25 percent of the communities in the United States have teenage pregnancy prevention programs in place.

(b) REPORT.—Not later than June 30, 1998, and annually thereafter, the Secretary shall report to the Congress with respect to the progress that has been made in meeting the goals described in paragraphs (1) and (2) of subsection (a).

SEC. 2908. SENSE OF THE SENATE REGARDING ENFORCEMENT OF STATUTORY RAPE LAWS.

It is the sense of the Senate that States and local jurisdictions should aggressively enforce statutory rape laws.

SEC. 2909. ABSTINENCE EDUCATION.

(a) INCREASES IN FUNDING.—Section 501(a) of the Social Security Act (42 U.S.C. 701(a)) is amended in the matter preceding paragraph (1) by striking "Fiscal year 1990 and each fiscal year thereafter" and inserting "Fiscal years 1990 through 1995 and $761,000,000 for fiscal year 1996 and each fiscal year thereafter".

(b) ABSTINENCE EDUCATION.—Section 501(a)(1) of such Act (42 U.S.C. 701(a)(1)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by adding "and" at the end; and

(3) by adding at the end the following new subparagraph:

"(E) to provide abstinence education, and at the option of the State, where appropriate, mentoring, counseling, and adult supervision to promote abstinence from sexual activity, with a focus on those groups which are most likely to bear children out-of-wedlock.".

(c) ABSTINENCE EDUCATION DEFINED.—Section 501(b) of such Act (42 U.S.C. 701(b)) is amended by adding at the end the following new paragraph:

"(5) ABSTINENCE EDUCATION.—For purposes of this subsection, the term 'abstinence education' means an educational or motivational program which—

"(A) has as its exclusive purpose, teaching the social, psychological, and health gains to be realized by abstaining from sexual activity;

"(B) teaches abstinence from sexual activity outside marriage as the expected standard for all school age children;

"(C) teaches that abstinence from sexual activity is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems;

"(D) teaches that a mutually faithful monogamous relationship in context of marriage is the expected standard of human sexual activity;

"(E) teaches that sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects;

"(F) teaches that bearing children out-of-wedlock is likely to have harmful consequences for the child, the child's parents, and society;

"(G) teaches young people how to reject sexual advances and how alcohol and drug use increases vulnerability to sexual advances; and

"(H) teaches the importance of attaining self-sufficiency before engaging in sexual activity.".

(d) SET-ASIDE.—

(1) IN GENERAL.—Section 502(c) of such Act (42 U.S.C. 702(c)) is amended in the matter preceding paragraph (1) by striking "From" and inserting "Except as provided in subsection (e), from".

(2) SET-ASIDE.—Section 502 of such Act (42 U.S.C. 702) is amended by adding at the end the following new subsection:

"(e) Of the amounts appropriated under section 501(a) for any fiscal year, the Secretary shall set aside $75,000,000 for abstinence education in accordance with section 501(a)(1)(E).".

SEC. 2910. PROVISIONS TO ENCOURAGE ELECTRONIC BENEFIT TRANSFER SYSTEMS.

Section 904 of the Electronic Fund Transfer Act (15 U.S.C. 1693b) is amended—

(1) by striking "(d) In the event" and inserting "(d) APPLICABILITY TO SERVICE PROVIDERS OTHER THAN CERTAIN FINANCIAL INSTITUTIONS.—

"(1) IN GENERAL.—In the event"; and

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

"(2) STATE AND LOCAL GOVERNMENT ELECTRONIC BENEFIT TRANSFER PROGRAMS.—

"(A) EXEMPTION GENERALLY.—The disclosures, protections, responsibilities, and remedies established under this title, and any regulation prescribed or order issued by the Board in accordance with this title, shall not apply to any electronic benefit transfer program established under State or local law or administered by a State or local government.

"(B) EXCEPTION FOR DIRECT DEPOSIT INTO RECIPIENT'S ACCOUNT.—Subparagraph (A) shall not apply with respect to any electronic funds transfer under an electronic benefit transfer program for deposits directly into a consumer account held by the recipient of the benefit.

"(C) RULE OF CONSTRUCTION.—No provision of this paragraph may be construed as—

"(i) affecting or altering the protections otherwise applicable with respect to benefits established by Federal, State, or local law; or

"(ii) otherwise superseding the application of any State or local law.

"(D) ELECTRONIC BENEFIT TRANSFER PROGRAM DEFINED.—For purposes of this paragraph, the term 'electronic benefit transfer program'—

"(i) means a program under which a government agency distributes needs-tested benefits by establishing accounts to be accessed by recipients electronically, such as through automated teller machines, or point-of-sale terminals; and

"(ii) does not include employment-related payments, including salaries and pension, retirement, or unemployment benefits established by Federal, State, or local governments.".

SEC. 2911. RULES RELATING TO DENIAL OF EARNED INCOME CREDIT ON BASIS OF DISQUALIFIED INCOME.

(a) REDUCTION IN DISQUALIFIED INCOME THRESHOLD.—

(1) IN GENERAL.—Paragraph (1) of section 32(i) of the Internal Revenue Code of 1986 (relating to denial of credit for individuals having excessive investment income) is amended by striking "$2,350" and inserting "$2,200".

(2) ADJUSTMENT FOR INFLATION.—Subsection (j) of section 32 of such Code is amended to read as follows:

"(j) INFLATION ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any taxable year beginning after 1996, each of the dollar amounts in subsections (b)(2)(A) and (i)(1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) ROUNDING.—

"(A) IN GENERAL.—If any dollar amount in subsection (b)(2), after being increased under paragraph (1), is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.

"(B) DISQUALIFIED INCOME THRESHOLD AMOUNT.—If the dollar amount in subsection (i)(1), after being increased under paragraph (1), is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.".fy

(3) CONFORMING AMENDMENTS.—The table contained in section 32(b)(2)(A) of the Internal Revenue Code of 1986 is amended—

(1) by striking "$6,000" and inserting "$6,330",

(2) by striking "$11,000" both places it appears and inserting "$11,610",

(3) by striking "$8,425" and inserting "$8,890",

(4) by striking "$4,000" and inserting "$4,220", and

(5) by striking "$5,000" and inserting "$5,280".

(b) DEFINITION OF DISQUALIFIED INCOME.—Paragraph (2) of section 32(i) of such Code (defining disqualified income) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting a comma, and by adding at the end the following new subparagraphs:

"(D) the capital gain net income (as defined in section 1222) of the taxpayer for such taxable year, and

"(E) the excess (if any) of—

"(i) the aggregate income from all passive activities for the taxable year (determined without regard to any amount included in earned income under subsection (c)(2) or described in a preceding subparagraph), over

"(ii) the aggregate losses from all passive activities for the taxable year (as so determined).

For purposes of subparagraph (E), the term 'passive activity' has the meaning given such term by section 469.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) ADVANCE PAYMENT INDIVIDUALS.—In the case of any individual who on or before June 26, 1996, has in effect an earned income eligibility certificate for the individual's taxable year beginning in 1996, the amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 2912. MODIFICATION OF ADJUSTED GROSS INCOME DEFINITION FOR EARNED INCOME CREDIT.

(a) IN GENERAL.—Subsections (a)(2)(B), (c)(1)(C), and (f)(2)(B) of section 32 of the Internal Revenue Code of 1986 are each amended by striking "adjusted gross income" each place it appears and inserting "modified adjusted gross income".

(b) MODIFIED ADJUSTED GROSS INCOME DEFINED.—Section 32(c) of such Code (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(5) MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—The term 'modified adjusted gross income' means adjusted gross income—

"(i) increased by the sum of the amounts described in subparagraph (B), and

"(ii) determined without regard to the amounts described in subparagraph (C).

"(B) NONTAXABLE INCOME TAKEN INTO ACCOUNT.—Amounts described in this subparagraph are—

"(i) interest received or accrued during the taxable year which is exempt from tax imposed by this chapter, and

"(ii) amounts received as a pension or annuity, and any distributions or payments received from an individual retirement plan, by the taxpayer during the taxable year to the extent not included in gross income.

Clause (ii) shall not include any amount which is not includible in gross income by reason of section 402(c), 403(a)(4), 403(b)(8), 408(d) (3), (4), or (5), or 457(e)(10).

"(C) CERTAIN AMOUNTS DISREGARDED.—An amount is described in this subparagraph if it is—

"(i) the amount of losses from sales or exchanges of capital assets in excess of gains from such sales or exchanges to the extent such amount does not exceed the amount under section 1211(b)(1),

"(ii) the net loss from estates and trusts,

"(iii) the excess (if any) of amounts described in subsection (i)(2)(C)(ii) over the amounts described in subsection (i)(2)(C)(i) (relating to nonbusiness rents and royalties), and

"(iv) the net loss from the carrying on of trades or businesses, computed separately with respect to—

"(I) trades or businesses (other than farming) conducted as sole proprietorships,

"(II) trades or businesses of farming conducted as sole proprietorships, and

"(III) other trades or businesses.

For purposes of clause (iv), there shall not be taken into account items which are attributable to a trade or business which consists of the performance of services by the taxpayer as an employee.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) ADVANCE PAYMENT INDIVIDUALS.—In the case of any individual who on or before June 26, 1996, has in effect an earned income eligibility certificate for the individual's taxable year beginning in 1996, the amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 2913. SUSPENSION OF INFLATION ADJUSTMENTS FOR INDIVIDUALS WITH NO QUALIFYING CHILDREN.

(a) IN GENERAL.—Subsection (j) of section 32 of the Internal Revenue Code of 1986, as amended by section 2911(a)(2) of this Act, is amended by adding at the end the following new paragraph:

"(3) NO ADJUSTMENT FOR INDIVIDUALS WITH NO QUALIFYING CHILDREN.—This subsection shall not apply to each dollar amount contained in subsection (b)(2)(A) with respect to individuals with no qualifying children.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle B—Restructuring Medicaid

SEC. 2920. SHORT TITLE OF SUBTITLE.

This subtitle may be cited as the "Medicaid Restructuring Act of 1996".

SEC. 2921. TABLE OF CONTENTS OF SUBTITLE.

The table of contents for this subtitle is as follows:

Sec. 2920. Short title of subtitle.
Sec. 2921. Table of contents of subtitle.
Sec. 2922. Finding; goals for medicaid restructuring.
Sec. 2923. Restructuring the medicaid program.
Sec. 2924. State election; termination of current program; and transition.
Sec. 2925. Integration demonstration project.
Sec. 2926. National Commission on Medicaid and State-Based Health Care Reform.

SEC. 2922. FINDING; GOALS FOR MEDICAID RESTRUCTURING.

(a) FINDING.—The Congress finds that the National Governors' Association on February 6, 1996, adopted unanimously and on a bipartisan basis goals to guide the restructuring of the medicaid program.

(b) GOALS FOR RESTRUCTURING.—The following are the 4 primary goals so adopted:

(1) The basic health care needs of the nation's most vulnerable populations must be guaranteed.

(2) The growth in health care expenditures must be brought under control.

(3) States must have maximum flexibility in the design and implementation of cost-effective systems of care.

(4) States must be protected from unanticipated program costs resulting from economic fluctuations in the business cycle, changing demographics, and natural disasters.

SEC. 2923. RESTRUCTURING THE MEDICAID PROGRAM.

The Social Security Act is amended by inserting after title XIV the following new title:

"TITLE XV—PROGRAM OF MEDICAL ASSISTANCE FOR LOW-INCOME INDIVIDUALS AND FAMILIES

"TABLE OF CONTENTS OF TITLE

"Sec. 1500. Purpose; State plans.

"PART A—ELIGIBILITY AND BENEFITS

"Sec. 1501. Guaranteed eligibility and benefits.
"Sec. 1502. Other provisions relating to eligibility and benefits.
"Sec. 1503. Limitations on cost-sharing.
"Sec. 1504. Requirements relating to medical assistance provided through managed care arrangements.
"Sec. 1505. Preventing spousal impoverishment.
"Sec. 1506. Preventing family impoverishment.
"Sec. 1507. State flexibility.
"Sec. 1508. Private rights of action.

"PART B—PAYMENTS TO STATES

"Sec. 1511. Allotment of funds among States.
"Sec. 1512. Payments to States.
"Sec. 1513. Limitation on use of funds; disallowance.

"PART C—ESTABLISHMENT AND AMENDMENT OF STATE PLANS

"Sec. 1521. Description of strategic objectives and performance goals.
"Sec. 1522. Annual reports.
"Sec. 1523. Periodic, independent evaluations.
"Sec. 1524. Description of process for State plan development.
"Sec. 1525. Consultation in State plan development.
"Sec. 1526. Submittal and approval of State plans.
"Sec. 1527. Submittal and approval of plan amendments.
"Sec. 1528. Process for State withdrawal from program.
"Sec. 1529. Sanctions for noncompliance.
"Sec. 1530. Secretarial authority.

"PART D—PROGRAM INTEGRITY AND QUALITY

"Sec. 1551. Use of audits to achieve fiscal integrity.
"Sec. 1552. Fraud prevention program.
"Sec. 1553. Information concerning sanctions taken by State licensing authorities against health care practitioners and providers.
"Sec. 1554. State fraud control units.
"Sec. 1555. Recoveries from third parties and others.
"Sec. 1556. Assignment of rights of payment.
"Sec. 1557. Quality assurance requirements for nursing facilities.
"Sec. 1558. Other provisions promoting program integrity.

"PART E—GENERAL PROVISIONS

"Sec. 1571. Definitions.
"Sec. 1572. Treatment of territories.
"Sec. 1573. Description of treatment of Indian Health Service facilities and related programs.
"Sec. 1574. Application of certain general provisions.
"Sec. 1575. Optional master drug rebate agreements.

"SEC. 1500. PURPOSE; STATE PLANS.

"(a) PURPOSE.—The purpose of this title is to provide funds to States to enable them to provide medical assistance to low-income individuals and families in a more effective, efficient, and responsive manner.

"(b) STATE PLAN REQUIRED.—A State is not eligible for payment under section 1512 unless the State has submitted to the Secretary under part C a plan (in this title referred to as a 'State plan') that—

"(1) sets forth how the State intends to use the funds provided under this title to provide medical assistance to needy individuals and families consistent with the provisions of this title, and

"(2) is approved under such part.

"(c) CONTINUED APPROVAL.—An approved State plan shall continue in effect unless and until—

"(1) the State amends the plan under section 1527,

"(2) the State terminates participation under this title under section 1528, or

"(3) the Secretary finds substantial noncompliance of the plan with the requirements of this title under section 1529.

"(d) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States (and,

beginning on October 1, 1997, to facilities or programs described in section 1512(f)(3)(B)(iii)) of amounts provided under part B.

"(e) EFFECTIVE DATE.—No State is eligible for payments under section 1512 for any calendar quarter beginning before October 1, 1996.

"PART A—ELIGIBILITY AND BENEFITS

"SEC. 1501. GUARANTEED ELIGIBILITY AND BENEFITS.

"(a) GUARANTEED COVERAGE AND BENEFITS FOR CERTAIN POPULATIONS.—

"(1) IN GENERAL.—Each State plan shall provide for making medical assistance available for benefits in the guaranteed benefit package (as defined in paragraph (2)) to individuals within each of the following categories:

"(A) POOR PREGNANT WOMEN.—Pregnant women with family income below 133 percent of the poverty line.

"(B) CHILDREN UNDER 6.—Children under 6 years of age whose family income does not exceed 133 percent of the poverty line.

"(C) CHILDREN 6 TO 19.—Children born after September 30, 1983, who are over 5 years of age, but under 19 years of age, whose family income does not exceed 100 percent of the poverty line.

"(D) DISABLED INDIVIDUALS.—As elected by the State under paragraph (3), either—

"(i) disabled individuals (as defined by the State) who meet the income and resource standards established under the plan, or

"(ii) individuals who are under 65 years of age, who are disabled (as determined under section 1614(a)(3)), and who, using the methodology provided for determining eligibility for payment of supplemental security income benefits under title XVI, meet the income and resource standards for payment of such benefits.

"(E) POOR ELDERLY INDIVIDUALS.—Subject to paragraph (4), elderly individuals who, using the methodology provided for determining eligibility for payment of supplemental security income benefits under title XVI, meet the income and resource standards for payment of such benefits.

"(F) CHILDREN RECEIVING FOSTER CARE OR ADOPTION ASSISTANCE.—Subject to paragraph (5), children who meet the requirements for receipt of foster care maintenance payments or adoption assistance under title IV.

"(G) CERTAIN LOW-INCOME FAMILIES.—Subject to paragraph (6), individuals and members of families who meet current AFDC income, resource, and eligibility standards (as defined in paragraph (6)(C)) in the State.

"(2) GUARANTEED BENEFITS PACKAGE.—

"(A) IN GENERAL.—In this title, the term 'guaranteed benefit package' means benefits (in an amount, duration, and scope specified under the State plan) for at least the following categories of services:

"(i) Inpatient and outpatient hospital services.

"(ii) Physicians' surgical and medical services.
"(iii) Laboratory and x-ray services.
"(iv) Nursing facility services.
"(v) Home health care.
"(vi) Federally-qualified health center services and rural health clinic services.
"(vii) Immunizations for children (in accordance with a schedule for immunizations established by the Health Department of the State in consultation with the State agency responsible for the administration of the plan).
"(viii) Prepregnancy family planning services and supplies (as specified by the State).
"(ix) Prenatal care.
"(x) Physician assistant services (to the extent such services are authorized under State law or regulation), pediatric and family nurse practitioner services and nurse midwife services.
"(xi) EPSDT services (as defined in section 1571(e)) for individuals who are under the age of 21.

"(B) AMOUNT, DURATION, AND SCOPE.—

"(i) IN GENERAL.—The amount, duration, and scope of benefits specified under the State plan must be sufficient to reasonably achieve the purpose of the benefit. A State may establish criteria, including medical necessity, utilization review, and cost effectiveness of alternative covered services, for purposes of limiting the amount, duration, and scope of benefits provided under the State plan.

"(ii) EPSDT SERVICES.—The amount, duration, and scope of EPSDT services for individuals who are under the age of 21 may not be less than the amount, duration, and scope of such services provided under the State plan under title XIX (as in effect on June 1, 1996).

"(3) STATE ELECTION OF DISABLED INDIVIDUALS TO BE GUARANTEED COVERAGE.—

"(A) IN GENERAL.—Each State shall specify in its State plan, before the beginning of each Federal fiscal year, whether to guarantee coverage of disabled individuals under the plan under the option described in paragraph (1)(D)(i) or under the option described in paragraph (1)(D)(ii). An election under this paragraph shall continue in effect for the subsequent fiscal year unless the election is changed before the beginning of the fiscal year.

"(B) CONSEQUENCES OF ELECTION.—

"(i) STATE FLEXIBLE DEFINITION OPTION.—If a State elects the option described in paragraph (1)(D)(i) for a fiscal year—

"(I) the State plan must provide under section 1502(c) for a set aside of funds for disabled individuals for the fiscal year, and

"(II) disabled individuals are not taken into account in determining a State supplemental umbrella allotment under section 1511(g).

"(ii) SSI DEFINITION OPTION.—If a State elects the option described in paragraph (1)(D)(ii) for a fiscal year—

"(I) section 1502(c) shall not apply for the fiscal year, and

"(II) the State is eligible for an increase under section 1511(g) in its outlay allotment for the fiscal year based on an increase in the number of guaranteed and optional disabled individuals covered under the plan.

"(4) CONTINUATION OF SPECIAL ELIGIBILITY STANDARDS FOR SECTION 209(b) STATES.—

"(A) IN GENERAL.—A section 209(b) State (as defined in subparagraph (B)) may elect to treat any reference in paragraph (1)(E) to 'elderly individuals who meet the income and resource standards for the payment of supplemental security income benefits under title XVI' as a reference to 'elderly individuals who meet the standards described in the first sentence of section 1902(f) (as in effect on the day before the date of the enactment of this title)'.

"(B) SECTION 209(b) STATE DEFINED.—In subparagraph (A), the term 'section 209(b) State' means a State to which section 1902(f) applied as of the day before the date of the enactment of this title.

"(5) OPTION FOR APPLICATION OF CURRENT REQUIREMENTS FOR CERTAIN CHILDREN.—A State may elect to apply paragraph (1)(F) by treating any reference to 'requirements for receipt of foster care maintenance payments or adoption assistance under title IV' as a reference to 'requirements for receipt of foster care maintenance payments or adoption assistance as in effect under its State plan under part E of title IV as of the date of the enactment of this title'.

"(6) SPECIAL RULES FOR LOW-INCOME FAMILIES.—

"(A) OPTIONAL USE OF LOWER NATIONAL AVERAGE STANDARDS.—In the case of a State in which the current AFDC income, resource, and eligibility standards are above the national average of the current AFDC income, resource, and eligibility standards for the 50 States and the District of Columbia, as determined and published by the Secretary, in applying paragraph (1)(G), the State may elect to substitute such national average income, resource, and eligibility standards for the current AFDC income, resource, and eligibility standards in that State.

"(B) OPTIONAL ELIGIBILITY BASED ON LINK TO OTHER ASSISTANCE.—

"(i) IN GENERAL.—Subject to clause (ii), in the case of a State which maintains a link between eligibility for aid or assistance under one or more parts of title IV and eligibility for medical assistance under this title, in applying paragraph (1)(G), the State may elect to treat any reference in such paragraph to 'individ-

uals and members of families who meet current AFDC income, resource, and eligibility standards in the State' as a reference to 'members of families who are receiving assistance under a State plan under part A or E of title IV'.

"(ii) LIMITATION ON ELECTION.—A State may only make the election described in clause (i) if, and so long as, the State demonstrates to the satisfaction of the Secretary that the such election does not result in Federal expenditures under this title (taking into account any supplemental amounts provided pursuant to section 1511(g)) that are greater than the Federal expenditures that would have been made under this title if the State had not made such election.

"(C) CURRENT AFDC INCOME, RESOURCE, AND ELIGIBILITY STANDARDS DEFINED.—In this subsection, the term 'current AFDC income, resource, and eligibility standards' means, with respect to a State, the income, resource, and eligibility standards for the payment of assistance under the State plan under part A or E of title IV (as in effect as of May 1, 1996).

"(D) MEDICAL ASSISTANCE REQUIRED TO BE PROVIDED FOR 1 YEAR FOR CERTAIN LOW-INCOME FAMILIES DURING THE TRANSITION FROM WELFARE TO WORK.—Each State plan shall provide that medical assistance under this title for a family described in section 408(a)(12) of this Act shall be provided to such family in accordance with such section.

"(E) STATE OPTION TO CONTINUE TO PROVIDE MEDICAL ASSISTANCE DURING THE TRANSITION FROM WELFARE TO WORK.—Nothing in this title shall be construed as preventing a State from continuing to provide medical assistance under a State plan under this title to an individual or a member of such individual's family who—

"(i) is eligible for medical assistance under this title as a result of a link between eligibility for such medical assistance and aid or assistance under one or more parts of title IV or any other program of assistance based on need; and

"(ii) because of hours of, or income from, employment is no longer eligible for such aid or assistance.

"(7) METHODOLOGY.—Family income shall be determined for purposes of subparagraphs (A) through (C) of paragraph (1) in the same manner (and using the same methodology) as income was determined under the State medicaid plan under section 1902(l) (as in effect as of May 1, 1996).

"(b) GUARANTEED COVERAGE OF MEDICARE PREMIUMS AND COST-SHARING FOR CERTAIN MEDICARE BENEFICIARIES.—

"(1) GUARANTEED ELIGIBILITY.—Each State plan shall provide—

"(A) for making medical assistance available for required medicare cost-sharing (as defined in paragraph (2)) for qualified medicare beneficiaries described in paragraph (3);

"(B) for making medical assistance available for payment of medicare premiums under section 1818A for qualified

disabled and working individuals described in paragraph (4); and

"(C) for making medical assistance available for payment of medicare premiums under section 1839 for individuals who would be qualified medicare beneficiaries described in paragraph (3) but for the fact that their income exceeds 100 percent, but is less than 120 percent, of the poverty line for a family of the size involved.

"(2) REQUIRED MEDICARE COST-SHARING DEFINED.—

"(A) IN GENERAL.—In this subsection, the term 'required medicare cost-sharing' means, with respect to an individual, costs incurred for medicare cost-sharing described in paragraphs (1) through (4) of section 1571(c) (and, at the option of a State, section 1571(c)(5)) without regard to whether the costs incurred were for items and services for which medical assistance is otherwise available under the plan.

"(B) LIMITATION ON OBLIGATION FOR CERTAIN COST-SHARING ASSISTANCE.—In the case of medical assistance furnished under this title for medicare cost-sharing described in paragraph (2), (3), or (4) of section 1571(c) relating to the furnishing of a service or item to a medicare beneficiary, nothing in this title shall be construed as preventing a State plan—

"(i) from limiting the assistance to the amount (if any) by which (I) the amount that is otherwise payable under the plan for the item or service for eligible individuals who are not such medicare beneficiaries (or, if payments for such items or services are made on a capitated basis, an amount reasonably related or derived from such capitated payment amount), exceeds (II) the amount of payment (if any) made under title XVIII with respect to the service or item, and

"(ii) if the amount described in subclause (II) of clause (i) exceeds the amount described in subclause (I) of such clause, from treating the amount paid under title XVIII as payment in full and not requiring or providing for any additional medical assistance under this subsection.

"(3) QUALIFIED MEDICARE BENEFICIARY DEFINED.—In this subsection, the term 'qualified medicare beneficiary' means an individual—

"(A) who is entitled to hospital insurance benefits under part A of title XVIII (including an individual entitled to such benefits pursuant to an enrollment under section 1818, but not including an individual entitled to such benefits only pursuant to an enrollment under section 1818A),

"(B) whose income (as determined under section 1612 for purposes of the supplemental security income program, except as provided in paragraph (5)) does not exceed 100 percent of the poverty line applicable to a family of the size involved, and

"(C) whose resources (as determined under section 1613 for purposes of the supplemental security income program)

do not exceed twice the maximum amount of resources that an individual may have and obtain benefits under that program.

"(4) QUALIFIED DISABLED AND WORKING INDIVIDUAL DEFINED.—In this subsection, the term 'qualified disabled and working individual' means an individual—

"(A) who is entitled to enroll for hospital insurance benefits under part A of title XVIII under section 1818A;

"(B) whose income (as determined under section 1612 for purposes of the supplemental security income program) does not exceed 200 percent of the poverty line applicable to a family of the size involved;

"(C) whose resources (as determined under section 1613 for purposes of the supplemental security income program) do not exceed twice the maximum amount of resources that an individual or a couple (in the case of an individual with a spouse) may have and obtain benefits for supplemental security income benefits under title XVI; and

"(D) who is not otherwise eligible for medical assistance under this title.

"(5) INCOME DETERMINATIONS.—

"(A) IN GENERAL.—In determining under this subsection the income of an individual who is entitled to monthly insurance benefits under title II for a transition month (as defined in subparagraph (B)) in a year, such income shall not include any amounts attributable to an increase in the level of monthly insurance benefits payable under such title which have occurred pursuant to section 215(i) for benefits payable for months beginning with December of the previous year.

"(B) TRANSITION MONTH DEFINED.—For purposes of subparagraph (A), the term 'transition month' means each month in a year through the month following the month in which the annual revision of the poverty line is published.

"SEC. 1502. OTHER PROVISIONS RELATING TO ELIGIBILITY AND BENEFITS.

"(a) OPTIONAL ELIGIBILITY GROUPS FOR WHICH UMBRELLA SUPPLEMENTAL FUNDING IS AVAILABLE.—In addition to the guaranteed coverage categories described in section 1501(a)(1), the following are population groups with respect to which supplemental allotments may be made under section 1511(g), but only if (for the individual involved) medical assistance is made available under the State plan for the guaranteed benefit package (as defined in section 1501(a)(2)):

"(1) CERTAIN DISABLED INDIVIDUALS.—Individuals (not described in section 1501(a)(1)(D)(ii)) who are disabled (as determined under section 1614(a)(3)), covered under the State plan, and meet the eligibility standards for coverage under the State medicaid plan under title XIX (as in effect as of May 1, 1996).

"(2) CERTAIN ELDERLY INDIVIDUALS.—Elderly individuals (not described in section 1501(a)(1)(E)) who are covered under the State plan and who meet the eligibility standards for coverage under the State medicaid plan under title XIX (as in effect as

of May 1, 1996) other than solely on the basis of being an individual described in section 1902(a)(10)(E).

Eligibility under paragraphs (1) and (2) shall be determined using the methodologies that are not more restrictive than the methodologies used under the State medicaid plan as in effect as of May 1, 1996.

"(b) OTHER PROVISIONS RELATING TO GENERAL ELIGIBILITY AND BENEFITS.—

"(1) GENERAL DESCRIPTION.—Each State plan shall include a description (consistent with this title) of the following:

"(A) GENERAL ELIGIBILITY GUIDELINES.—The general eligibility guidelines of the plan for eligible low-income individuals, including—

"(i) for individuals other than those covered under subsection (a) or (b) of section 1501, any limitations as to the duration of eligibility,

"(ii) any eligibility standards relating to age, income and resources (including any standards relating to spenddowns and disposition of resources), residency, disability status, immigration status, or employment status of individuals,

"(iii) methods of establishing and continuing eligibility and enrollment, including the methodology for computing family income,

"(iv) the eligibility standards in the plan that protect the income and resources of a married individual who is living in the community and whose spouse is residing in an institution in order to prevent the impoverishment of the community spouse, and

"(v) for individuals other than those covered under subsection (a) or (b) of section 1501, any other standards relating to eligibility for medical assistance under the plan.

"(B) SCOPE OF ASSISTANCE.—The amount, duration, and scope of health care services and items covered under the plan, including differences among different eligible population groups. The amount, duration, and scope of benefits specified shall comport with requirements of section 1501(a)(2)(B)(i).

"(C) DELIVERY METHOD.—The State's approach to delivery of medical assistance, including a general description of—

"(i) the use (or intended use) of vouchers, fee-for-service, or managed care arrangements (such as capitated health care plans, case management, and case coordination); and

"(ii) utilization control systems.

"(D) FEE-FOR-SERVICE BENEFITS.—To the extent that medical assistance is furnished on a fee-for-service basis—

"(i) how the State determines the qualifications of health care providers eligible to provide such assistance; and

"(ii) how the State determines rates of reimbursement for providing such assistance.

"(E) COST-SHARING.—Beneficiary cost-sharing (if any), including variations in such cost-sharing by population group or type of service and financial responsibilities of parents of recipients who are children and the spouses of recipients.

"(F) UTILIZATION INCENTIVES.—Incentives or requirements (if any) to encourage the appropriate utilization of services.

"(G) SUPPORT FOR CERTAIN HOSPITALS.—

"(i) IN GENERAL.—With respect to hospitals described in clause (ii) located in the State, a description of the extent to which provisions are made for expenditures for items and services furnished by such hospitals and covered under the State plan.

"(ii) HOSPITALS DESCRIBED.—A hospital described in this clause is a short-term acute care general hospital or a children's hospital, the low-income utilization rate of which exceeds the lesser of—

"(I) 1 standard deviation above the mean low-income utilization rate for hospitals receiving payments under a State plan in the State in which such hospital is located, or

"(II) 1¼ standard deviations above the mean low-income utilization rate for hospitals receiving such payments in the 50 States and the District of Columbia.

"(iii) LOW-INCOME UTILIZATION RATE.—For purposes of clause (ii), the term 'low-income utilization rate' means, for a hospital, a fraction (expressed as a percentage), the numerator of which is the hospital's number of patient days attributable to patients who (for such days) were eligible for medical assistance under a State plan or were uninsured in a period, and the denominator of which is the total number of the hospital's patient days in that period.

"(iv) PATIENT DAYS.—For purposes of clause (iii), the term 'patient day' includes each day in which—

"(I) an individual, including a newborn, is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere; or

"(II) an individual makes one or more outpatient visits to the hospital.

"(H) IMPLEMENTATION OF SET ASIDES FOR RURAL HEALTH CLINICS AND FEDERALLY-QUALIFIED HEALTH CENTERS AND UTILIZATION OF SERVICES.—How the State will implement the funding requirements imposed under subsection (e) and how the State will utilize facilities described in such subsection to provide services under the State plan.

"(2) CONDITIONS FOR GUARANTEES AND RELATION OF GUARANTEES TO FINANCING.—The guarantees of States required under subsections (a) and (b) of section 1501 and subsection (d) of this section are subject to the limitations on payment to the

States provided under section 1511 (including the provisions of subsection (g), relating to supplemental umbrella allotments). In submitting a plan under this title, a State voluntarily agrees to accept payment amounts provided under such section as full payment from the Federal Government in return for providing for the benefits (including the guaranteed benefit package) under this title.

"(3) SECONDARY PAYMENT.—Nothing in this section shall be construed as preventing a State from denying benefits to an individual to the extent such benefits are available to the individual under the medicare program under title XVIII or under another public or private health care insurance program.

"(4) RESIDENCY REQUIREMENT.—In the case of an individual who—

"(A) is described in section 1501(a)(1),

"(B) changed residence from another State to the State, and

"(C) has resided in the State for less than 180 days,

the State may limit the benefits provided to such individual in the guaranteed benefits package under paragraph (2) of section 1501(a) to the amount, duration, and scope of benefits available under the State plan of the individual's previous State of residence.

"(5) ACCESS TO SERVICES.—

"(A) PRIMARY CARE SERVICES.—The State plan shall contain provisions which ensure that an eligible low-income individual has access to primary care services within 30 miles of such individual's residence, or, in the case of an eligible low-income individual residing in a rural area, within a reasonable distance of such individual's residence, as determined by the Secretary.

"(B) NURSING FACILITIES.—The State plan shall contain provisions which ensure that an eligible low-income individual has access to nursing facility services within 50 miles of such individual's residence, or, in the case of an eligible low-income individual residing in a rural area, within a reasonable distance of such individual's residence, as determined by the Secretary.

"(6) SERVICES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.—The State plan shall contain provisions which ensure—

"(A) compliance with the minimum health, safety, and welfare standards for individuals with developmental disabilities who receive services in an intermediate care facility for the mentally retarded, home and community-based health care services and related supportive services, community supported living arrangements, and transitional living arrangements established under section 1558(c)(2); and

"(B) that treatment services provided for each such individual are based on an individualized plan which includes a goal to maintain, enhance, or support, or prevent or minimize the deterioration of skills to maximize the potential and independence of the individual.

"(c) SET-ASIDE OF FUNDS FOR THE LOW-INCOME DISABLED.—

"(1) IN GENERAL.—In the case of a State that has elected the option described in section 1501(a)(1)(D)(i) for a fiscal year, the State plan shall provide that the percentage of funds expended under the plan for medical assistance for eligible low-income individuals who are not elderly individuals and who are eligible for such assistance on the basis of a disability, including being blind, for the fiscal year is not less than the minimum low-income-disabled percentage specified in paragraph (2) of the total funds expended under the plan for medical assistance for the fiscal year.

"(2) MINIMUM LOW-INCOME-DISABLED PERCENTAGE.—The minimum low-income-disabled percentage specified in this paragraph for a State is equal to 90 percent of the percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal year 1995 which was attributable to expenditures for medical assistance for benefits furnished to individuals whose coverage (at such time) was on a basis directly related to disability status, including being blind.

"(3) COMPUTATIONS.—States shall calculate the minimum percentage under paragraph (2) in a reasonable manner consistent with reports submitted to the Secretary for the fiscal years involved and medical assistance attributable to the exception provided under section 1903(v)(2) shall not be considered to be expenditures for medical assistance.

"(d) PREEXISTING CONDITION EXCLUSIONS.—Notwithstanding any other provision of this title—

"(1) a State plan may not deny or exclude coverage of any item or service for an eligible individual for benefits under the State plan for such item or service on the basis of a preexisting condition; and

"(2) if a State contracts or makes other arrangements (through the eligible individual or through another entity) with a capitated health care organization, insurer, or other entity, for the provision of items or services to eligible individuals under the State plan and the State permits such organization, insurer, or other entity to exclude coverage of a covered item or service on the basis of a preexisting condition, the State shall provide, through its State plan, for such coverage (through direct payment or otherwise) for any such covered item or service denied or excluded on the basis of a preexisting condition.

"(e) SET ASIDE OF FUNDS FOR SERVICES PROVIDED AT FEDERALLY-QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.—

"(1) RURAL HEALTH CLINIC SERVICES.—A State plan shall provide that the amount of funds expended under the plan for medical assistance for services provided at rural health clinics (as defined in section 1571(f)(1)), for eligible low-income individuals for a fiscal year is not less than 95 percent of the rural health clinic base year expenditures (as defined in paragraph (3)(A)), increased annually by the State percentage growth factor (as defined in section 1511(g)(3)(C)).

"(2) FEDERALLY-QUALIFIED HEALTH CENTER SERVICES.—A State plan shall provide that the amount of funds expended

under the plan for medical assistance for services provided at Federally-qualified health centers (as defined in section 1571(f)(2)(B)), for eligible low-income individuals for a fiscal year is not less than 95 percent of the federally-qualified health center base year expenditures (as defined in paragraph (3)(B)), increased annually by the State percentage growth factor (as defined in section 1511(g)(3)(C)).

"(3) BASE YEAR EXPENDITURES DEFINED.—

"(A) RURAL HEALTH CLINIC BASE YEAR EXPENDITURES.—For purposes of paragraph (1), the term 'rural health clinic base year expenditures' means, with respect to a State, the annual expenditures under title XIX for medical assistance in the State which were attributable to expenditures for medical assistance for services provided at rural health clinics (as defined in section 1571(f)(1)) located in the State, during Federal fiscal year 1995 or 1996, whichever is greater.

"(B) FEDERALLY-QUALIFIED HEALTH CENTER BASE YEAR EXPENDITURES.—For purposes of paragraph (2), the term 'federally-qualified health center base year expenditures' means, with respect to a State, the annual expenditures under title XIX for medical assistance in the State which were attributable to expenditures for medical assistance for services provided at federally-qualified health centers (as defined in section 1571(f)(2)(B)) located in the State, during Federal fiscal year 1995 or 1996, whichever is greater.

"(C) NOTICE.—For each fiscal year, the Secretary shall provide each State with notice of the amount of funds required under this subsection to be expended during such fiscal year for medical assistance for services provided at rural health clinics and Federally-qualified health centers located in the State.

"(4) NO WAIVER.—No waiver of the requirements of this subsection may be granted under this title, section 1115 of this Act, or any other provision of law.

"(f) PARITY FOR MENTAL HEALTH SERVICES.—

"(1) IN GENERAL.—A State plan may not impose treatment limits or financial requirements on mental illness services which are not imposed on services for other illnesses or diseases. The plan may require pre-admission screening, prior authorization of services, or other mechanisms limiting coverage of mental illness services to services that are medically necessary.

"(2) CONSTRUCTION.—Except as provided in section 1508, no person or entity may bring an action against a State based on its failure to comply with the requirements of paragraph (1).

"SEC. 1503. LIMITATIONS ON COST-SHARING.

"(a) GUARANTEED POPULATION.—The State plan may not impose any cost-sharing with respect to any benefit provided to an individual described in section 1501(a), or with respect to any required medicare cost-sharing provided for an individual described in subsection (b) of such section, except to the extent such cost-sharing could have been imposed against such an individual for such bene-

fit, or such required medicare cost-sharing, under the State plan under title XIX, or under a waiver of the requirements of such plan granted to any State (as such plan (or waiver) is in effect on the date of the enactment of the Medicaid Restructuring Act of 1996).

"(b) OPTIONAL POPULATION.—

"(1) BENEFITS DESCRIBED IN THE GUARANTEED BENEFIT PACKAGE.—The State plan may impose cost-sharing with respect to any benefit described in the guaranteed benefit package in section 1501(a)(2) provided to an eligible low-income individual who is not described in subsection (a) or (b) of section 1501, but only to the extent such cost-sharing could have been imposed against such an individual for such benefit under the State plan under title XIX, or under a waiver of the requirements of such plan granted to any State (as such plan (or waiver) is in effect on the date of the enactment of the Medicaid Restructuring Act of 1996).

"(2) OTHER BENEFITS.—The State plan may impose cost-sharing with respect to any benefit not described in the guaranteed benefit package described in section 1501(a)(2) provided to an eligible low-income individual who is not described in subsection (a) or (b) of section 1501. Such cost-sharing may be imposed in a manner that reflects such economic factors, employment status, and family size with respect to each such individual as the State determines appropriate.

"(c) CERTAIN COST-SHARING PERMITTED.—Nothing in this section shall be construed as preventing a State plan (consistent with subsections (a) and (b))—

"(1) from imposing cost-sharing to discourage the inappropriate use of emergency medical services delivered through a hospital emergency room, a medical transportation provider, or otherwise,

"(2) from imposing premiums and cost-sharing differentially in order to encourage the use of primary and preventive care and discourage unnecessary or less economical care,

"(3) from scaling cost-sharing in a manner that reflects economic factors, employment status, and family size, or

"(4) from scaling cost-sharing based on the availability to the individual or family of other health insurance coverage.

"(d) PROHIBITION ON BALANCE BILLING.—An individual eligible for benefits for items and services under the State plan who is furnished such an item or service by a provider under the plan may not be billed by the provider for such item or service, other than such amount of cost-sharing as is permitted with this section.

"(e) NO DENIAL OF SERVICES DUE TO AN INABILITY TO PAY COST-SHARING.—

"(1) IN GENERAL.—No provider of items or services under the State plan may refuse to provide such items or services to an individual eligible for such items or services based on the individual's inability to pay a cost-sharing charge.

"(2) INDIVIDUAL REMAINS LIABLE.—An individual who is subject to a cost-sharing charge for an item or service under this section and who receives such item or service despite such individual's inability to pay such charge, shall remain liable for such charge.

"(f) PUBLIC NOTICE.—If any charges are imposed under the State plan for cost-sharing, such cost-sharing shall be pursuant to a public cost-sharing schedule.

"(g) COST-SHARING DEFINED.—In this section, the term 'cost-sharing' includes copayments, deductibles, coinsurance, enrollment fees, premiums, and other charges for the provision of health care services.

"SEC. 1504. REQUIREMENTS RELATING TO MEDICAL ASSISTANCE PROVIDED THROUGH MANAGED CARE ARRANGEMENTS.

"(a) SOLVENCY STANDARDS FOR CAPITATED HEALTH CARE ORGANIZATIONS.—

"(1) IN GENERAL.—A State may not contract with a capitated health care organization, as defined in subsection (e)(1), for the provision of medical assistance under a State plan under which the organization is—

"(A) at full financial risk, as defined by the State, unless the organization meets solvency standards established by the State for private health maintenance organizations or is described in paragraph (4) and meets other solvency standards established by the State, so long as such standards are adequate to protect against the risk of insolvency, or

"(B) is not at such risk, unless the organization meets solvency standards that are established under the State plan.

"(2) TREATMENT OF PUBLIC ENTITIES.—Paragraph (1) shall not apply to an organization that is a public entity or if the solvency of such organization is guaranteed by the State.

"(3) TRANSITION.—In the case of a capitated health care organization that as of the date of the enactment of this title has entered into a contract with a State for the provision of medical assistance under title XIX under which the organization assumes full financial risk and is receiving capitation payments, paragraph (1) shall not apply to such organization until 3 years after the date of the enactment of this title.

"(4) ORGANIZATION DESCRIBED.—An organization described in this paragraph is a capitated health care organization which is (or is controlled by) one or more Federally-qualified health centers or rural health clinics. For purposes of this paragraph, the term 'control' means the possession, whether direct or indirect, of the power to direct or cause the direction of the management and policies of a capitated health care organization through membership, board representation, or an ownership interest equal to or greater than 50.1 percent.

"(b) DESCRIPTION OF PROCESS FOR DEVELOPING CAPITATION PAYMENT RATES.—

"(1) IN GENERAL.—If a State contracts (or intends to contract) with a capitated health care organization (as defined in subsection (e)(1)) under which the State makes a capitation payment (as defined in subsection (e)(2)) to the organization for providing or arranging for the provision of medical assistance under the State plan for a group of services, including at least inpatient hospital services and physicians' services, the plan shall include a description of the following:

"(A) USE OF ACTUARIAL SCIENCE.—The extent and manner in which the State uses actuarial science—

"(i) to analyze and project health care expenditures and utilization for individuals enrolled (or to be enrolled) in such an organization under the State plan; and

"(ii) to develop capitation payment rates, including a brief description of the general methodologies used by actuaries.

"(B) QUALIFICATIONS OF ORGANIZATIONS.—The general qualifications, including any accreditation, State licensure or certification, or provider network standards, required by the State for participation of capitated health care organizations under the State plan.

"(C) DISSEMINATION PROCESS.—The process used by the State under paragraph (2) and otherwise to disseminate, before entering into contracts with capitated health care organizations, actuarial information to such organizations on the historical fee-for-service costs (or, if not available, other recent financial data associated with providing covered services) and utilization associated with individuals described in subparagraph (A)(i).

"(2) PUBLIC NOTICE AND COMMENT.—Under the State plan the State shall provide a process for providing, before the beginning of each contract year—

"(A) public notice of—

"(i) the amounts of the capitation payments (if any) made under the plan for the contract year preceding the public notice, and

"(ii)(I) the information described under paragraph (1)(A) with respect to capitation payments for the contract year involved, or (II) amounts of the capitation payments the State expects to make for the contract year involved,

unless such information is designated as proprietary and not subject to public disclosure under State law, and

"(B) an opportunity for receiving public comment on the amounts and information for which notice is provided under subparagraph (A).

"(c) QUALITY ASSURANCE STANDARDS.—

"(1) CHOICE OF PROVIDER.—If a State requires an individual eligible for medical assistance under the State plan under this title to enroll with a capitated health care organization or with a primary care case management provider as a condition of receiving such assistance, the State shall permit such individual to choose a provider of such assistance—

"(A) from among not less than 2 capitated health care organizations; or

"(B) from either a capitated health care organization or a primary care case management provider.

"(2) NO REQUIRED ENROLLMENT FOR SPECIAL NEEDS INDIVIDUALS.—

"(A) IN GENERAL.—A State may not require an individual who is a special needs individual (as described in sub-

paragraph (B)) to enroll with a capitated health care organization as a condition of receiving medical assistance under the State plan under this title.

"(B) SPECIAL NEEDS INDIVIDUALS DESCRIBED.—In this paragraph, a 'special needs individual' means any of the following:

"(i) SPECIAL NEEDS CHILD.—An individual who is under 19 years of age who—

"(I) is eligible for supplemental security income under title XVI;

"(II) is described under section 501(a)(1)(D);

"(III) is a child described in section 1571(b)(1)(B); or

"(IV) is in foster care or is otherwise in an out-of-home placement.

"(ii) HOMELESS INDIVIDUALS.—An individual who is homeless (without regard to whether the individual is a member of a family), including—

"(I) an individual whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations; or

"(II) an individual who is a resident in transitional housing.

"(iii) MIGRANT AGRICULTURAL WORKERS.—A migratory agricultural worker or a seasonal agricultural worker (as such terms are defined in section 329 of the Public Health Service Act), or the spouse or dependent of such a worker.

"(3) DEFAULT ENROLLMENT.—

"(A) ESTABLISHMENT OF PROCESS.—A State may establish a default enrollment process under which any individual who does not enroll with a capitated health care organization during the enrollment period specified by the State shall be enrolled by the State with such an organization in accordance with such process.

"(B) LIMITATION.—A State may not enroll an individual using the default enrollment process established by the State with a capitated health care organization which is not in compliance with the requirements of this section.

"(4) AVAILABILITY OF SERVICES.—A State may not contract with a capitated health care organization to provide medical assistance under the State plan under this title unless such organization delivers medical assistance to an enrollee with such organization under this title in a manner which makes such assistance, when medically necessary, available and accessible 24 hours a day and 7 days a week.

"(5) ADEQUATE NUMBER OF PROVIDERS.—A State may not contract with a capitated health care organization to provide medical assistance under the State plan under this title unless such organization contracts with a reasonable number of primary care and specialty care providers to meet the health care needs of enrollees with such organizations under this title.

"(6) PROHIBITIONS.—

"(A) IN GENERAL.—A State shall prohibit a capitated health care organization that the State enters into a contract with to provide medical assistance under a State plan under this title from—

"(i) discriminating on the basis of health status or anticipated need for services in the enrollment, reenrollment, or disenrollment of such an individual;

"(ii) obtaining the enrollment of such an individual through fraudulent or coercive means;

"(iii) distributing marketing materials within the State that contain false or materially misleading information; and

"(iv) having—

"(I) a person described in subparagraph (B) as a director, officer, partner, or person with beneficial ownership of more than 5 percent of the organization's equity; or

"(II) an employment, consulting, or other agreement with a person described in subparagraph (B) for the provision of items and services that are significant and material to the organization's obligations under its contract with the State.

"(B) PERSONS DESCRIBED.—A person is described in this subparagraph if such person—

"(i) is debarred or suspended by the Federal Government, pursuant to the Federal acquisition regulation, from Government contracting and subcontracting;

"(ii) is an affiliate (within the meaning of the Federal acquisition regulation) of a person described in clause (i); or

"(iii) is excluded from participation in any program under title XVIII or any State health care program, as defined in section 1128(h).

"(7) AUDITS, INSPECTIONS, AND EXTERNAL REVIEWS.—

"(A) BY THE STATE.—A State shall require a capitated health care organization that the State enters into a contract with to provide medical assistance under a State plan under this title to provide such financial information as the State may specify and to allow the State to audit and inspect the records of the organization to verify such information.

"(B) INDEPENDENT, EXTERNAL REVIEWS.—A State may not enter into a contract with a capitated health care organization to provide medical assistance under the State plan under this title unless the organization has a contract with a utilization and quality control organization under part B of title XI, an entity which meets the requirements of section 1152, as determined by the Secretary, or a private accreditation body, to conduct, on an annual basis, an independent, external review of the quality of the services provided by the organization.

"(8) ESTABLISHMENT OF SANCTIONS FOR NONCOMPLIANCE WITH STANDARDS.—A State shall establish sanctions, including intermediate sanctions and civil money penalties, which may

be imposed against a capitated health care organization with a contract to provide medical assistance under the State plan under this title for—

"(A) noncompliance with the requirements of this subsection; or

"(B) failure to provide medically necessary services required under such contract.

"(d) AUTHORITY TO CONTRACT WITH PRIMARY CARE CASE MANAGEMENT PROVIDERS.—

"(1) IN GENERAL.—A State may contract with a primary care case management provider (as defined under subsection (e)(3)) for the provision of case management services to an eligible low-income individual under the State plan.

"(2) DEFAULT ENROLLMENT.—If a State establishes a default enrollment process under subsection (c)(3), the State may enroll an individual who does not enroll with a capitated health care organization or with a primary care case management provider during the enrollment period specified by the State with a primary care case management provider using such process.

"(e) DEFINITIONS.—In this title:

"(1) CAPITATED HEALTH CARE ORGANIZATION.—The term 'capitated health care organization' means a health maintenance organization or any other entity (including a health insuring organization, managed care organization, prepaid health plan, integrated service network, or similar entity) which under State law is permitted to accept capitation payments for providing (or arranging for the provision of) a group of items and services including at least inpatient hospital services and physicians' services.

"(2) CAPITATION PAYMENT.—The term 'capitation payment' means, with respect to payment, payment on a prepaid capitation basis or any other risk basis to an entity for the entity's provision (or arranging for the provision) of a group of items and services, including at least inpatient hospital services and physicians' services.

"(3) PRIMARY CARE CASE MANAGEMENT PROVIDER.—The term 'primary care case management provider' means a health care provider that—

"(A) is a physician, group of physicians, a Federally-qualified health center, a rural health clinic, or an entity employing or having other arrangements with physicians that provides or arranges for the provision of one or more items and services to individuals eligible for medical assistance under the State plan under this title;

"(B) receives a fixed fee per enrollee for a specified period for providing case management services (including approving and arranging for the provision of health care items and services on a referral basis) to enrolled individuals; and

"(C) is not an entity that is at full financial risk, as defined by the State.

"SEC. 1505. PREVENTING SPOUSAL IMPOVERISHMENT.

"(a) SPECIAL TREATMENT FOR INSTITUTIONALIZED SPOUSES.—

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"(1) SUPERSEDES OTHER PROVISIONS.—In determining the eligibility for medical assistance of an institutionalized spouse (as defined in subsection (h)(1)), the provisions of this section supersede any other provision of this title which is inconsistent with them.

"(2) DOES NOT AFFECT CERTAIN DETERMINATIONS.—Except as this section specifically provides, this section does not apply to—

"(A) the determination of what constitutes income or resources, or

"(B) the methodology and standards for determining and evaluating income and resources.

"(3) NO APPLICATION IN COMMONWEALTHS AND TERRITORIES.—This section shall only apply to a State that is one of the 50 States or the District of Columbia.

"(b) RULES FOR TREATMENT OF INCOME.—

"(1) SEPARATE TREATMENT OF INCOME.—During any month in which an institutionalized spouse is in the institution, except as provided in paragraph (2), no income of the community spouse shall be deemed available to the institutionalized spouse.

"(2) ATTRIBUTION OF INCOME.—In determining the income of an institutionalized spouse or community spouse for purposes of the post-eligibility income determination described in subsection (d), except as otherwise provided in this section and regardless of any State laws relating to community property or the division of marital property, the following rules apply:

"(A) NON-TRUST PROPERTY.—Subject to subparagraphs (C) and (D), in the case of income not from a trust, unless the instrument providing the income otherwise specifically provides—

"(i) if payment of income is made solely in the name of the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse,

"(ii) if payment of income is made in the names of the institutionalized spouse and the community spouse, ½ of the income shall be considered available to each of them, and

"(iii) if payment of income is made in the names of the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, ½ of the joint interest shall be considered available to each spouse).

"(B) TRUST PROPERTY.—In the case of a trust—

"(i) except as provided in clause (ii), income shall be attributed in accordance with the provisions of this title; and

"(ii) income shall be considered available to each spouse as provided in the trust, or, in the absence of a specific provision in the trust—

"(I) if payment of income is made solely to the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse,

"(II) if payment of income is made to both the institutionalized spouse and the community spouse, ½ of the income shall be considered available to each of them, and

"(III) if payment of income is made to the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, ½ of the joint interest shall be considered available to each spouse).

"(C) PROPERTY WITH NO INSTRUMENT.—In the case of income not from a trust in which there is no instrument establishing ownership, subject to subparagraph (D), ½ of the income shall be considered to be available to the institutionalized spouse and ½ to the community spouse.

"(D) REBUTTING OWNERSHIP.—The rules of subparagraphs (A) and (C) are superseded to the extent that an institutionalized spouse can establish, by a preponderance of the evidence, that the ownership interests in income are other than as provided under such subparagraphs.

"(c) RULES FOR TREATMENT OF RESOURCES.—

"(1) COMPUTATION OF SPOUSAL SHARE AT TIME OF INSTITUTIONALIZATION.—

"(A) TOTAL JOINT RESOURCES.—There shall be computed (as of the beginning of the first continuous period of institutionalization of the institutionalized spouse)—

"(i) the total value of the resources to the extent either the institutionalized spouse or the community spouse has an ownership interest, and

"(ii) a spousal share which is equal to ½ of such total value.

"(B) ASSESSMENT.—At the request of an institutionalized spouse or community spouse, at the beginning of the first continuous period of institutionalization of the institutionalized spouse and upon the receipt of relevant documentation of resources, the State shall promptly assess and document the total value described in subparagraph (A)(i) and shall provide a copy of such assessment and documentation to each spouse and shall retain a copy of the assessment for use under this section. If the request is not part of an application for medical assistance under this title, the State may, at its option as a condition of providing the assessment, require payment of a fee not exceeding the reasonable expenses of providing and documenting the assessment. At the time of providing the copy of the assessment, the State shall include a notice indicating that the spouse will have a right to a fair hearing under subsection (e)(2).

"(2) ATTRIBUTION OF RESOURCES AT TIME OF INITIAL ELIGIBILITY DETERMINATION.—In determining the resources of an institutionalized spouse at the time of application for medical assistance under this title, regardless of any State laws relating to community property or the division of marital property—

"(A) except as provided in subparagraph (B), all the resources held by either the institutionalized spouse, community spouse, or both, shall be considered to be available to the institutionalized spouse, and

"(B) resources shall be considered to be available to an institutionalized spouse, but only to the extent that the amount of such resources exceeds the amount computed under subsection (f)(2)(A) (as of the time of application for medical assistance).

"(3) ASSIGNMENT OF SUPPORT RIGHTS.—The institutionalized spouse shall not be ineligible by reason of resources determined under paragraph (2) to be available for the cost of care where—

"(A) the institutionalized spouse has assigned to the State any rights to support from the community spouse,

"(B) the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment but the State has the right to bring a support proceeding against a community spouse without such assignment, or

"(C) the State determines that denial of eligibility would work an undue hardship.

"(4) SEPARATE TREATMENT OF RESOURCES AFTER ELIGIBILITY FOR MEDICAL ASSISTANCE ESTABLISHED.—During the continuous period in which an institutionalized spouse is in an institution and after the month in which an institutionalized spouse is determined to be eligible for medical assistance under this title, no resources of the community spouse shall be deemed available to the institutionalized spouse.

"(5) RESOURCES DEFINED.—In this section, the term 'resources' does not include—

"(A) resources excluded under subsection (a) or (d) of section 1613, and

"(B) resources that would be excluded under section 1613(a)(2)(A) but for the limitation on total value described in such section.

"(d) PROTECTING INCOME FOR COMMUNITY SPOUSE.—

"(1) ALLOWANCES TO BE OFFSET FROM INCOME OF INSTITUTIONALIZED SPOUSE.—After an institutionalized spouse is determined or redetermined to be eligible for medical assistance, in determining the amount of the spouse's income that is to be applied monthly to payment for the costs of care in the institution, there shall be deducted from the spouse's monthly income the following amounts in the following order:

"(A) A personal needs allowance (described in paragraph (2)(A)), in an amount not less than the amount specified in paragraph (2)(C).

"(B) A community spouse monthly income allowance (as defined in paragraph (3)), but only to the extent income of

the institutionalized spouse is made available to (or for the benefit of) the community spouse.

"(C) A family allowance, for each family member, equal to at least ⅓ of the amount by which the amount described in paragraph (4)(A)(i) exceeds the amount of the monthly income of that family member.

"(D) Amounts for incurred expenses for medical or remedial care for the institutionalized spouse as provided under paragraph (6).

In subparagraph (C), the term 'family member' only includes minor or dependent children, dependent parents, or dependent siblings of the institutionalized or community spouse who are residing with the community spouse.

"(2) PERSONAL NEEDS ALLOWANCE.—

"(A) IN GENERAL.—The State plan must provide that, in the case of an institutionalized individual or couple described in subparagraph (B), in determining the amount of the individual's or couple's income to be applied monthly to payment for the cost of care in an institution, there shall be deducted from the monthly income (in addition to other allowances otherwise provided under the plan) a monthly personal needs allowance—

"(i) which is reasonable in amount for clothing and other personal needs of the individual (or couple) while in an institution, and

"(ii) which is not less (and may be greater) than the minimum monthly personal needs allowance described in subparagraph (C).

"(B) INSTITUTIONALIZED INDIVIDUAL OR COUPLE DEFINED.—In this paragraph, the term 'institutionalized individual or couple' means an individual or married couple—

"(i) who is an inpatient (or who are inpatients) in a medical institution or nursing facility for which payments are made under this title throughout a month, and

"(ii) who is or are determined to be eligible for medical assistance under the State plan.

"(C) MINIMUM ALLOWANCE.—The minimum monthly personal needs allowance described in this subparagraph is $40 for an institutionalized individual and $80 for an institutionalized couple (if both are aged, blind, or disabled, and their incomes are considered available to each other in determining eligibility).

"(3) COMMUNITY SPOUSE MONTHLY INCOME ALLOWANCE DEFINED.—

"(A) IN GENERAL.—In this section (except as provided in subparagraph (B)), the community spouse monthly income allowance for a community spouse is an amount by which—

"(i) except as provided in subsection (e), the minimum monthly maintenance needs allowance (established under and in accordance with paragraph (4)) for the spouse, exceeds

"(ii) the amount of monthly income otherwise available to the community spouse (determined without regard to such an allowance).

"(B) COURT ORDERED SUPPORT.—If a court has entered an order against an institutionalized spouse for monthly income for the support of the community spouse, the community spouse monthly income allowance for the spouse shall be not less than the amount of the monthly income so ordered.

"(4) ESTABLISHMENT OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—

"(A) IN GENERAL.—Each State shall establish a minimum monthly maintenance needs allowance for each community spouse which, subject to subparagraph (B), is equal to or exceeds—

"(i) 150 percent of 1/12 of the poverty line applicable to a family unit of 2 members, plus

"(ii) an excess shelter allowance (as defined in paragraph (4)).

A revision of the poverty line referred to in clause (i) shall apply to medical assistance furnished during and after the second calendar quarter that begins after the date of publication of the revision.

"(B) CAP ON MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—The minimum monthly maintenance needs allowance established under subparagraph (A) may not exceed $1,500 (subject to adjustment under subsections (e) and (g)).

"(5) EXCESS SHELTER ALLOWANCE DEFINED.—In paragraph (4)(A)(ii), the term 'excess shelter allowance' means, for a community spouse, the amount by which the sum of—

"(A) the spouse's expenses for rent or mortgage payment (including principal and interest), taxes and insurance and, in the case of a condominium or cooperative, required maintenance charge, for the community spouse's principal residence, and

"(B) the standard utility allowance (used by the State under section 5(e) of the Food Stamp Act of 1977) or, if the State does not use such an allowance, the spouse's actual utility expenses,

exceeds 30 percent of the amount described in paragraph (4)(A)(i), except that, in the case of a condominium or cooperative, for which a maintenance charge is included under subparagraph (A), any allowance under subparagraph (B) shall be reduced to the extent the maintenance charge includes utility expenses.

"(6) TREATMENT OF INCURRED EXPENSES.—With respect to the post-eligibility treatment of income under this section, there shall be disregarded reparation payments made by the Federal Republic of Germany and, there shall be taken into account amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including—

"(A) medicare and other health insurance premiums, deductibles, or coinsurance, and

"(B) necessary medical or remedial care recognized under State law but not covered under the State plan under this title, subject to reasonable limits the State may establish on the amount of these expenses.

"(e) NOTICE AND FAIR HEARING.—

"(1) NOTICE.—Upon—

"(A) a determination of eligibility for medical assistance of an institutionalized spouse, or

"(B) a request by either the institutionalized spouse, or the community spouse, or a representative acting on behalf of either spouse,

each State shall notify both spouses (in the case described in subparagraph (A)) or the spouse making the request (in the case described in subparagraph (B)) of the amount of the community spouse monthly income allowance (described in subsection (d)(1)(B)), of the amount of any family allowances (described in subsection (d)(1)(C)), of the method for computing the amount of the community spouse resources allowance permitted under subsection (f), and of the spouse's right to a fair hearing under the State plan respecting ownership or availability of income or resources, and the determination of the community spouse monthly income or resource allowance.

"(2) FAIR HEARING.—

"(A) IN GENERAL.—If either the institutionalized spouse or the community spouse is dissatisfied with a determination of—

"(i) the community spouse monthly income allowance;

"(ii) the amount of monthly income otherwise available to the community spouse (as applied under subsection (d)(3)(A)(ii));

"(iii) the computation of the spousal share of resources under subsection (c)(1);

"(iv) the attribution of resources under subsection (c)(2); or

"(v) the determination of the community spouse resource allowance (as defined in subsection (f)(2));

such spouse is entitled to a fair hearing under the State plan with respect to such determination if an application for benefits under this title has been made on behalf of the institutionalized spouse. Any such hearing respecting the determination of the community spouse resource allowance shall be held within 30 days of the date of the request for the hearing.

"(B) REVISION OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—If either such spouse establishes that the community spouse needs income, above the level otherwise provided by the minimum monthly maintenance needs allowance, due to exceptional circumstances resulting in significant financial duress, there shall be substituted, for the minimum monthly maintenance needs al-

lowance in subsection (d)(3)(A)(i), an amount adequate to provide such additional income as is necessary.

"(C) REVISION OF COMMUNITY SPOUSE RESOURCE ALLOWANCE.—If either such spouse establishes that the community spouse resource allowance (in relation to the amount of income generated by such an allowance) is inadequate to raise the community spouse's income to the minimum monthly maintenance needs allowance, there shall be substituted, for the community spouse resource allowance under subsection (f)(2), an amount adequate to provide such a minimum monthly maintenance needs allowance.

"(f) PERMITTING TRANSFER OF RESOURCES TO COMMUNITY SPOUSE.—

"(1) IN GENERAL.—An institutionalized spouse may, without regard to any other provision of the State plan to the contrary, transfer an amount equal to the community spouse resource allowance (as defined in paragraph (2)), but only to the extent the resources of the institutionalized spouse are transferred to, or for the sole benefit of, the community spouse. The transfer under the preceding sentence shall be made as soon as practicable after the date of the initial determination of eligibility, taking into account such time as may be necessary to obtain a court order under paragraph (3).

"(2) COMMUNITY SPOUSE RESOURCE ALLOWANCE DEFINED.—In paragraph (1), the 'community spouse resource allowance' for a community spouse is an amount (if any) by which—

"(A) the greatest of—

"(i) $12,000 (subject to adjustment under subsection (g)), or, if greater (but not to exceed the amount specified in clause (ii)(II)) an amount specified under the State plan,

"(ii) the lesser of (I) the spousal share computed under subsection (c)(1), or (II) $60,000 (subject to adjustment under subsection (g)),

"(iii) the amount established under subsection (e)(2), or

"(iv) the amount transferred under a court order under paragraph (3);

exceeds

"(B) the amount of the resources otherwise available to the community spouse (determined without regard to such an allowance).

"(3) TRANSFERS UNDER COURT ORDERS.—If a court has entered an order against an institutionalized spouse for the support of the community spouse, any provisions under the plan relating to transfers or disposals of assets for less than fair market value shall not apply to amounts of resources transferred pursuant to such order for the support of the spouse or a family member (as defined in subsection (d)(1)).

"(g) INDEXING DOLLAR AMOUNTS.—For services furnished during a calendar year after 1989, the dollar amounts specified in subsections (d)(3)(C), (f)(2)(A)(i), and (f)(2)(A)(ii)(II) shall be increased by the same percentage as the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average)

between September 1988 and the September before the calendar year involved.

"(h) DEFINITIONS.—In this section:

"(1) INSTITUTIONALIZED SPOUSE.—The term 'institutionalized spouse' means an individual—

"(A)(i) who is in a medical institution or nursing facility, or

"(ii) at the option of the State (I) who would be eligible under the State plan under this title if such individual was in a medical institution, (II) with respect to whom there has been a determination that but for the provision of home or community-based services such individual would require the level of care provided in a hospital, nursing facility or intermediate care facility for the mentally retarded the cost of which could be reimbursed under the plan, and (III) who will receive home or community-based services pursuant to the plan; and

"(B) is married to a spouse who is not in a medical institution or nursing facility;

but does not include any such individual who is not likely to meet the requirements of subparagraph (A) for at least 30 consecutive days.

"(2) COMMUNITY SPOUSE.—The term 'community spouse' means the spouse of an institutionalized spouse.

"SEC. 1506. PREVENTING FAMILY IMPOVERISHMENT.

"(a) RESPONSIBILITIES FOR LONG-TERM CARE GENERALLY.—A State plan may not—

"(1) require an adult child or any other individual (other than the applicant or recipient of services or the spouse of such an applicant or recipient) to contribute to the cost of covered nursing facility services and other long-term care services under the plan; and

"(2) take into account with respect to such services the financial responsibility of any individual for any applicant or recipient of assistance under the plan unless such applicant or recipient is such individual's spouse or such individual's child who is under age 21 or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or is blind or disabled as defined in section 1614 (with respect to States which are not eligible to participate in such program).

"(b) LIMITATIONS ON LIENS.—

"(1) IN GENERAL.—No lien may be imposed against the property of any individual prior to the individual's death on account of medical assistance paid or to be paid on the individual's behalf under a State plan, except—

"(A) pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual; or

"(B) in the case of the real property of an individual—

"(i) who is an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the plan, to spend for costs of medical

care all but a minimal amount of the individual's income required for personal needs, and

"(ii) with respect to whom the State determines, after notice and opportunity for a hearing (in accordance with procedures established by the State), that the individual cannot reasonably be expected to be discharged from the medical institution and to return home,

except as provided in paragraph (2).

"(2) EXCEPTION.—No lien may be imposed under paragraph (1)(B) on such individual's home if—

"(A) the spouse of such individual,

"(B) such individual's child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614, or

"(C) a sibling of such individual (who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution),

is lawfully residing in such home.

"(3) DISSOLUTION UPON RETURN HOME.—Any lien imposed with respect to an individual pursuant to paragraph (1)(B) shall dissolve upon that individual's discharge from the medical institution and return home.

"SEC. 1507. STATE FLEXIBILITY.

"(a) STATE FLEXIBILITY IN BENEFITS, PROVIDER PAYMENTS, GEOGRAPHICAL COVERAGE AREA, AND SELECTION OF PROVIDERS.—The State under its State plan may—

"(1) specify those items and services for which medical assistance is provided (consistent with guarantees under subsections (a) and (b) of section 1501), the providers which may provide such items and services, and the amount and frequency of providing such items and services;

"(2) specify the extent to which the same medical assistance will be provided in all geographical areas or political subdivisions of the State, so long as medical assistance is made available in all such areas or subdivisions;

"(3) specify the extent to which the medical assistance made available to any individual eligible for medical assistance is comparable in amount, duration, or scope to the medical assistance made available to any other such individual; and

"(4) specify the extent to which an individual eligible for medical assistance with respect to an item or service may choose to obtain such assistance from any institution, agency, or person qualified to provide the item or service.

"(b) STATE FLEXIBILITY WITH RESPECT TO MANAGED CARE.—Nothing in this title shall be construed—

"(1) to limit a State's ability to contract with, on a capitated basis or otherwise, health care plans or individual health care

providers for the provision or arrangement of medical assistance,

"(2) to limit a State's ability to contract with health care plans or other entities for case management services or for coordination of medical assistance, or

"(3) to restrict a State from establishing capitation rates on the basis of competition among health care plans or negotiations between the State and one or more health care plans.

"SEC. 1508. PRIVATE RIGHTS OF ACTION.

"(a) LIMITATION ON FEDERAL CAUSES OF ACTION.—Except as provided in this section, no person or entity may bring an action against a State in Federal court based on its failure to comply with any requirement of this title.

"(b) STATE CAUSES OF ACTION.—

"(1) ADMINISTRATIVE AND JUDICIAL PROCEDURES.—A State plan shall provide for—

"(A) an administrative procedure whereby an individual alleging a denial of benefits under the State plan may receive a hearing regarding such denial, and

"(B) judicial review, through a private right of action in a State court by an individual or class of individuals, regarding such a denial, but a State may require exhaustion of administrative remedies before such an action may be taken.

The administrative procedure under subparagraph (A) shall include impartial decision makers, a fair process, and timely decisions.

"(2) WRIT OF CERTIORARI.—An individual or class may file a petition for certiorari before the Supreme Court of the United States in a case of a denial of benefits under the State plan to review a determination of the highest court of a State regarding such denial.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a State to provide a private right of action in State court by a provider, health plan, or a class of providers or health plans.

"(c) SECRETARIAL RELIEF.—

"(1) IN GENERAL.—The Secretary may bring an action in Federal court against a State and on behalf of an individual or class of individuals in order to assure that a State provides benefits to individuals and classes of individuals as guaranteed under subsection (a) or (b) of section 1501 under its State plan.

"(2) NO PRIVATE RIGHT.—No action may be brought in any court against the Secretary based on the Secretary's bringing, or failure to bring, an action under paragraph (1).

"(3) CONSTRUCTION.—Nothing in this title shall be construed as authorizing the Secretary to bring an action on behalf of a provider, health plan, or a class of providers or health plans.

"PART B—PAYMENTS TO STATES

"SEC. 1511. ALLOTMENT OF FUNDS AMONG STATES.

"(a) ALLOTMENTS.—

"(1) COMPUTATION.—The Secretary shall provide for the computation of State obligation and outlay allotments in accordance with this section for each fiscal year beginning with fiscal year 1997. Nothing in this part shall be construed as authorizing payment under this part to any State for fiscal year 1996.

"(2) LIMITATION ON OBLIGATIONS.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, the Secretary shall not enter into obligations with any State under this title for a fiscal year in excess of the sum of the following allotments for the State for the fiscal year:

"(i) BASE OBLIGATION ALLOTMENT.—The amount of the base obligation allotment for that State for the fiscal year under paragraph (4).

"(ii) SUPPLEMENTAL ALLOTMENT FOR CERTAIN ALIENS.—The amount of any supplemental allotment for that State for the fiscal year under subsection (f).

"(iii) SUPPLEMENTAL PER BENEFICIARY UMBRELLA ALLOTMENT.—The amount of any supplemental per beneficiary umbrella allotment for that State for the fiscal year under subsection (g).

The sum of the base obligation allotments for all States in any fiscal year (excluding amounts carried over under subparagraph (B) and excluding changes in allotments effected under paragraph (4)(D)) shall not exceed the aggregate limit on new base obligation authority specified in paragraph (3) for that fiscal year.

"(B) ADJUSTMENTS.—

"(i) CARRYOVER OF BASE ALLOTMENT PERMITTED.—Subject to clause (ii), if the amount of obligations entered into under this part with a State for quarters in a fiscal year is less than the amount of the obligation allotment under this section to the State for the fiscal year, the amount of the difference (less any amount computed under clause (iii)) shall be added to the amount of the State obligation allotment otherwise provided under this section for the succeeding fiscal year.

"(ii) NO CARRYOVER PERMITTED FOR STATES RECEIVING SUPPLEMENTAL UMBRELLA ALLOTMENTS.—Clause (i) shall not apply, insofar as it permits a carryover for a State from a particular year to the next year, if in the particular year the State receives a supplemental umbrella allotment under subsection (g).

"(iii) NO CARRYOVER OF ALIEN SUPPLEMENTAL ALLOTMENT.—The amount of any carryover under clause (i) from a fiscal year shall be reduced by the amount (if any) by which the amount of the outlays for expenditures described in subsection (f) for the fiscal year is less than the amount of any supplemental allotment provided under the respective subsection for the State and fiscal year involved.

"(C) REDUCTION FOR NEW OBLIGATIONS UNDER TITLE XIX IN FISCAL YEAR 1997.—The amount of the base obligation

allotment otherwise provided under this section for fiscal year 1997 for a State shall be reduced by the amount of the obligations entered into with respect to the State under section 1903(a) during such fiscal year.

"(D) NO EFFECT ON PRIOR YEAR OBLIGATIONS.—Subparagraph (A) shall not apply to or affect obligations for a fiscal year prior to fiscal year 1997.

"(E) OBLIGATION.—For purposes of this section, the Secretary's establishment of an estimate under section 1512(b) of the amount a State is entitled to receive for a quarter (taking into account any adjustments described in such subsection) beginning during or after fiscal year 1997 shall be treated as the obligation of such amount for the State as of the first day of the quarter.

"(F) RELATION TO GUARANTEES.—The Federal Government's obligations for payments under this title are limited as provided under subparagraph (A) and are only subject to adjustment based on any guarantee provided under section 1501 as provided under subsection (g).

"(3) AGGREGATE LIMIT ON NEW BASE OBLIGATION AUTHORITY.—

"(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (C), the 'aggregate limit on new base obligation authority', for a fiscal year, is the base pool amount under subsection (b) for the fiscal year, divided by the payout adjustment factor (described in subparagraph (B)) for the fiscal year.

"(B) PAYOUT ADJUSTMENT FACTOR.—For purposes of this subsection, the 'payout adjustment factor'—

"(i) for fiscal year 1997 is 0.950,

"(ii) for fiscal year 1998 is 0.986, and

"(iii) for a subsequent fiscal year is 0.998.

"(C) TRANSITIONAL ADJUSTMENT FOR PRE-FISCAL YEAR 1997-OBLIGATION OUTLAYS.—In order to account for pre-fiscal year 1997-obligation outlays described in paragraph (4)(C)(iv), in determining the aggregate limit on new obligation authority under subparagraph (A) for fiscal year 1997, the pool amount for such fiscal year is equal to—

"(i) the pool amount for such year, reduced by

"(ii) $12,000,000,000.

"(4) BASE OBLIGATION ALLOTMENTS.—

"(A) GENERAL RULE FOR 50 STATES AND THE DISTRICT OF COLUMBIA.—Except as provided in this paragraph, the 'base obligation allotment' for any of the 50 States or the District of Columbia for a fiscal year (beginning with fiscal year 1997) is an amount that bears the same ratio to the base outlay allotment under subsection (c)(2) for such State or District (not taking into account any adjustment due to an election under subsection (c)(4)) for the fiscal year as the ratio of—

"(i) the aggregate limit on new base obligation authority (less the total of the obligation allotments under subparagraph (B)) for the fiscal year, to

"(ii) the base pool amount (less the sum of the base outlay allotments for the territories) for such fiscal year.

"(B) TERRITORIES.—The base obligation allotment for each of the Commonwealths and territories for a fiscal year is the base outlay allotment for such Commonwealth or Territory (as determined under subsection (c)(5)) for the fiscal year divided by the payout adjustment factor for the fiscal year (as defined in paragraph (3)(B)).

"(C) TRANSITIONAL RULE FOR FISCAL YEAR 1997.—

"(i) IN GENERAL.—The obligation amount for fiscal year 1997 for any State (including the District of Columbia, a Commonwealth, or Territory) is determined according to the formula: A=(B–C)/D, where—

"(I) 'A' is the base obligation amount for such State,

"(II) 'B' is the base outlay allotment of such State for fiscal year 1997, as determined under subsection (c),

"(III) 'C' is the amount of the pre-enactment-obligation outlays (as established for such State under clause (ii)), and

"(IV) 'D' is the payout adjustment factor for such fiscal year (as defined in paragraph (3)(B)).

"(ii) PRE-FISCAL YEAR 1997-OBLIGATION OUTLAY AMOUNTS.—Not later than November 1, 1996, the Secretary shall estimate (based on the best data available) and publish in the Federal Register the amount of the pre-fiscal year 1997-obligation outlays (as defined in clause (iv)) for each State (including the District of Columbia, Commonwealths, and Territories). The total of such amounts shall equal the dollar amount specified in paragraph (3)(C)(ii).

"(iii) AGREEMENT.—The submission of a State plan by a State under this title is deemed to constitute the State's acceptance of the obligation allotment limitations under this subsection, including the formula for computing the amount of the base obligation allotment and any supplemental obligation allotments.

"(iv) PRE-FISCAL YEAR 1997-OBLIGATION OUTLAYS DEFINED.—In this subsection, the term 'pre-fiscal year 1997-obligation outlays' means, for a State, the outlays of the Federal Government that result from obligations that have been incurred under title XIX with respect to the State before October 1, 1996, but for which payments to States have not been made as of such date.

"(D) ADJUSTMENT TO REFLECT ADOPTION OF ALTERNATIVE GROWTH FORMULA.—Any State that has elected an alternative growth formula under subsection (c)(4) which increases or decreases the dollar amount of an outlay allotment for a fiscal year is deemed to have increased or decreased, respectively, its obligation amount for such fiscal year by the amount of such increase or decrease.

"(E) TRANSITIONAL CORRECTION FOR FISCAL YEAR 1997.—

"(i) IN GENERAL.—The base obligation amount for fiscal year 1998 for any State described in clause (ii) shall be increased by the amount by which the amount described in clause (ii)(I) exceeds the amount described in clause (ii)(II), divided by the payout adjustment factor specified in paragraph (3)(B) for fiscal year 1997. The increase under this clause shall be paid to a State in the first quarter of fiscal year 1998.

"(ii) STATES DESCRIBED.—A State described in this clause is a State for which—

"(I) the amount of the pre-fiscal year 1997-obligation outlays (as established for such State under subparagraph (C)(ii)), exceeded

"(II) the outlays of the Federal Government during fiscal year 1997 that are attributable to obligations that were incurred under title XIX with respect to the State before October 1, 1996, but for which payments to States had not been made as of such date.

"(5) SEQUENCE OF OBLIGATIONS.—For purposes of carrying out this title, payments under section 1512 to a State eligible for a supplemental outlay allotment that are attributable to—

"(A) expenditures for medical assistance described in the second sentence of subsection (f)(1) or the second sentence of subsection (h)(1) shall first be counted toward the supplemental outlay allotment provided under subsection (f) or (h), respectively, rather than toward the base outlay allotment otherwise provided under this section; or

"(B) subsection (g) (relating to the umbrella fund) shall first be counted toward the allotment provided other than under such subsection, and then to such subsection.

"(b) BASE POOL OF AVAILABLE FUNDS.—

"(1) IN GENERAL.—For purposes of this section, the 'base pool amount' under this subsection for—

"(A) fiscal year 1996 is $96,601,037,894,

"(B) fiscal year 1997 is $103,447,755,053,

"(C) fiscal year 1998 is $108,430,173,129,

"(D) fiscal year 1999 is $113,652,562,483,

"(E) fiscal year 2000 is $119,126,480,999,

"(F) fiscal year 2001 is $124,864,043,230,

"(G) fiscal year 2002 is $130,877,947,213, and

"(H) each subsequent fiscal year is the pool amount under this paragraph for the previous fiscal year increased by the lesser of 4.82 percent or the annual percentage increase in the gross domestic product for the 12-month period ending in June before the beginning of that subsequent fiscal year.

"(2) NATIONAL GROWTH PERCENTAGE.—For purposes of this section for a fiscal year (beginning with fiscal year 1997), the 'national growth percentage' is the percentage by which—

"(A) the base pool amount under paragraph (1) for the fiscal year, exceeds

"(B) such base pool amount for the previous fiscal year.

"(c) STATE BASE OUTLAY ALLOTMENTS.—

"(1) FISCAL YEAR 1996.—

"(A) IN GENERAL.—For each of the 50 States and the District of Columbia, the amount of the State base outlay allotment under this subsection for fiscal year 1996 is, subject to paragraph (4), determined in accordance with the following table:

"State or District:	Outlay allotment (in dollars):
Alabama	1,517,652,207
Alaska	204,933,213
Arizona	1,385,781,297
Arkansas	1,011,457,933
California	8,946,838,461
Colorado	757,492,679
Connecticut	1,463,011,635
Delaware	212,327,763
District of Columbia	501,412,091
Florida	3,715,624,180
Georgia	2,426,320,602
Hawaii	323,124,375
Idaho	278,329,686
Illinois	3,467,274,342
Indiana	1,952,467,267
Iowa	835,235,895
Kansas	713,700,869
Kentucky	1,577,828,832
Louisiana	2,622,000,000
Maine	694,220,790
Maryland	1,369,699,847
Massachusetts	2,870,346,862
Michigan	3,465,182,886
Minnesota	1,793,776,356
Mississippi	1,261,781,330
Missouri	1,849,248,945
Montana	312,212,472
Nebraska	463,900,417
Nevada	257,896,453
New Hampshire	560,000,000
New Jersey	2,854,621,241
New Mexico	634,756,945
New York	12,901,793,038
North Carolina	2,587,883,809
North Dakota	241,168,563
Ohio	4,034,049,690
Oklahoma	911,198,775
Oregon	1,088,670,440
Pennsylvania	4,454,423,400
Rhode Island	545,686,262
South Carolina	1,621,021,815
South Dakota	262,804,959
Tennessee	2,519,934,251
Texas	6,351,909,343
Utah	484,274,254
Vermont	248,158,729
Virginia	1,144,962,509
Washington	1,763,460,996
West Virginia	1,156,813,157
Wisconsin	1,709,500,642
Wyoming	132,915,390.

"(2) FOR SUBSEQUENT FISCAL YEARS.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, the amount of the State base outlay allotment under this subsection for one of the 50 States and

the District of Columbia for a fiscal year (beginning with fiscal year 1997) is equal to the product of—

"(i) the needs-based amount determined under subparagraph (B) for such State or District for the fiscal year, and

"(ii) the adjustment factor described in subparagraph (C) for the fiscal year.

"(B) NEEDS-BASED AMOUNT.—The needs-based amount under this subparagraph for a State or the District of Columbia for a fiscal year is equal to the product of—

"(i) the State's or District's aggregate expenditure need for the fiscal year (as determined under subsection (d)), and

"(ii) the State's or District's old Federal medical assistance percentage (as defined in section 1512(d)) for the fiscal year (or, in the case of fiscal year 1997, the Federal medical assistance percentage determined under section 1905(b) for fiscal year 1996).

"(C) ADJUSTMENT FACTOR.—The adjustment factor under this subparagraph for a fiscal year is such proportion so that, when it is applied under subparagraph (A)(ii) for the fiscal year (taking into account the floors and ceilings under paragraph (3)), the total of the base outlay allotments under this subsection for all the 50 States and the District of Columbia for the fiscal year (not taking into account any increase in a base outlay allotment for a fiscal year attributable to the election of an alternative growth formula under paragraph (4)) is equal to the amount by which (i) the base pool amount for the fiscal year (as determined under subsection (b)), exceeds (ii) the sum of the base outlay allotments provided under paragraph (5) for the Commonwealths and Territories for the fiscal year.

"(3) FLOORS AND CEILINGS.—

"(A) FLOORS.—Subject to the ceiling established under subparagraph (B), in no case shall the amount of the State base outlay allotment under paragraph (2) for a fiscal year be less than the greatest of the following:

"(i) IN GENERAL.—Beginning with fiscal year 1998, 0.24 percent of the pool amount for the fiscal year.

"(ii) FLOOR BASED ON PREVIOUS YEAR'S OUTLAY ALLOTMENT.—Subject to clause (iii)—

"(I) for fiscal year 1997, 103.5 percent of the amount of the State base outlay allotment under this subsection for fiscal year 1996,

"(II) for fiscal year 1998, 103 percent of the amount of the State base outlay allotment under this subsection for fiscal year 1997,

"(III) for fiscal year 1999, 102.5 percent of the amount of the State base outlay allotment under this subsection for fiscal year 1998,

"(IV) for fiscal year 2000, 102.25 percent of the amount of the State base outlay allotment under this subsection for fiscal year 1999, and

"(V) for each of fiscal years 2001 and 2002, 102 percent of the amount of the State base outlay allotment under this subsection for the previous fiscal year.

"(iii) FLOOR BASED ON OUTLAY ALLOTMENT GROWTH RATE IN FIRST YEAR.—Beginning with fiscal year 1998, in the case of a State for which the outlay allotment under this subsection for fiscal year 1997 exceeded its outlay allotment under this subsection for the previous fiscal year by more than 95 percent of the national growth percentage for fiscal year 1997, 90 percent of the national growth percentage for the fiscal year involved.

"(B) CEILINGS.—

"(i) IN GENERAL.—Subject to clause (ii), in no case shall the amount of the State base outlay allotment under paragraph (2) for a fiscal year be greater than the product of—

"(I) the State base outlay allotment under this subsection for the State for the preceding fiscal year, and

"(II) the applicable percent (specified in clause (ii) or (iii)) for the fiscal year involved.

"(ii) GENERAL RULE FOR APPLICABLE PERCENT.—For purposes of clause (i), subject to clause (iii), the 'applicable percent' for fiscal year 1997 is 126.98 percent and for a subsequent fiscal year is 133 percent of the national growth percentage for the fiscal year.

"(iii) SPECIAL RULE.—For a fiscal year after fiscal year 1997, in the case of a State (among the 50 States and the District of Columbia) that is one of the 10 States with the lowest Federal spending per resident-in-poverty rates (as determined under clause (iv)) for the fiscal year, the 'applicable percent' is 150 percent of the national growth percentage for the fiscal year.

"(iv) DETERMINATION OF FEDERAL SPENDING PER RESIDENT-IN-POVERTY RATE.—For purposes of clause (iii), the 'Federal spending per resident-in-poverty rate' for a State for a fiscal year is equal to—

"(I) the State's outlay allotment under this subsection for the previous fiscal year (determined without regard to paragraph (4)), divided by

"(II) the average annual number of residents of the State in poverty (as defined in subsection (d)(2)) with respect to the fiscal year.

"(C) SPECIAL RULE.—

"(i) IN GENERAL.—Notwithstanding the preceding subparagraphs of this paragraph, the State base outlay allotment for—

"(I) Louisiana, subject to subclause (II), for each of the fiscal years 1997 through 2000, is $2,622,000,000,

"(II) Louisiana for fiscal year 1997 only, as otherwise determined, shall be increased by $37,048,207, and

"(III) Nevada for each of fiscal years 1997, 1998, and 1999, as otherwise determined, shall be increased by $90,000,000.

"(ii) EXCEPTION.—A State described in subclause (I) of clause (i) may apply to the Secretary for use of the State base outlay allotment otherwise determined under this subsection for any fiscal year, if such State notifies the Secretary not later than March 1 preceding such fiscal year that such State will be able to expend sufficient State funds in such fiscal year to qualify for such allotment.

"(iii) TREATMENT OF INCREASE AS SUPPLEMENTAL ALLOTMENT.—Any increase in an outlay allotment under clause (i)(II) or (i)(III) shall not be taken into account for purposes of determining—

"(I) the adjustment factor under paragraph (2) for fiscal year 1997,

"(II) any State base outlay allotment for a fiscal year after fiscal year 1997,

"(III) the base pool amount for a fiscal year after fiscal year 1997, or

"(IV) determination of the national growth percentage for any fiscal year.

"(4) ELECTION OF ALTERNATIVE GROWTH FORMULA.—

"(A) ELECTION.—In order to reduce variations in increases in outlay allotments over time, any of the 50 States or the District of Columbia may elect (by notice provided to the Secretary by not later than April 1, 1997) to adopt an alternative growth rate formula under this paragraph for the determination of the State's base outlay allotment in fiscal year 1997 and for the increase in the amount of such allotment in subsequent fiscal years.

"(B) FORMULA.—The alternative growth formula under this paragraph may be any formula under which a portion of the State base outlay allotment for fiscal year 1997 under paragraph (1) is deferred and applied to increase the amount of its base outlay allotment for one or more subsequent fiscal years, so long as the total amount of such increases for all such subsequent fiscal years does not exceed the amount of the base outlay allotment deferred from fiscal year 1997.

"(5) COMMONWEALTHS AND TERRITORIES.—

"(A) IN GENERAL.—The base outlay allotment for each of the Commonwealths and Territories for a fiscal year is the maximum amount that could have been certified under section 1108(c) (as in effect on the day before the date of the enactment of this title) with respect to the Commonwealth or Territory for the fiscal year with respect to title XIX, if the national growth percentage (as determined under subsection (b)(2)) for the fiscal year had been substituted (beginning with fiscal year 1997) for the percent-

age increase referred to in section 1108(c)(1)(B) (as so in effect).

"(B) DISREGARD OF ROUNDING REQUIREMENTS.—For purposes of subparagraph (A), the rounding requirements under section 1108(c) shall not apply.

"(C) LIMITATION ON TOTAL AMOUNT FOR FISCAL YEAR 1996.—Notwithstanding the provisions of subparagraph (A), the total amount of the base outlay allotments for the Commonwealths and Territories for fiscal year 1996 may not exceed $139,950,000.

"(d) STATE AGGREGATE EXPENDITURE NEED DETERMINED.—

"(1) IN GENERAL.—For purposes of subsection (c), the 'State aggregate expenditure need' for a State or the District of Columbia for a fiscal year is equal to the product of the following 4 factors:

"(A) PROGRAM NEED.—The program need for the State for the fiscal year, as determined under paragraph (2).

"(B) HEALTH CARE COST INDEX.—The health care cost index for the State (as determined under paragraph (3)) for the most recent fiscal year for which data are available.

"(C) PROJECTED INFLATION.—The CPI increase factor for the fiscal year (as defined in subsection (g)(4)(C)).

"(D) NATIONAL AVERAGE SPENDING PER RESIDENT IN POVERTY.—The national average spending per resident in poverty (as determined under paragraph (4)).

"(2) PROGRAM NEED.—

"(A) IN GENERAL.—In this subsection and subject to subparagraph (D), the 'program need' of a State for a fiscal year is equal to the sum, for each of the population groups described in subparagraph (B), of the product described in subparagraph (C) for that population group.

"(B) POPULATION GROUPS DESCRIBED.—The population groups described in this subparagraph are as follows:

"(i) INDIVIDUALS BETWEEN 60 AND 85.—Individuals who are least 60, but less than 85, years of age.

"(ii) INDIVIDUALS 85 OR OLDER.—Individuals who are 85 years of age or older.

"(iii) DISABLED INDIVIDUALS.—Individuals who are eligible for medical assistance because such individuals are blind or disabled and are not described in clause (i) or (ii).

"(iv) CHILDREN.—Individuals described in subsection (g)(2)(B).

"(v) OTHER INDIVIDUALS.—Individuals not described in a previous clause of this subparagraph.

"(C) PRODUCT DESCRIBED.—The product described in this subparagraph, with respect to a population group for a fiscal year for a State (or District), is the product of the following 2 factors for that group, year, and State (or District):

"(i) WEIGHTING FACTOR REFLECTING RELATIVE NEED FOR THE GROUP.—For all States, the national average per recipient expenditures under this title in the 50 States and the District of Columbia for individuals in

such group, as determined under subparagraph (E), divided by the national average of such averages for all such groups (weighted by the number of recipients in each group).

"(ii) NUMBER OF NEEDY IN GROUP.—The product of—

"(I) for all groups, the average annual number of residents in poverty in such State or District (based on data made generally available by the Bureau of the Census from the Current Population Survey) for the most recent 3-calendar-year period (ending before the fiscal year) for which such data are available; and

"(II) the proportion, of all individuals who received medical assistance under this title in such State or District, that were individuals in such group.

In clause (ii)(II), the term 'resident in poverty' means an individual whose family income does not exceed the poverty threshold (as such terms are defined by the Office of Management and Budget and are generally interpreted and applied by the Bureau of the Census for the year involved).

"(D) FLOORS AND CEILINGS ON PROGRAM NEED.—

"(i) IN GENERAL.—In no case shall the value of the program need for a State for a fiscal year be less than 90 percent, or be more than 115 percent, of the program need based on national averages (determined under clause (ii)) for that State for the fiscal year.

"(ii) PROGRAM NEED BASED ON NATIONAL AVERAGES.—For purposes of clause (i), the 'program need based on national average' for a fiscal year is equal to the sum of the product (for each of the population groups) of the following 3 factors (for that group, year, and State or District):

"(I) WEIGHTING FACTOR FOR GROUP.—The weighting factor for the group (described in subparagraph (C)(i)).

"(II) TOTAL NUMBER OF NEEDY IN STATE.—For all groups, the average annual number of residents in poverty in such State or District (as defined in subparagraph (C)(ii)(I)).

"(III) NATIONAL PROPORTION OF NEEDY IN GROUP.—The proportion, of all individuals who received medical assistance under this title in all of the States and the District in all such groups, that were individuals in such group.

"(E) DETERMINATION OF NATIONAL AVERAGES AND PROPORTIONS.—The national averages per recipient and the proportions referred to in subparagraphs (C)(ii) and (C)(iii), respectively, shall be determined by the Secretary using the most recent data available.

"(F) EXPENDITURE DEFINED.—For purposes of this paragraph, the term 'expenditure' means medical vendor pay-

ments by basis of eligibility as reported by HCFA Form 2082.

"(3) HEALTH CARE COST INDEX.—

"(A) IN GENERAL.—In this section, the 'health care cost index' for a State or the District of Columbia for a fiscal year is the sum of—

"(i) 0.15, and

"(ii) 0.85 multiplied by the ratio of (I) the annual average wages for hospital employees in such State or District for the fiscal year (as determined under subparagraph (B)), to (II) the annual average wages for hospital employees in the 50 States and the District of Columbia for such year (as determined under such subparagraph).

"(B) DETERMINATION OF ANNUAL AVERAGE WAGES OF HOSPITAL EMPLOYEES.—The Secretary shall provide for the determination of annual average wages for hospital employees in a State or the District of Columbia and, collectively, in the 50 States and the District of Columbia for a fiscal year based on the area wage data applicable to hospitals under section 1886(d)(2)(E) (or, if such data no longer exists, comparable data of hospital wages) for discharges occurring during the fiscal year involved.

"(4) NATIONAL AVERAGE SPENDING PER RESIDENT IN POVERTY.—For purposes of this subsection, the 'national average spending per resident in poverty'—

"(A) for fiscal year 1997 is equal to—

"(i) the sum (for each of the 50 States and the District of Columbia) of the total of the Federal and State expenditures under title XIX for calendar quarters in fiscal year 1994, increased by the percentage by which (I) the base pool amount for fiscal year 1997, exceeds (II) $83,213,431,458 (which represents Federal medicaid expenditures for such States and District for fiscal year 1994); divided by

"(ii) the sum of the number of residents in poverty (as defined in paragraph (2)(C)(ii)(I)) for all of the 50 States and the District of Columbia for fiscal year 1994; and

"(B) for a succeeding fiscal year is equal to the national average spending per resident in poverty under this paragraph for the preceding fiscal year increased by the national growth percentage (as defined in subsection (b)(2)) for the fiscal year involved.

"(e) PUBLICATION OF OBLIGATION AND OUTLAY ALLOTMENTS.—

"(1) NOTICE OF PRELIMINARY ALLOTMENTS.—Not later than April 1 before the beginning of each fiscal year (beginning with fiscal year 1997), the Secretary shall initially compute, after consultation with the Comptroller General, and publish in the Federal Register notice of the proposed base obligation allotment, base outlay allotment, and supplemental allotments under subsections (f) and (h) for each State under this section (not taking into account subsection (a)(2)(B)) for the fiscal year. The Secretary shall include in the notice a description of the

methodology and data used in deriving such allotments for the year.

"(2) REVIEW BY GAO.—The Comptroller General shall submit to Congress by not later than May 15 of each such fiscal year, a report analyzing such allotments and the extent to which they comply with the precise requirements of this section.

"(3) NOTICE OF FINAL ALLOTMENTS.—Not later than July 1 before the beginning of each such fiscal year, the Secretary, taking into consideration the analysis contained in the report of the Comptroller General under paragraph (2), shall compute and publish in the Federal Register notice of the final allotments under this section (both taking into account and not taking into account subsection (a)(2)(B)) for the fiscal year. The Secretary shall include in the notice a description of any changes in such allotments from the initial allotments published under paragraph (1) for the fiscal year and the reasons for such changes. Once published under this paragraph, the Secretary is not authorized to change such allotments.

"(4) GAO REPORT ON FINAL ALLOTMENTS.—The Comptroller General shall submit to Congress by not later than August 1 of each such fiscal year, a report analyzing the final allotments under paragraph (3) and the extent to which they comply with the precise requirements of this section.

"(5) TRANSITIONAL RULE FOR FISCAL YEAR 1997.—With respect to fiscal year 1997, the deadlines under the previous provisions of this subsection shall be extended by a number of days equal to the number of days between May 1, 1996, and the date of the enactment of this title.

"(f) SUPPLEMENTAL ALLOTMENT FOR CERTAIN HEALTH CARE SERVICES TO CERTAIN ALIENS.—

"(1) IN GENERAL.—For purposes of this section for each of fiscal years 1998 through 2002 in the case of a subsection (f) supplemental allotment eligible State, the amount of the supplemental allotment under this subsection is the amount provided under paragraph (2) for the State for that year. Such amount may only be used for the purpose of providing medical assistance for care and services for aliens described in paragraph (1) of section 1513(f) and for which the exception described in paragraph (2) of such section applies. Section 1512(f)(4) shall apply to such assistance in the same manner as it applies to medical assistance described in such section.

"(2) SUPPLEMENTAL AMOUNT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the supplemental amount for a subsection (f) supplemental allotment eligible State for a fiscal year is equal to the subsection (f) supplemental allotment ratio (as defined in subparagraph (C)) multiplied by the subsection (f) supplemental pool amount (specified in subparagraph (D)) for the fiscal year.

"(B) SUBSECTION (f) SUPPLEMENTAL ALLOTMENT ELIGIBLE STATE.—In this subsection, the term 'subsection (f) supplemental allotment eligible State' means one of the 15 States with the highest ratio of undocumented alien residents to the total population for such State.

"(C) SUBSECTION (f) SUPPLEMENTAL ALLOTMENT RATIO.—In this paragraph, the 'subsection (f) supplemental allotment ratio' for a State is the ratio of—

"(i) the number of undocumented aliens residing in the State, to

"(ii) the sum of such numbers for all subsection (f) supplemental allotment eligible States.

"(D) SUBSECTION (f) SUPPLEMENTAL POOL AMOUNT.—In this paragraph, the 'subsection (f) supplemental pool amount'—

"(i) for fiscal year 1998 is $389,800,000,

"(ii) for fiscal year 1999 is $489,800,000,

"(iii) for fiscal year 2000 is $589,800,000,

"(iv) for fiscal year 2001 is $689,800,000, and

"(v) for fiscal year 2002 is $789,800,000.

"(E) DETERMINATION OF NUMBER.—

"(i) IN GENERAL.—The number of undocumented aliens residing in a State under this paragraph—

"(I) for fiscal year 1998 shall be determined based on estimates of the resident illegal alien population residing in each State prepared by the Statistics Division of the Immigration and Naturalization Service as of October 1992, and

"(II) for a subsequent fiscal year shall be determined based on the most recent updated estimate made under clause (ii).

"(ii) UPDATING ESTIMATE.—For each fiscal year beginning with fiscal year 1999, the Secretary, in consultation with the Commission of the Immigration and Naturalization Service, States, and outside experts, shall estimate the number of undocumented aliens residing in each of the 50 States and the District of Columbia.

"(g) SUPPLEMENTAL PER BENEFICIARY UMBRELLA ALLOTMENT FOR STATES WITH EXCESS GROWTH IN CERTAIN POPULATION GROUPS.—

"(1) IN GENERAL.—Subject to paragraphs (5) through (7), for purposes of this section the amount of the supplemental allotment under this subsection for a State for a fiscal year (beginning with fiscal year 1997) is the sum, for each supplemental allotment population group described in paragraph (2), of the product of the following:

"(A) EXCESS NUMBER OF INDIVIDUALS.—The excess number of individuals (if any, determined under paragraph (3)) for State and the fiscal year who are in the population group.

"(B) APPLICABLE PER BENEFICIARY AMOUNT.—The applicable per beneficiary amount (determined under paragraph (4)) for the State and fiscal year for the population group.

"(C) FMAP.—The old Federal medical assistance percentage (as defined in section 1512(d)) for the State and fiscal year.

"(2) SUPPLEMENTAL ALLOTMENT POPULATION GROUP.—In this subsection, each of the following shall be considered to be a separate 'supplemental allotment population group':

"(A) POOR PREGNANT WOMEN.—Individuals described in section 1501(a)(1)(A).

"(B) POOR CHILDREN.—Individuals (not described in subparagraph (C))—

"(i) described in subparagraph (B) or (C) of section 1501(a)(1), or

"(ii) described in subparagraph (F) or (G) of section 1501(a)(1) who are under 21 years of age and who are not pregnant women.

"(C) POOR DISABLED INDIVIDUALS.—Only in the case of a State that has elected the option (of guaranteeing coverage of disabled individuals) described in section 1501(a)(1)(D)(ii) for the fiscal year (and, in the case of a fiscal year after fiscal year 1997, for the previous fiscal year), individuals—

"(i) who are described in such section; or

"(ii) who are described in section 1502(a) under paragraph (1) of that section.

"(D) POOR ELDERLY INDIVIDUALS.—Individuals who are—

"(i) described in section 1501(a)(1)(E); or

"(ii) described in section 1502(a) under paragraph (2) of that section.

"(E) QUALIFIED MEDICARE BENEFICIARIES.—Individuals described in section 1501(b)(1)(A) who are not described in subparagraph (D).

"(F) QUALIFIED DISABLED AND WORKING INDIVIDUALS.—Individuals described in section 1501(b)(1)(B) who are not described in subparagraph (D).

"(G) CERTAIN OTHER MEDICARE BENEFICIARIES.—Individuals described in section 1501(b)(1)(C) who are not described in subparagraph (D).

"(H) OTHER POOR ADULTS.—Individuals described in section 1501(a)(1)(G) who are not within a population group described in a previous subparagraph.

"(3) EXCESS NUMBER OF INDIVIDUALS.—

"(A) IN GENERAL.—In this subsection, the 'excess number of individuals', for a State for a fiscal year with respect to a supplemental allotment population group, is equal to the amount (if any) by which—

"(i) the number of full-year equivalent individuals in the population group for the State and fiscal year, exceeds

"(ii) the anticipated number of such individuals (as determined under subparagraph (B)) for the State and fiscal year in such group.

"(B) ANTICIPATED NUMBER.—

"(i) IN GENERAL.—In subparagraph (A)(ii), the 'anticipated number' of individuals for a State in a supplemental allotment population group for—

"(I) fiscal year 1997 is equal to the number of full-year equivalent individuals in such group enrolled in the State medicaid plan under title XIX in fiscal year 1996 increased by the percentage in-

crease factor (described in clause (ii)) for fiscal year 1997; or

"(II) a subsequent fiscal year is equal to the number of full-year equivalent individuals in the population group for the State for the previous fiscal year increased by the percentage increase factor (described in clause (ii)) for that subsequent fiscal year.

"(ii) PERCENTAGE INCREASE FACTOR.—For purposes of this subparagraph, the 'percentage increase factor' for a fiscal year is equal to zero or, if greater, the number of percentage points by which (I) the State percentage growth factor (as defined in subparagraph (C)) for the fiscal year, exceeds (II) the percentage increase in the consumer price index for all urban consumers (U.S. city average) during the 12-month period beginning with July before the beginning of the fiscal year.

"(C) STATE PERCENTAGE GROWTH FACTOR.—In this paragraph, the term 'State percentage growth factor' means, for a State for a fiscal year, the percentage by which (i) the State outlay allotment for the State for the fiscal year (determined under this section without regard to this subsection or subsection (f) or (h)), exceeds (ii) such outlay allotment for such State for the preceding fiscal year (as so determined).

"(D) INDIVIDUALS COUNT ONLY ONCE.—An individual may at any time not be counted in more than one supplemental allotment population group.

"(4) APPLICABLE PER BENEFICIARY AMOUNT.—

"(A) IN GENERAL.—In this subsection, subject to subparagraph (D), the 'applicable per beneficiary amount', for a State for a fiscal year for a supplemental allotment population group, is equal to the base per beneficiary amount (determined under subparagraph (B)) for the State for the group, increased by the Secretary's estimate of the increase in the per beneficiary expenditures under this title (and title XIX) for States between fiscal year 1995 and fiscal year 1996, and further increased (for each subsequent fiscal year up to the fiscal year involved and in a compounded manner) by the CPI increase factor (as defined in subparagraph (C)) for each such fiscal year.

"(B) BASE PER BENEFICIARY AMOUNT.—

"(i) IN GENERAL.—The Secretary shall determine for each State a base per beneficiary amount for each supplemental allotment population group equal to—

"(I) the sum of the total expenditure amounts described in clauses (ii) and (iii), divided by

"(II) the full-year equivalent number of such individuals in such group enrolled under the State plan under title XIX for fiscal year 1995.

"(ii) MEDICAL ASSISTANCE EXPENDITURES.—The total expenditure amount described in this clause, with respect to a supplemental allotment population group, is

the total amount of expenditures for which Federal financial participation was provided to the State under paragraphs (1) and (5) of section 1903(a) for fiscal year 1995 with respect to medical assistance furnished with respect to individuals included in such group. Such amount shall not include expenditures attributable to payment adjustments under section 1923.

"(iii) ADMINISTRATIVE EXPENDITURES.—The total expenditure amount described in this clause, with respect to a supplemental allotment population group, is the product of—

"(I) the total amount of administrative expenditures for which Federal financial participation was provided to the State under section 1903(a) (other than paragraphs (1) and (5) of such section) for fiscal year 1995, and

"(II) the ratio described in clause (iv) for the population group.

"(iv) RATIO DESCRIBED.—The ratio described in this clause for a group is the ratio of—

"(I) the total amount of expenditures described in clause (ii) for the group, to

"(II) the total amount of expenditures described in such clause for all individuals under the State plan under title XIX in the base fiscal year.

"(C) CPI INCREASE FACTOR.—In subparagraph (A), the 'CPI increase factor' for a fiscal year is the percentage by which—

"(i) the Secretary's estimate of the average value of the consumer price index for all urban consumers (all items, U.S. city average) for months in the fiscal year, exceeds

"(ii) the average value of such index for months in the previous fiscal year.

"(D) SPECIAL RULES FOR CERTAIN MEDICARE BENEFICIARIES.—

"(i) QUALIFIED DISABLED AND WORKING INDIVIDUALS.—In the case of the supplemental allotment population group described in paragraph (2)(F), the 'applicable per beneficiary amount', for all States for a fiscal year is the sum of the medicare premiums applied under section 1818A for months in the fiscal year.

"(ii) OTHER MEDICARE BENEFICIARIES.—In the case of the supplemental allotment population group described in paragraph (2)(G), the 'applicable per beneficiary amount', for all States for a fiscal year is the sum of the medicare premiums applied under section 1839 for months in the fiscal year.

"(5) CONDITIONS FOR ACCESS TO UMBRELLA SUPPLEMENTAL ALLOTMENT.—

"(A) IN GENERAL.—A State may receive a supplemental umbrella allotment under this subsection for a fiscal year only if the following conditions are met:

"(i) The State provides assurances satisfactory to the Secretary that it will obligate during the fiscal year the full amount of the allotment otherwise provided under this section for the fiscal year.

"(ii) The State provides assurances satisfactory to the Secretary that any amount attributable to a carry-over from a previous fiscal year under subsection (a)(2)(B) shall also be obligated under the plan by the end of the fiscal year.

"(iii) The State submits to the Secretary on a periodic basis such reports on numbers of individuals within each supplemental allotment population group as the Secretary may determine necessary to assure the accuracy of the supplemental umbrella allotments under this subsection. The Secretary may not require the submission of such reports more frequently than quarterly.

"(iv) The State provides assurances satisfactory to the Secretary that it has in effect such data collection procedures as may be necessary to provide for the reports described in clause (iii).

"(B) ESTIMATE.—The amount of any supplemental allotment under this subsection shall be estimated in advance of the fiscal year involved, based on data required to be reported under subparagraph (A)(iii). The Secretary is authorized to adjust such data on a preliminary basis if the Secretary determines that the estimates do not reasonably reflect the actual excess number of individuals in the supplemental allotment population groups for the fiscal year involved. Section 1512(b)(6) provides for adjustment of payments of the supplemental allotment under this subsection based on a final determination using data on actual numbers of individual in each supplemental allotment population group.

"(6) ADJUSTMENT IN ALLOTMENT FOR SAVINGS FROM SLOWER POPULATION GROWTH.—

"(A) IN GENERAL.—The amount of the supplemental umbrella allotment to a State under this subsection for a fiscal year shall be reduced (but not below zero) by the sum, for each supplemental allotment population group described in paragraph (2), of the product of the following:

"(i) LESS-THAN-ANTICIPATED NUMBER OF INDIVIDUALS.—The less-than-anticipated number of individuals (if any, determined under subparagraph (B)) for State and the fiscal year who are in the population group.

"(ii) APPLICABLE PER BENEFICIARY AMOUNT.—The applicable per beneficiary amount (determined under paragraph (4)) for the State and fiscal year for the population group.

"(iii) FMAP.—The old Federal medical assistance percentage (as defined in section 1512(d)) for the State and fiscal year.

"(B) LESS-THAN-ANTICIPATED NUMBER OF INDIVIDUALS.—In this paragraph, the 'less-than-anticipated number of individuals', for a State for a fiscal year with respect to a supplemental allotment population group, is equal to the amount (if any) by which—

"(i) the anticipated number of such individuals (as determined under paragraph (3)(B)) for the State and fiscal year in such group, exceeds

"(ii) the number of full-year equivalent individuals in the population group for the State and fiscal year.

"(7) SPECIAL RULE FOR FISCAL YEAR 1997.—In applying this subsection to fiscal year 1997—

"(A) in determining the excess number of individuals under paragraph (3)—

"(i) the number of full-year equivalent individuals shall only be determined based on the portion of fiscal year 1997 in which the State plan is in effect under this title, and

"(ii) the anticipated number of such individuals (referred to in paragraph (3)(A)(ii)) shall be the anticipated number otherwise determined multiplied by the proportion of fiscal year 1997 in which such State plan will be in effect; and

"(B) if the State plan is effective before April 1, 1997, the amount of the supplemental allotment otherwise determined under this subsection shall be multiplied by the ratio of the portion of fiscal year 1997 that occurs on or after April 1, 1997, to the total portion of such fiscal year in which the State plan is in effect.

"SEC. 1512. PAYMENTS TO STATES.

"(a) AMOUNT OF PAYMENT.—From the allotment of a State under section 1511 for a fiscal year, subject to the succeeding provisions of this title, the Secretary shall pay to each State which has a State plan approved under part C, for each quarter in the fiscal year—

"(1) an amount equal to the applicable Federal medical assistance percentage (as defined in subsection (c)) of the total amount expended during such quarter as medical assistance under the plan; plus

"(2) an amount equal to the applicable Federal medical assistance percentage of the total amount expended during such quarter for medically-related services (as defined in section 1571(g)); plus

"(3) subject to section 1513(c)—

"(A) an amount equal to 90 percent of the amounts expended during such quarter for the design, development, and installation of information systems and for providing incentives to promote the enforcement of medical support orders, plus

"(B) an amount equal to 75 percent of the amounts expended during such quarter for medical personnel, administrative support of medical personnel, operation and maintenance of information systems, modification of information systems, quality assurance activities, utilization re-

view, medical and peer review, anti-fraud activities, independent evaluations, independent, external quality review programs for capitated health care organizations, coordination of benefits, and meeting reporting requirements under this title, plus

"(C) an amount equal to 50 percent of so much of the remainder of the amounts expended during such quarter as are expended by the State in the administration of the State plan.

"(b) PAYMENT PROCESS.—

"(1) QUARTERLY ESTIMATES.—Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsections, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

"(2) PAYMENT.—

"(A) IN GENERAL.—The Secretary shall then pay to the State, in such installments as the Secretary may determine and in accordance with section 6503(a) of title 31, United States Code, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section (or section 1903) to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection (or under section 1903(d)).

"(B) TREATMENT AS OVERPAYMENTS.—Expenditures for which payments were made to the State under subsection (a) shall be treated as an overpayment to the extent that the State or local agency administering such plan has been reimbursed for such expenditures by a third party pursuant to the provisions of its plan in compliance with section 1555.

"(C) RECOVERY OF OVERPAYMENTS.—For purposes of this subsection, when an overpayment is discovered, which was made by a State to a person or other entity, the State shall have a period of 60 days in which to recover or attempt to recover such overpayment before adjustment is made in the Federal payment to such State on account of such overpayment. Except as otherwise provided in subparagraph (D), the adjustment in the Federal payment shall be made at the end of the 60 days, whether or not recovery was made.

"(D) NO ADJUSTMENT FOR UNCOLLECTABLES.—In any case where the State is unable to recover a debt which represents an overpayment (or any portion thereof) made to

a person or other entity on account of such debt having been discharged in bankruptcy or otherwise being uncollectable, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or portion thereof).

"(3) FEDERAL SHARE OF RECOVERIES.—The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to medical assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.

"(4) TIMING OF OBLIGATION OF FUNDS.—Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

"(5) DISALLOWANCES.—In any case in which the Secretary estimates that there has been an overpayment under this section to a State on the basis of a claim by such State that has been disallowed by the Secretary under section 1116(d) or in the case described in paragraph (6)(C), and such State disputes such disallowance or an adjustment under such paragraph, the amount of the Federal payment in controversy shall, at the option of the State, be retained by such State or recovered by the Secretary pending a final determination with respect to such payment amount. If such final determination is to the effect that any amount was properly disallowed, and the State chose to retain payment of the amount in controversy, the Secretary shall offset, from any subsequent payments made to such State under this title, an amount equal to the proper amount of the disallowance plus interest on such amount disallowed for the period beginning on the date such amount was disallowed and ending on the date of such final determination at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day treasury bill auction rates during such period.

"(6) ADJUSTMENTS IN PAYMENTS REFLECTING OVER- AND UNDER-ESTIMATIONS OF SUPPLEMENTAL UMBRELLA ALLOTMENT.—

"(A) IN GENERAL.—Based on data reported under section 1511(g)(5)(A)(iii) and annual audits provided for under section 1551(a) on the actual excess number of individuals in each population group for a fiscal year, the Secretary shall determine the final amount of the supplemental umbrella allotment for each State for the fiscal year and whether, based on such final amount, the amount of payment made for the fiscal year was greater, or less, than the amount that should have been paid if payments had been made based on such final amount.

"(B) PAYMENT IN CASE OF UNDERESTIMATION.—If the Secretary determines under subparagraph (A) there was an underpayment to a State, the Secretary shall increase the amount of the next quarterly payment under this section to the State by the amount of such underpayment.

"(C) OFFSETTING OF PAYMENTS IN CASE OF OVERESTIMATION.—If the Secretary determines under subparagraph (A) there was an overpayment to a State, the Secretary shall, subject to the procedures provided under paragraph (5), decrease the amount of the payment for the next quarter (or, at the discretion of the Secretary, over a period of not more than 4 calendar quarters) by the amount of such overpayment. In the case in which a State seeks review of such a determination in accordance with the procedures under paragraph (5), the Secretary shall provide for completion of such review process within 1 year after the date the State requests such review.

"(c) APPLICABLE FEDERAL MEDICAL ASSISTANCE PERCENTAGE DEFINED.—In this section, except as provided in subsection (f), the term 'applicable Federal medical assistance percentage' means, with respect to one of the 50 States or the District of Columbia, at the State's or District's option—

"(1) the old Federal medical assistance percentage (as determined in subsection (d));

"(2) the lesser of—

"(A) new Federal medical assistance percentage (as determined under subsection (e)) or

"(B) the old Federal medical assistance percentage plus 10 percentage points; or

"(3) 60 percent.

"(d) OLD FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (f), the term 'old Federal medical assistance percentage' for any State is 100 percent less the State percentage; and the State percentage is that percentage which bears the same ratio to 45 percent as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii.

"(2) LIMITATION ON RANGE.—In no case shall the old Federal medical assistance percentage be less than 50 percent or more than 83 percent.

"(3) PROMULGATION.—The old Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of section 1101(a)(8)(B).

"(e) NEW FEDERAL MEDICAL ASSISTANCE PERCENTAGE DEFINED.—

"(1) IN GENERAL.—

"(A) TERM DEFINED.—Except as provided in paragraph (3) and subsection (f), the term 'new Federal medical assistance percentage' means, for each of the 50 States and the District of Columbia, 100 percent reduced by the product 0.39 and the ratio of—

"(i)(I) for each of the 50 States, the total taxable resources (TTR) ratio of the State specified in subparagraph (B), or

"(II) for the District of Columbia, the per capita income ratio specified in subparagraph (C),

to—

"(ii) the aggregate expenditure need ratio of the State or District, as described in subparagraph (D).

"(B) TOTAL TAXABLE RESOURCES (TTR) RATIO.—For purposes of subparagraph (A)(i)(I), the total taxable resources (TTR) ratio for each of the 50 States is—

"(i) an amount equal to the most recent 3-year average of the total taxable resources (TTR) of the State, as determined by the Secretary of the Treasury, divided by

"(ii) an amount equal to the sum of the 3-year averages determined under clause (i) for each of the 50 States.

"(C) PER CAPITA INCOME RATIO.—For purposes of subparagraph (A)(i)(II), the per capita income ratio of the District of Columbia is—

"(i) an amount equal to the most recent 3-year average of the total personal income of the District of Columbia, as determined in accordance with the provisions of section 1101(a)(8)(B), divided by

"(ii) an amount equal to the total personal income of the continental United States (including Alaska) and Hawaii, as determined under section 1101(a)(8)(B).

"(D) AGGREGATE EXPENDITURE NEED RATIO.—For purposes of subparagraph (A), with respect to each of the 50 States and the District of Columbia for a fiscal year, the aggregate expenditure need ratio is—

"(i) the State aggregate expenditure need (as defined in section 1511(d)) for the State for the fiscal year, divided by

"(ii) the sum of such State aggregate expenditure needs for the 50 States and the District of Columbia for the fiscal year.

"(2) LIMITATION ON RANGE.—Except as provided in subsection (f), the new Federal medical assistance percentage shall in no case be less than 60 percent or greater than 83 percent.

"(3) PROMULGATION.—The new Federal medical assistance percentage for any State shall be promulgated in a timely manner consistent with the promulgation of the old Federal medical assistance percentage under section 1101(a)(8)(B).

"(f) SPECIAL RULES.—For purposes of this title—

"(1) COMMONWEALTHS AND TERRITORIES.—In the case of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa, the old and new Federal medical assistance percentages are 50 percent.

"(2) ALASKA.—In the case of Alaska, the old Federal medical assistance percentage is that percentage which bears the same ratio to 45 percent as the square of the adjusted per capita income of such State bears to the square of the per capita income of the continental United States. For purposes of the preceding sentence, the adjusted per capita income for Alaska shall be determined by dividing the State's most recent 3-year average per capita by the health care cost index for such State (as determined under section 1511(d)(3)).

"(3) INDIAN HEALTH SERVICE AND RELATED FACILITIES AND PROGRAMS.—

"(A) FISCAL YEAR 1997.—

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"(i) IN GENERAL.—During fiscal year 1997, the Secretary shall reimburse a State for amounts expended under the State plan as medical assistance for services which are received through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act) in the same manner and under the same Federal medical assistance percentage as such amounts were reimbursed under title XIX (as in effect on June 1, 1996).

"(ii) ELIGIBLE PROVIDERS UNDER A STATE PLAN.—A program described in subclause (II) or (III) of clause (iii) shall be an eligible provider under the State plan of the State in which such program is located and may receive reimbursement under the State plan for medical assistance for services provided by such program.

"(iii) RULE OF CONSTRUCTION.—Nothing in clause (i) or (ii) shall be construed as increasing the obligation or outlay allotment established for a State under section 1511 for fiscal year 1997.

"(B) FISCAL YEAR 1998 AND THEREAFTER.—Beginning on October 1, 1997, the following shall apply:

"(i) PROVIDERS UNDER A STATE PLAN.—

"(I) IN GENERAL.—Subject to the succeeding provisions of this paragraph, a facility or program described in clause (iii) shall be an eligible provider under the State plan of the State in which such facility or program is located and shall receive payments under the State plan for medical assistance for services provided at such facility or by such program.

"(II) ELECTION OF PROVIDER REIMBURSEMENT RATE.—A facility or program described in clause (iii) shall elect one of the following provider reimbursement rates to apply to medical assistance provided by such facility or through such program under the State plan:

"(aa) The provider reimbursement rate established under the State plan of the State in which such facility or program is located.

"(bb) The provider reimbursement rate established by the Secretary for such facilities or programs.

"(ii) FEDERAL INDIAN MEDICAID ALLOCATION.—

"(I) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1998 through 2002, $2,401,000,000 for reimbursement of amounts expended as medical assistance for services provided by a facility or program described in clause (iii).

"(II) REIMBURSEMENT TO STATES.—Subject to the limitation for a fiscal year described in sub-

clause (III), the Secretary shall reimburse a State with one or more facilities or programs described in clause (iii) for payments made under the State plan for medical assistance provided by such facilities or through such programs.

"(III) LIMITATION ON REIMBURSEMENT.—Subject to subclause (IV), the total amount paid with respect to the amounts expended as medical assistance for services provided by facilities or programs described in clause (iii) shall not exceed the following:

"(aa) For fiscal year 1998, $393,100,000.

"(bb) For fiscal year 1999, $459,200,000.

"(cc) For fiscal year 2000, $486,300,000.

"(dd) For fiscal year 2001, $515,500,000.

"(ee) For fiscal year 2002, $546,900,000.

"(IV) CARRYOVER PERMITTED.—The limitation described in subclause (II) for a fiscal year shall be increased by the amount, if any, of any funds remaining from the limitation described in such subclause for the preceding fiscal year.

"(iii) FMAP.—The old and new Federal medical assistance percentages shall be 100 percent with respect to the amounts expended as medical assistance for services provided by—

"(I) an Indian Health Service facility;

"(II) an Indian health program operated by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act) pursuant to a contract, grant, cooperative agreement, or compact with the Indian Health Service under the Indian Self-Determination Act; or

"(III) an urban Indian health program operated by an urban Indian organization pursuant to a grant or contract with the Indian Health Service under title V of the Indian Health Care Improvement Act.

"(iv) NO COST-SHARING.—Notwithstanding the provisions of section 1503 or any other provision of this title, no State plan shall impose any cost-sharing, as defined in section 1503(g), on any individual who is an Indian for services provided to such an individual by a facility or program described in clause (iii).

"(v) AGREEMENTS BETWEEN STATES AND INDIAN TRIBES.—A State and an Indian tribe may enter into an agreement for the provision of medical services that are not inconsistent with the provisions of this paragraph.

"(C) INDIAN AND INDIAN TRIBE DEFINED.—For purposes of this title, the terms 'Indian' and 'Indian tribe' have the meaning given such terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d)).

"(D) STUDY.—The Comptroller General shall study the impact of the amendment to the Social Security Act made by section 2923 of the Medicaid Restructuring Act of 1996 on the provision of health care to Indians and, beginning October 1, 1996, and every third fiscal year thereafter, shall submit a report to the Congress containing the findings and recommendations resulting from such study.

"(4) NO STATE MATCHING REQUIRED FOR CERTAIN EXPENDITURES.—In applying subsection (a)(1) with respect to medical assistance provided to unlawful aliens pursuant to the exception specified in section 1513(f)(2), payment shall be made for the amount of such assistance without regard to any need for a State match.

"(5) SPECIAL TRANSITIONAL RULE.—

"(A) IN GENERAL.—Notwithstanding subsections (a) and (f), in order to receive the full State outlay allotment described in section 1511(c)(3)(C)(i), a State described in subparagraph (C) shall expend State funds in a fiscal year (before fiscal year 2000) under a State plan under this title in an amount not less than the adjusted base year State expenditures, plus the applicable percentage of the difference between such expenditures and the amount necessary to qualify for the full State outlay allotment so described in such fiscal year as determined under this section without regard to this paragraph.

"(B) REDUCTION IN ALLOTMENT IF EXPENDITURE NOT MET.—In the event a State described in subparagraph (C) fails to expend State funds in an amount required by subparagraph (A) for a fiscal year, the outlay allotment described in section 1511(c)(3)(C)(i) for such year for such State shall be reduced by an amount which bears the same ratio to such outlay allotment as the State funds expended in such fiscal year bears to the amount required by subparagraph (A).

"(C) ADJUSTED BASE YEAR STATE EXPENDITURES.—For purposes of this paragraph, the term 'adjusted base year State expenditures' means, for Louisiana, $355,000,000.

"(D) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage for a fiscal year is specified in the following table:

"Fiscal year:	Applicable Percentage:
1996	20
1997	40
1998	60
1999	80.

"(6) TREATMENT OF EXPENDITURES ATTRIBUTABLE TO UMBRELLA FUND.—The 'applicable Federal medical assistance percentage' with respect to amounts attributable to supplemental amounts described in section 1511(g), is the old Federal medical assistance percentage.

"(g) USE OF LOCAL FUNDS.—

"(1) IN GENERAL.—Subject to paragraph (2), a State may use local funds to meet the non-Federal share of the expenditures

under the State plan with respect to which payments ma be made under this section.

"(2) LIMITATION.—For any fiscal year local funds may not exceed 40 percent of the total of the non-Federal share of such expenditures for the fiscal year.

"(h) PERMITTING INTER-GOVERNMENTAL FUNDS TRANSFERS.—

"(1) IN GENERAL.—Public funds, as defined in paragraph (2), may be considered as the State's share in determining State financial participation under this title.

"(2) PUBLIC FUNDS DEFINED.—For purposes of this subsection, the term 'public funds' means funds—

"(A) that are—

"(i) appropriated directly to the State or to the local agency administering the State plan under this title, or transferred from other public agencies (including Indian tribes) to the State or local agency and under its administrative control, or

"(ii) certified by the contributing public agency as representing expenditures eligible for Federal financial participation under this title; and

"(B) that—

"(i) are not Federal funds, or

"(ii) are Federal funds authorized by Federal law to be used to match other Federal funds.

"(i) APPLICATION OF PROVIDER TAX AND DONATION RESTRICTIONS.—The provisions of section 1903(w) (as in effect on June 1, 1996) shall apply under this title in the same manner as they applied under title XIX (as of such date).

"SEC. 1513. LIMITATION ON USE OF FUNDS; DISALLOWANCE.

"(a) IN GENERAL.—Funds provided to a State under this title shall only be used to carry out the purposes of this title.

"(b) DISALLOWANCES FOR EXCLUDED PROVIDERS.—

"(1) IN GENERAL.—Payment shall not be made to a State under this part for expenditures for items and services furnished—

"(A) by a provider who was excluded from participation under title V, XVIII, or XX or under this title pursuant to section 1128, 1128A, 1156, or 1842(j)(2), or

"(B) under the medical direction or on the prescription of a physician who was so excluded, if the provider of the services knew or had reason to know of the exclusion.

"(2) EXCEPTION FOR EMERGENCY SERVICES.—Subparagraph (A) shall not apply to emergency items or services, not including hospital emergency room services.

"(c) LIMITATIONS ON PAYMENTS FOR MEDICALLY-RELATED SERVICES AND ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—No Federal financial assistance is available for expenditures under the State plan for—

"(A) medically-related services for a quarter to the extent such expenditures exceed 5 percent of the total expenditures under the plan for the quarter, or

"(B) total administrative expenses (other than expenses described in paragraph (2) during the first 8 quarters in which the plan is in effect under this title) for quarters in

a fiscal year to the extent such expenditures exceed the sum of $20,000,000 plus 10 percent of the total expenditures under the plan for the year.

"(2) ADMINISTRATIVE EXPENSES NOT SUBJECT TO LIMITATION.—The administrative expenses referred to in this paragraph are expenditures under the State plan for the following activities:

"(A) Quality assurance.

"(B) The development and operation of the certification program for nursing facilities and intermediate care facilities for the mentally retarded under section 1557.

"(C) Utilization review activities, including medical activities and activities of peer review organizations.

"(D) Inspection and oversight of providers and capitated health care organizations.

"(E) Anti-fraud activities.

"(F) Independent evaluations.

"(G) Activities required to meet reporting requirements under this title.

"(d) TREATMENT OF THIRD PARTY LIABILITY.—No payment shall be made to a State under this part for expenditures for medical assistance provided for an individual under its State plan to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under the plan.

"(e) SECONDARY PAYER PROVISIONS.—Except as otherwise provided by law, no payment shall be made to a State under this part for expenditures for medical assistance provided for an individual under its State plan to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care insurance program, other than an insurance program operated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this subsection, rules similar to the rules for overpayments under section 1512(b) shall apply.

"(f) LIMITATION ON PAYMENTS FOR SERVICES TO NONLAWFUL ALIENS.—

"(1) IN GENERAL.—Notwithstanding the preceding provisions of this section, except as provided in paragraph (2), no payment may be made to a State under this part for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

"(2) EXCEPTION.—Payment may be made under this section for care and services that are furnished to an alien described in paragraph (1) only if—

"(A) such care and services are necessary for the treatment of an emergency medical condition of the alien (or, at the option of the State, for prenatal care),

"(B) such alien otherwise meets the eligibility requirements for medical assistance under the State plan (other than a requirement of the receipt of aid or assistance under title IV, supplemental security income benefits under title XVI, or a State supplementary payment), and

"(C) such care and services are not related to an organ transplant procedure.

"(3) EMERGENCY MEDICAL CONDITION DEFINED.—For purposes of this subsection, the term 'emergency medical condition' means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(A) placing the patient's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

"(g) LIMITATION ON PAYMENT FOR CERTAIN OUTPATIENT PRESCRIPTION DRUGS.—

"(1) IN GENERAL.—No payment may be made to a State under this part for medical assistance for covered outpatient drugs (as defined in section 1575(i)(2)) of a manufacturer provided under the State plan unless the manufacturer (as defined in section 1575(i)(4)) of the drug—

"(A) has entered into a master rebate agreement with the Secretary under section 1575,

"(B) is otherwise complying with the provisions of such section,

"(C) is complying with the provisions of section 8126 of title 38, United States Code, including the requirement of entering into a master agreement with the Secretary of Veterans Affairs under such section, and

"(D) subject to paragraph (4), is complying with the provisions of section 340B of the Public Health Service Act, including the requirement of entering into an agreement with the Secretary under such section.

"(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a State to participate in the master rebate agreement under section 1575.

"(3) EFFECT OF SUBSEQUENT AMENDMENTS.—For purposes of subparagraphs (C) and (D), in determining whether a manufacturer is in compliance with the requirements of section 8126 of title 38, United States Code, or section 340B of the Public Health Service Act—

"(A) the Secretary shall not take into account any amendments to such sections that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992, and

"(B) a manufacturer is deemed to meet such requirements if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of such sections

(as in effect immediately after the enactment of the Veterans Health Care Act of 1992) and would have entered into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after the date of the enactment of the Veterans Health Care Act of 1992.

"(4) EFFECT OF ESTABLISHMENT OF ALTERNATIVE MECHANISM UNDER PUBLIC HEALTH SERVICE ACT.—If the Secretary does not establish a mechanism to ensure against duplicate discounts or rebates under section 340B(a)(5)(A) of the Public Health Service Act within 12 months of the date of the enactment of such section, the following requirements shall apply:

"(A) Each covered entity under such section shall inform the State when it is seeking reimbursement from the State plan for medical assistance with respect to a unit of any covered outpatient drug which is subject to an agreement under section 340B(a) of such Act.

"(B) Each such State shall provide a means by which such an entity shall indicate on any drug reimbursement claims form (or format, where electronic claims management is used) that a unit of the drug that is the subject of the form is subject to an agreement under section 340B of such Act, and not submit to any manufacturer a claim for a rebate payment with respect to such a drug.

"(h) LIMITATION ON PAYMENT FOR ABORTIONS.—

"(1) IN GENERAL.—Payment shall not be made to a State under this part for any amount expended under the State plan to pay for any abortion or to assist in the purchase, in whole or in part, of health benefit coverage that includes coverage of abortion.

"(2) EXCEPTION.—Paragraph (1) shall not apply to an abortion—

"(A) if the pregnancy is the result of an act of rape or incest, or

"(B) in the case where a woman suffers from a physical disorder, illness, or injury that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

"(i) LIMITATION ON PAYMENT FOR ASSISTING DEATHS.—Payment shall not be made to a State under this part for amounts expended under the State plan to pay for, or to assist in the purchase, in whole or in part, of health benefit coverage that includes payment for any drug, biological product, or service which was furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.

"(j) NO SUPPLANTATION OF STATE HEALTH FUNDS.—A State may not replace State funds expended for the provision of health care services as of the date of June 1, 1996 with Federal funds received under this title.

"PART C—ESTABLISHMENT AND AMENDMENT OF STATE PLANS

"SEC. 1521. DESCRIPTION OF STRATEGIC OBJECTIVES AND PERFORMANCE GOALS.

"(a) DESCRIPTION.—A State plan shall include a description of the strategic objectives and performance goals the State has established for providing health care services to low-income populations under this title, including a general description of the manner in which the plan is designed to meet these objectives and goals.

"(b) CERTAIN OBJECTIVES AND GOALS REQUIRED.—A State plan shall include strategic objectives and performance goals relating to rates of childhood immunizations, reductions in infant mortality and morbidity, and standards of care and access to services for children with special health care needs (as defined by the State).

"(c) CONSIDERATIONS.—In specifying these objectives and goals the State may consider factors such as the following:

"(1) The State's priorities with respect to providing assistance to low-income populations.

"(2) The State's priorities with respect to the general public health and the health status of individuals eligible for assistance under the State plan.

"(3) The State's financial resources, the particular economic conditions in the State, and relati e adequacy of the health care infrastructure in different regions of the State.

"(d) PERFORMANCE MEASURES.—To the extent practicable—

"(1) one or more performance goals shall be established by the State for each strategic objective identified in the State plan; and

"(2) the State plan shall describe, how program performance will be—

"(A) measured through objective, independently verifiable means, and

"(B) compared against performance goals, in order to determine the State's performance under this title.

"(e) PERIOD COVERED.—

"(1) STRATEGIC OBJECTIVES.—The strategic objectives shall cover a period of not less than 5 years and shall be updated and revised at least every 3 years.

"(2) PERFORMANCE GOALS.—The performance goals shall be established for dates that are not more than 3 years apart.

"SEC. 1522. ANNUAL REPORTS.

"(a) IN GENERAL.—In the case of a State with a State plan that is in effect for part or all of a fiscal year, no later than March 31 following such fiscal year the State shall prepare and submit to the Secretary and the Congress a report on program activities and performance under this title for such fiscal year.

"(b) CONTENTS.—Each annual report under this section for a fiscal year shall include the following:

"(1) EXPENDITURE AND BENEFICIARY SUMMARY.—

"(A) INITIAL SUMMARY.—For the report for fiscal year 1997, a summary of all expenditures under the State plan during the fiscal year as follows:

"(i) Aggregate medical assistance expenditures, disaggregated to the extent required to determine

compliance with the set-aside requirements of subsections (c) and (e) of section 1502, and to determine the program need of the State under section 1511(d)(2).

"(ii) For each general category of eligible individuals (specified in subsection (c)(1)), aggregate medical assistance expenditures and the total and average number of eligible individuals under the State plan.

"(iii) By each general category of eligible individuals, total expenditures for each of the categories of health care items and services (specified in subsection (c)(2)) which are covered under the State plan and provided on a fee-for-service basis.

"(iv) By each general category of eligible individuals, total expenditures for payments to capitated health care organizations (as defined in section 1504(d)(1)).

"(v) Total administrative expenditures.

"(B) SUBSEQUENT SUMMARIES.—For reports for each succeeding fiscal year, a summary of—

"(i) all expenditures under the State plan, and

"(ii) the total and average number of eligible individuals under the State plan for each general category of eligible individuals.

"(2) UTILIZATION SUMMARY.—

"(A) INITIAL SUMMARY.—For the report for fiscal year 1997, summary statistics on the utilization of health care services under the State plan during the year as follows:

"(i) For each general category of eligible individuals and for each of the categories of health care items and services which are covered under the State plan and provided on a fee-for-service basis, the number and percentage of persons who received such a type of service or item during the period covered by the report.

"(ii) Summary of health care utilization data reported to the State by capitated health care organizations.

"(B) SUBSEQUENT SUMMARIES.—For reports for each succeeding fiscal year, summary statistics on the utilization of health care services under the State plan.

"(3) ACHIEVEMENT OF PERFORMANCE GOALS.—With respect to each performance goal established under section 1521 and applicable to the year involved—

"(A) a brief description of the goal;

"(B) a description of the methods to be used to measure the attainment of such goal;

"(C) data on the actual performance with respect to the goal;

"(D) a review of the extent to which the goal was achieved, based on such data; and

"(E) if a performance goal has not been met—

"(i) why the goal was not met, and

"(ii) actions to be taken in response to such performance, including adjustments in performance goals or program activities for subsequent years.

"(4) PROGRAM EVALUATIONS.—A summary of the findings of evaluations under section 1523 completed during the fiscal year covered by the report.

"(5) FRAUD AND ABUSE AND QUALITY CONTROL ACTIVITIES.—A general description of the State's activities under part D to detect and deter fraud and abuse and to assure quality of services provided under the program.

"(6) PLAN ADMINISTRATION.—

"(A) A description of the administrative roles and responsibilities of entities in the State responsible for administration of this title.

"(B) Organizational charts for each entity in the State primarily responsible for activities under this title.

"(C) A brief description of each interstate compact (if any) the State has entered into with other States with respect to activities under this title.

"(D) General citations to the State statutes and administrative rules governing the State's activities under this title.

"(c) DESCRIPTION OF CATEGORIES.—In this section:

"(1) GENERAL CATEGORIES OF ELIGIBLE INDIVIDUALS.—Each of the following is a general category of eligible individuals:

"(A) Pregnant women.

"(B) Children.

"(C) Blind or disabled adults who are not elderly individuals.

"(D) Elderly individuals.

"(E) Other adults.

"(2) CATEGORIES OF HEALTH CARE ITEMS AND SERVICES.—The health care items and services described in each paragraph of section 1571(a) shall be considered a separate category of health care items and services.

"(d) DEVELOPMENT OF UNIFORM DATA COLLECTION SYSTEM.—The Secretary shall develop a uniform data collection system for the provision of information under this section.

"SEC. 1523. PERIODIC, INDEPENDENT EVALUATIONS.

"(a) IN GENERAL.—During fiscal year 1999 and every third fiscal year thereafter, each State shall provide for an evaluation of the operation of its State plan under this title. Such evaluation shall include an assessment of how successfully the State is implementing the funding requirements imposed under section 1502(e) and the manner in which the State has utilized Federally-qualified health centers and rural health clinics to provide services under the State plan.

"(b) INDEPENDENT.—Each such evaluation with respect to an activity under the State plan shall be conducted by an entity that is neither responsible under State law for the submission of the State plan (or part thereof) nor responsible for administering (or supervising the administration of) the activity. If consistent with the previous sentence, such an entity may be a college or university, a

State agency, a legislative branch agency in a State, or an independent contractor.

"(c) RESEARCH DESIGN.—Each such evaluation shall be conducted in accordance with a research design that is based on generally accepted models of survey design and sampling and statistical analysis.

"SEC. 1524. DESCRIPTION OF PROCESS FOR STATE PLAN DEVELOPMENT.

"Each State plan shall include a description of the process under which the plan shall be developed and implemented in the State (consistent with section 1525).

"SEC. 1525. CONSULTATION IN STATE PLAN DEVELOPMENT.

"(a) PUBLIC NOTICE PROCESS.—Before submitting a State plan or a plan amendment described in subsection (c) to the Secretary under part C, a State shall provide—

"(1) public notice respecting the submittal of the proposed plan or amendment, including a general description of the plan or amendment,

"(2) a means for the public to inspect or obtain a copy (at reasonable charge) of the proposed plan or amendment,

"(3) an opportunity for submittal and consideration of public comments on the proposed plan or amendment, and

"(4) for consultation with one or more advisory committees established and maintained by the State.

The previous sentence shall not apply to a revision of a State plan (or revision of an amendment to a plan) made by a State under section 1529(c)(1) or to a plan amendment withdrawal described in section 1529(c)(4).

"(b) CONTENTS OF NOTICE.—A notice under subsection (a)(1) for a proposed plan or amendment shall include a description of—

"(1) the general purpose of the proposed plan or amendment (including applicable effective dates),

"(2) where the public may inspect the proposed plan or amendment,

"(3) how the public may obtain a copy of the proposed plan or amendment and the applicable charge (if any) for the copy, and

"(4) how the public may submit comments on the proposed plan or amendment, including any deadlines applicable to consideration of such comments.

"(c) AMENDMENTS DESCRIBED.—An amendment to a State plan described in this subsection is an amendment which makes a material and substantial change in eligibility under the State plan or the benefits provided under the plan or a material or substantial change in the manner in which the State will comply with subsection (b)(1)(H) or (e) of section 1502.

"(d) PUBLICATION.—Notices under this section may be published (as selected by the State) in one or more daily newspapers of general circulation in the State or in any publication used by the State to publish State statutes or rules.

"(e) COMPARABLE PROCESS.—A separate notice, or notices, shall not be required under this section for a State if notice of the State plan or an amendment to the plan will be provided under a process

specified in State law that is substantially equivalent to the notice process specified in this section.

"(f) PROVIDER PAYMENT RATES.—Each State shall provide public notice, in accordance with the provisions of this section, of proposed payment rates and the methodologies underlying the establishment of such rates, for all providers (including institutional providers) of services under the State plan under this title. A State shall publish final payment rates, the methodologies underlying the establishment of such rates, and justifications for such rates. Such justifications may take into account public comments received by the State (if any) in one or more daily newspapers of general circulation in the State or in any publication used by the State to publish State statutes or rules.

"SEC. 1526. SUBMITTAL AND APPROVAL OF STATE PLANS.

"(a) SUBMITTAL.—As a condition of receiving funding under part B, each State shall submit to the Secretary a State plan that meets the applicable requirements of this title.

"(b) APPROVAL.—Except as the Secretary may provide under section 1529 (including subsection (b) relating to noncompliance with required guarantees), a State plan submitted under subsection (a)—

"(1) shall be approved for purposes of this title, and

"(2) shall be effective beginning on a date that is specified in the plan, but in no case earlier than 60 days after the date the plan is submitted.

"(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State from submitting a State plan that includes the coverage and benefits (including those provided under a waiver granted under section 1115) of its State plan under title XIX (as in effect as of the date of the enactment of the Medicaid Restructuring Act of 1996), so long as such plan complies with the applicable requirements of this title, including the guarantees under section 1501, and remains subject to the funding provisions of section 1511.

"SEC. 1527. SUBMITTAL AND APPROVAL OF PLAN AMENDMENTS.

"(a) SUBMITTAL OF AMENDMENTS.—A State may amend, in whole or in part, its State plan at any time through transmittal of a plan amendment under this section.

"(b) APPROVAL.—Except as the Secretary may provide under section 1529 (including subsection (b) relating to noncompliance with required guarantees), an amendment to a State plan submitted under subsection (a)—

"(1) shall be approved for purposes of this title, and

"(2) shall be effective as provided in subsection (c).

"(c) EFFECTIVE DATES FOR AMENDMENTS.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, an amendment to a State plan shall take effect on one or more effective dates specified in the amendment.

"(2) AMENDMENTS RELATING TO ELIGIBILITY OR BENEFITS.—Except as provided in paragraph (4)—

"(A) NOTICE REQUIREMENT.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan may not take effect unless the State certifies that it has

provided prior or contemporaneous public notice of the change, in a form and manner provided under applicable State law.

"(B) TIMELY TRANSMITTAL.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan shall not be effective for longer than a 60-day period unless the amendment has been transmitted to the Secretary before the end of such period.

"(3) OTHER AMENDMENTS.—Subject to paragraph (4), any plan amendment that is not described in paragraph (2) becomes effective in a State fiscal year may not remain in effect after the end of such fiscal year (or, if later, the end of the 90-day period on which it becomes effective) unless the amendment has been transmitted to the Secretary.

"(4) EXCEPTION.—The requirements of paragraphs (2) and (3) shall not apply to a plan amendment that is submitted on a timely basis pursuant to a court order or an order of the Secretary.

"SEC. 1528. PROCESS FOR STATE WITHDRAWAL FROM PROGRAM.

"(a) IN GENERAL.—A State may rescind its State plan and discontinue participation in the program under this title at any time after providing—

"(1) the public with 90 days prior notice in a publication in one or more daily newspapers of general circulation in the State or in any publication used by the State to publish State statutes or rules, and

"(2) the Secretary with 90 days prior written notice.

"(b) EFFECTIVE DATE.—Such discontinuation shall not apply to payments under part B for expenditures made for items and services furnished under the State plan before the effective date of the discontinuation.

"(c) PRORATION OF ALLOTMENTS.—In the case of any withdrawal under this section other than at the end of a Federal fiscal year, notwithstanding any provision of section 1511 to the contrary, the Secretary shall provide for such appropriate proration of the application of allotments under section 1511 as is appropriate.

"SEC. 1529. SANCTIONS FOR NONCOMPLIANCE.

"(a) PROMPT REVIEW OF PLAN SUBMITTALS.—The Secretary shall promptly review State plans and plan amendments submitted under this part to determine if they substantially comply with the requirements of this title.

"(b) DETERMINATIONS OF NONCOMPLIANCE WITH CERTAIN GUARANTEES.—

"(1) AT TIME OF PLAN OR AMENDMENT SUBMITTAL.—If the Secretary determines that a State plan or plan amendment submitted under this part violates the guarantees of coverage and benefits under subsections (a) and (b) of section 1501, the Secretary shall notify the State in writing of such determination and shall issue an order specifying that the plan or amendment, insofar as it is in violation with such requirement, shall not be effective, except as provided in subsection (d), as of the date specified in the order.

"(2) VIOLATIONS IN ADMINISTRATION OF PLAN.—If the Secretary determines, after reasonable notice and opportunity for a hearing for the State, that in the administration of a State plan there is a violation of guarantee of coverage and benefits under subsection (a) or (b) of section 1501, or of the funding requirements under section 1502(e), the Secretary shall provide the State with written notice of the determination and with an order to remedy such violation. Such an order shall become effective prospectively, as specified in the order, after the date of receipt of such written notice. Such an order may include the withholding of funds, consistent with subsection (g), for parts of the State plan affected by such violation, until the Secretary is satisfied that the violation has been corrected.

"(3) CONSULTATION WITH STATE.—Before making a determination adverse to a State under this section, the Secretary shall—

"(A) reasonably consult with the State involved,

"(B) offer the State a reasonable opportunity to clarify the submission and submit further information to substantiate compliance with the requirements of subsections (a) and (b) of section 1501 and of section 1502(e), and

"(C) reasonably consider any such clarifications and information submitted.

"(4) JUSTIFICATION OF ANY INCONSISTENCIES IN DETERMINATIONS.—If the Secretary makes a determination under this section that is, in whole or in part, inconsistent with any previous determination issued by the Secretary under this title, the Secretary shall include in the determination a detailed explanation and justification for any such difference.

"(c) DETERMINATIONS OF OTHER SUBSTANTIAL NONCOMPLIANCE.—

"(1) AT TIME OF PLAN OR AMENDMENT SUBMITTAL.—

"(A) IN GENERAL.—If the Secretary, during the 30-day period beginning on the date of submittal of a State plan or plan amendment—

"(i) determines that the plan or amendment substantially violates (within the meaning of paragraph (5)) a requirement of this title, and

"(ii) provides written notice of such determination to the State,

the Secretary shall issue an order specifying that the plan or amendment, insofar as it is in substantial violation of such a requirement, shall not be effective, except as provided in subsection (d), beginning at the end of a period of not less than 30 days (or 120 days in the case of the initial submission of the State plan) specified in the order beginning on the date of the notice of the determination.

"(B) EXTENSION OF TIME PERIODS.—The time periods specified in subparagraph (A) may be extended by written agreement of the Secretary and the State involved.

"(2) VIOLATIONS IN ADMINISTRATION OF PLAN.—

"(A) IN GENERAL.—If the Secretary determines, after reasonable notice and opportunity for a hearing for the State, that in the administration of a State plan there is a substantial violation of a requirement of this title, the Sec-

retary shall provide the State with written notice of the determination and with an order to remedy such violation. Such an order shall become effective prospectively, as specified in the order, after the date of receipt of such written notice. Such an order may include the withholding of funds, consistent with subsection (g), for parts of the State plan affected by such violation, until the Secretary is satisfied that the violation has been corrected.

"(B) EFFECTIVENESS.—If the Secretary issues an order under paragraph (1), the order shall become effective, except as provided in subsection (d), beginning at the end of a period (of not less than 30 days) specified in the order beginning on the date of the notice of the determination to the State.

"(C) TIMELINESS OF DETERMINATIONS RELATING TO REPORT-BASED COMPLIANCE.—The Secretary shall make determinations under this paragraph respecting violations relating to information contained in an annual report under section 1522, an independent evaluation under section 1523, or an audit report under section 1551 not later than 30 days after the date of transmittal of the report or evaluation to the Secretary.

"(3) CONSULTATION WITH STATE.—Before making a determination adverse to a State under this section, the Secretary shall (within any time periods provided under this section)—

"(A) reasonably consult with the State involved,

"(B) offer the State a reasonable opportunity to clarify the submission and submit further information to substantiate compliance with the requirements of this title, and

"(C) reasonably consider any such clarifications and information submitted.

"(4) JUSTIFICATION OF ANY INCONSISTENCIES IN DETERMINATIONS.—If the Secretary makes a determination under this section that is, in whole or in part, inconsistent with any previous determination issued by the Secretary under this title, the Secretary shall include in the determination a detailed explanation and justification for any such difference.

"(5) SUBSTANTIAL VIOLATION DEFINED.—For purposes of this title, a State plan (or amendment to such a plan) or the administration of the State plan is considered to 'substantially violate' a requirement of this title if a provision of the plan or amendment (or an omission from the plan or amendment) or the administration of the plan—

"(A) is material and substantial in nature and effect, and

"(B) is inconsistent with an express requirement of this title.

A failure to meet a strategic objective or performance goal (as described in section 1521) shall not be considered to substantially violate a requirement of this title.

"(6) RELATION TO OTHER PROVISION.—This subsection shall not apply to violation of a requirement of subsection (a) or (b) of section 1501 or of section 1502(e).

"(d) STATE RESPONSE TO ORDERS.—

"(1) STATE RESPONSE BY REVISING PLAN.—

"(A) IN GENERAL.—Insofar as an order under subsection (b)(1) or (c)(1) relates to a violation by a State plan or plan amendment, a State may respond (before the date the order becomes effective) to such an order by submitting a written revision of the State plan or plan amendment to comply with the requirements of this title.

"(B) REVIEW OF REVISION.—In the case of submission of such a revision, the Secretary shall promptly review the submission and shall, in the case of an order under subsection (c)(1), withhold any action on the order during the period of such review.

"(C) SECRETARIAL RESPONSE.—

"(i) ORDERS RELATING TO GUARANTEES.—In the case of a revision submitted in response to an order under subsection (b)(1), the revision shall not be considered to have corrected the deficiency unless the Secretary determines and notifies the State that the State plan or amendment, as proposed to be revised, complies with the requirements of subsections (a) and (b) of section 1501, or of section 1502(e) (as the case may be). If the Secretary determines that the revision does not correct the deficiency, the Secretary shall notify the State in writing of such determination and the State may respond by seeking reconsideration or a hearing under paragraph (2).

"(ii) OTHER ORDERS.—In the case of a revision submitted in response to an order under subsection (c)(1), the revision shall be considered to have corrected the deficiency (and the order rescinded insofar as it relates to such deficiency) unless the Secretary determines and notifies the State in writing, within 15 days after the date the Secretary receives the revision, that the State plan or amendment, as proposed to be revised, still substantially violates a requirement of this title. In such case the State may respond by seeking reconsideration or a hearing under paragraph (2).

"(D) REVISION RETROACTIVE.—If the revision provides for compliance (in the case of an order under subsection (b)(1)) or substantial compliance (in the case of an order under subsection (c)(1)), the revision may be treated, at the option of the State, as being effective either as of the effective date of the provision to which it relates or such later date as the State and Secretary may agree.

"(2) STATE RESPONSE BY SEEKING RECONSIDERATION OR AN ADMINISTRATIVE HEARING.—A State may respond to an order under subsection (b) or (c) by filing a request with the Secretary for—

"(A) a reconsideration of the determination, pursuant to subsection (e)(1), or

"(B) a review of the determination through an administrative hearing, pursuant to subsection (e)(2).

In such case for an order under subsection (c), the order shall not take effect before the completion of the reconsideration or hearing.

"(3) STATE RESPONSE BY CORRECTIVE ACTION PLAN.—

"(A) IN GENERAL.—In the case of an order described in subsection (b)(2) or (c)(2) that relates to a violation in the administration of the State plan, a State may respond to such an order by submitting a corrective action plan with the Secretary to correct deficiencies in the administration of the plan which are the subject of the order.

"(B) REVIEW OF CORRECTIVE ACTION PLAN.—In the case of a corrective action plan submitted in response to an order under subsection (c)(2), the Secretary shall withhold any action on the order for a period (not to exceed 30 days) during which the Secretary reviews the corrective action plan.

"(C) SECRETARIAL RESPONSE.—

"(i) ORDERS RELATING TO GUARANTEES.—In the case of a corrective action plan submitted in response to an order under subsection (b)(2), the plan shall not be considered to have corrected the deficiency unless the Secretary determines and notifies the State that the State's administration of the State plan, as proposed to be corrected in the plan, will not violate a requirement of subsection (a) or (b) of section 1501, or of section 1502(e) (as the case may be). If the Secretary determines that the plan does not correct the deficiency, the Secretary shall notify the State in writing of such determination and the State may respond by seeking reconsideration or a hearing under paragraph (2).

"(ii) OTHER ORDERS.—In the case of a corrective action plan submitted in response to an order under subsection (c)(2), the corrective action plan shall be considered to have corrected the deficiency (and the order rescinded insofar as it relates to such deficiency) unless the Secretary determines and notifies the State in writing, within 15 days after the date the Secretary receives the corrective action plan, that the State's administration of the State plan, as proposed to be corrected in the plan, will still substantially violate a requirement of this title. In such case the State may respond by seeking reconsideration or a hearing under paragraph (2).

"(4) STATE RESPONSE BY WITHDRAWAL OF PLAN AMENDMENT; FAILURE TO RESPOND.—Insofar as an order relates to a violation in a plan amendment submitted, a State may respond to such an order by withdrawing the plan amendment and the State plan shall be treated as though the amendment had not been made.

"(e) ADMINISTRATIVE REVIEW AND HEARING.—

"(1) RECONSIDERATION.—Within 30 days after the date of receipt of a request under subsection (d)(2)(A), the Secretary shall notify the State of the time and place at which a hearing will be held for the purpose of reconsidering the Secretary's determination. The hearing shall be held not less than 20 days nor more than 60 days after the date notice of the hearing is furnished to the State, unless the Secretary and the State

agree in writing to holding the hearing at another time. The Secretary shall affirm, modify, or reverse the original determination within 60 days of the conclusion of the hearing.

"(2) ADMINISTRATIVE HEARING.—Within 30 days after the date of receipt of a request under subsection (d)(2)(B), an administrative law judge shall schedule a hearing for the purpose of reviewing the Secretary's determination. The hearing shall be held not less than 20 days nor more than 60 days after the date notice of the hearing is furnished to the State, unless the Secretary and the State agree in writing to holding the hearing at another time. The administrative law judge shall affirm, modify, or reverse the determination within 60 days of the conclusion of the hearing.

"(f) JUDICIAL REVIEW.—

"(1) IN GENERAL.—A State which is dissatisfied with a final determination made by the Secretary under subsection (e)(1) or a final determination of an administrative law judge under subsection (e)(2) may, within 60 days after it has been notified of such determination, file with the United States court of appeals for the circuit in which the State is located a petition for review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary and, in the case of a determination under subsection (e)(2), to the administrative law judge involved. The Secretary (or judge involved) thereupon shall file in the court the record of the proceedings on which the final determination was based, as provided in section 1502 of title 28, United States Code. Except as provided in section 1508, only the Secretary, in accordance with this title, may compel a State under Federal law to comply with the provisions of this title or a State plan, or otherwise enforce a provision of this title against a State, and no action may be filed under Federal law against a State in relation to the State's compliance, or failure to comply, with the provisions of this title or of a State plan except under section 1508 or by the Secretary as provided under this subsection.

"(2) STANDARD FOR REVIEW.—The findings of fact by the Secretary or administrative law judge, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary or judge to take further evidence, and the Secretary or judge may thereupon make new or modified findings of fact and may modify a previous determination, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) JURISDICTION OF APPELLATE COURT.—The court shall have jurisdiction to affirm the action of the Secretary or judge or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(g) WITHHOLDING OF FUNDS.—

"(1) IN GENERAL.—Any order under this section relating to the withholding of funds shall be effective not earlier than the

effective date of the order and shall only relate to the portions of a State plan or administration thereof which violate a requirement of subsection (a) or (b) of section 1501, section 1502(e), or substantially violate another requirement of this title. In the case of a failure to meet a set-aside requirement under subsection (c) or (e) of section 1502, any withholding shall only apply to the extent of such failure.

"(2) SUSPENSION OF WITHHOLDING.—The Secretary may suspend withholding of funds under paragraph (1) during the period reconsideration or administrative and judicial review is pending under subsection (e) or (f).

"(3) RESTORATION OF FUNDS.—Any funds withheld under this subsection under an order shall be immediately restored to a State—

"(A) to the extent and at the time the order is—

"(i) modified or withdrawn by the Secretary upon reconsideration,

"(ii) modified or reversed by an administrative law judge, or

"(iii) set aside (in whole or in part) by an appellate court; or

"(B) when the Secretary determines that the deficiency which was the basis for the order is corrected;

"(C) when the Secretary determines that violation which was the basis for the order is resolved or the amendment which was the basis for the order is withdrawn; or

"(D) at any time upon the initiative of the Secretary.

"(4) DIRECT PAYMENT OF CERTAIN FUNDS WITHHELD.—In the case of an order to withhold funds for failure to meet a set-aside requirement imposed under section 1502(e), the Secretary shall, during the period such order is in effect, pay directly to rural health clinics and federally-qualified health centers located in the State an amount equal to the amount that should have been paid to such clinics and centers by the State under section 1502(e).

"(h) INDIVIDUAL COMPLAINT PROCESS.—The Secretary shall provide for a process under which an individual may notify the Secretary concerning a State's failure to provide medical assistance as required under the State plan or otherwise comply with the requirements of this title or such plan, including any failure to comply with a requirement of subsection (a) or (b) of section 1501. If the Secretary finds that there is a pattern of complaints with respect to a State or that a particular failure or finding of noncompliance is egregious, the Secretary shall notify the chief executive officer of the State of such finding and shall notify the Congress if the State fails to respond to such notification within a reasonable period of time.

"SEC. 1530. SECRETARIAL AUTHORITY.

"(a) NEGOTIATED AGREEMENT AND DISPUTE RESOLUTION.—

"(1) NEGOTIATIONS.—Nothing in this part shall be construed as preventing the Secretary and a State from at any time negotiating a satisfactory resolution to any dispute concerning the approval of a State plan (or amendments to a State plan) or

the compliance of a State plan (including its administration) with requirements of this title.

"(2) COOPERATION.—The Secretary shall act in a cooperative manner with the States in carrying out this title. In the event of a dispute between a State and the Secretary, the Secretary shall, whenever practicable, engage in informal dispute resolution activities in lieu of formal enforcement or sanctions under section 1529.

"(b) LIMITATIONS ON DELEGATION OF DECISIONMAKING AUTHORITY.—The Secretary may not delegate (other than to the Administrator of the Health Care Financing Administration) the authority to make determinations or reconsiderations respecting the approval of State plans (or amendments to such plans) or the compliance of a State plan (including its administration) with requirements of this title. Such Administrator may not further delegate such authority to any individual, including any regional official of such Administration.

"(c) REQUIRING FORMAL RULEMAKING FOR CHANGES IN SECRETARIAL ADMINISTRATION.—The Secretary shall carry out the administration of the program under this title only through a prospective formal rulemaking process, including issuing notices of proposed rulemaking, publishing proposed rules or modifications to rules in the Federal Register, and soliciting public comment.

"PART D—PROGRAM INTEGRITY AND QUALITY

"SEC. 1551. USE OF AUDITS TO ACHIEVE FISCAL INTEGRITY.

"(a) FINANCIAL AUDITS OF PROGRAM.—

"(1) IN GENERAL.—Each State plan shall provide for an annual audit of the State's expenditures from amounts received under this title, in compliance with chapter 75 of title 31, United States Code.

"(2) VERIFICATION AUDITS.—If, after consultation with the State and the Comptroller General and after a fair hearing, the Secretary determines that a State's audit under paragraph (1) was performed in substantial violation of chapter 75 of title 31, United States Code, the Secretary may—

"(A) require that the State provide for a verification audit in compliance with such chapter, or

"(B) conduct such a verification audit.

"(3) AVAILABILITY OF AUDIT REPORTS.—Within 30 days after completion of each audit or verification audit under this subsection, the State shall—

"(A) provide the Secretary with a copy of the audit report, including the State's response to any recommendations of the auditor, and

"(B) make the audit report available for public inspection in the same manner as proposed State plan amendments are made available under section 1525.

"(b) FISCAL CONTROLS.—

"(1) IN GENERAL.—With respect to the accounting and expenditure of funds under this title, each State shall adopt and maintain such fiscal controls, accounting procedures, and data processing safeguards as the State deems reasonably necessary

to assure the fiscal integrity of the State's activities under this title.

"(2) CONSISTENCY WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—Such controls and procedures shall be generally consistent with generally accepted accounting principles as recognized by the Governmental Accounting Standards Board or the Comptroller General.

"(c) AUDITS OF PROVIDERS.—Each State plan shall provide that the records of any entity providing items or services for which payment may be made under the plan may be audited as necessary to ensure that proper payments are made under the plan.

"SEC. 1552. FRAUD PREVENTION PROGRAM.

"(a) ESTABLISHMENT.—Each State plan shall provide for the establishment and maintenance of an effective program for the detection and prevention of fraud and abuse by beneficiaries, providers, and others in connection with the operation of the program.

"(b) PROGRAM REQUIREMENTS.—The program established pursuant to subsection (a) shall include at least the following requirements:

"(1) DISCLOSURE OF INFORMATION.—Any disclosing entity (as defined in section 1124(a)) receiving payments under the State plan shall comply with the requirements of section 1124.

"(2) SUPPLY OF INFORMATION.—An entity (other than an individual practitioner or a group of practitioners) that furnishes, or arranges for the furnishing of, an item or service under the State plan shall supply upon request specifically addressed to the entity by the Secretary or the State agency the information described in section 1128(b)(9).

"(3) EXCLUSION.—

"(A) IN GENERAL.—The State plan shall exclude any specified individual or entity from participation in the plan for the period specified by the Secretary when required by the Secretary to do so pursuant to section 1128 or section 1128A, and provide that no payment may be made under the plan with respect to any item or service furnished by such individual or entity during such period.

"(B) AUTHORITY.—In addition to any other authority, a State may exclude any individual or entity for purposes of participating under the State plan for any reason for which the Secretary could exclude the individual or entity from participation in a program under title XVIII or under section 1128, 1128A, or 1866(b)(2).

"(4) NOTICE.—The State plan shall provide that whenever a provider of services or any other person is terminated, suspended, or otherwise sanctioned or prohibited from participating under the plan, the State agency responsible for administering the plan shall promptly notify the Secretary and, in the case of a physician, the State medical licensing board of such action.

"(5) ACCESS TO INFORMATION.—The State plan shall provide that the State will provide information and access to certain information respecting sanctions taken against health care practitioners and providers by State licensing authorities in accordance with section 1553.

"SEC. 1553. INFORMATION CONCERNING SANCTIONS TAKEN BY STATE LICENSING AUTHORITIES AGAINST HEALTH CARE PRACTITIONERS AND PROVIDERS.

"(a) INFORMATION REPORTING REQUIREMENT.—The requirement referred to in section 1552(b)(5) is that the State must provide for the following:

"(1) INFORMATION REPORTING SYSTEM.—The State must have in effect a system of reporting the following information with respect to formal proceedings (as defined by the Secretary in regulations) concluded against a health care practitioner or entity by any authority of the State (or of a political subdivision thereof) responsible for the licensing of health care practitioners (or any peer review organization or private accreditation entity reviewing the services provided by health care practitioners) or entities.

"(A) Any adverse action taken by such licensing authority as a result of the proceeding, including any revocation or suspension of a license (and the length of any such suspension), reprimand, censure, or probation.

"(B) Any dismissal or closure of the proceedings by reason of the practitioner or entity surrendering the license or leaving the State or jurisdiction.

"(C) Any other loss of the license of the practitioner or entity, whether by operation of law, voluntary surrender, or otherwise.

"(D) Any negative action or finding by such authority, organization, or entity regarding the practitioner or entity.

"(2) ACCESS TO DOCUMENTS.—The State must provide the Secretary (or an entity designated by the Secretary) with access to such documents of the authority described in paragraph (1) as may be necessary for the Secretary to determine the facts and circumstances concerning the actions and determinations described in such paragraph for the purpose of carrying out this Act.

"(b) FORM OF INFORMATION.—The information described in subsection (a)(1) shall be provided to the Secretary (or to an appropriate private or public agency, under suitable arrangements made by the Secretary with respect to receipt, storage, protection of confidentiality, and dissemination of information) in such a form and manner as the Secretary determines to be appropriate in order to provide for activities of the Secretary under this Act and in order to provide, directly or through suitable arrangements made by the Secretary, information—

"(1) to agencies administering Federal health care programs, including private entities administering such programs under contract,

"(2) to licensing authorities described in subsection (a)(1),

"(3) to State agencies administering or supervising the administration of State health care programs (as defined in section 1128(h)),

"(4) to utilization and quality control peer review organizations described in part B of title XI and to appropriate entities with contracts under section 1154(a)(4)(C) with respect to eligible organizations reviewed under the contracts,

"(5) to State fraud control units (as defined in section 1534),

"(6) to hospitals and other health care entities (as defined in section 431 of the Health Care Quality Improvement Act of 1986), with respect to physicians or other licensed health care practitioners that have entered (or may be entering) into an employment or affiliation relationship with, or have applied for clinical privileges or appointments to the medical staff of, such hospitals or other health care entities (and such information shall be deemed to be disclosed pursuant to section 427 of, and be subject to the provisions of, that Act),

"(7) to the Attorney General and such other law enforcement officials as the Secretary deems appropriate, and

"(8) upon request, to the Comptroller General,

in order for such authorities to determine the fitness of individuals to provide health care services, to protect the health and safety of individuals receiving health care through such programs, and to protect the fiscal integrity of such programs.

"(c) CONFIDENTIALITY OF INFORMATION PROVIDED.—The Secretary shall provide for suitable safeguards for the confidentiality of the information furnished under subsection (a). Nothing in this subsection shall prevent the disclosure of such information by a party which is otherwise authorized, under applicable State law, to make such disclosure.

"(d) APPROPRIATE COORDINATION.—The Secretary shall provide for the maximum appropriate coordination in the implementation of subsection (a) of this section and section 422 of the Health Care Quality Improvement Act of 1986 and section 1128E.

"SEC. 1554. STATE FRAUD CONTROL UNITS.

"(a) IN GENERAL.—Each State plan shall provide for a State fraud control unit described in subsection (b) that effectively carries out the functions and requirements described in such subsection, unless the State demonstrates to the satisfaction of the Secretary that the effective operation of such a unit in the State would not be cost-effective because minimal fraud exists in connection with the provision of covered services to eligible individuals under the plan, and that beneficiaries under the plan will be protected from abuse and neglect in connection with the provision of medical assistance under the plan without the existence of such a unit.

"(b) UNITS DESCRIBED.—For purposes of this section, the term 'State fraud control unit' means a single identifiable entity of the State government which meets the following requirements:

"(1) ORGANIZATION.—The entity—

"(A) is a unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations;

"(B) is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures that—

"(i) assure its referral of suspected criminal violations relating to the program under this title to the appropriate authority or authorities in the State for prosecution, and

"(ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions; or

"(C) has a formal working relationship with the office of the State Attorney General and has formal procedures (including procedures for its referral of suspected criminal violations to such office) which provide effective coordination of activities between the entity and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to the program under this title.

"(2) INDEPENDENCE.—The entity is separate and distinct from any State agency that has principal responsibilities for administering or supervising the administration of the State plan.

"(3) FUNCTION.—The entity's function is conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of medical assistance and the activities of providers of such assistance under the State plan.

"(4) REVIEW OF COMPLAINTS.—The entity has procedures for reviewing complaints of the abuse and neglect of patients of health care facilities which receive payments under the State plan under this title, and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

"(5) OVERPAYMENTS.—

"(A) IN GENERAL.—The entity provides for the collection, or referral for collection to a single State agency, of overpayments that are made under the State plan to health care providers and that are discovered by the entity in carrying out its activities.

"(B) TREATMENT OF CERTAIN OVERPAYMENTS.—If an overpayment is the direct result of the failure of the provider (or the provider's billing agent) to adhere to a change in the State's billing instructions, the entity may recover the overpayment only if the entity demonstrates that the provider (or the provider's billing agent) received prior written or electronic notice of the change in the billing instructions before the submission of the claims on which the overpayment is based.

"(6) PERSONNEL.—The entity employs such auditors, attorneys, investigators, and other necessary personnel and is organized in such a manner as is necessary to promote the effective and efficient conduct of the entity's activities.

"SEC. 1555. RECOVERIES FROM THIRD PARTIES AND OTHERS.

"(a) THIRD PARTY LIABILITY.—Each State plan shall provide for reasonable steps—

"(1) to ascertain the legal liability of third parties to pay for care and services available under the plan, including the collection of sufficient information to enable States to pursue claims against third parties, and

"(2) to seek reimbursement for medical assistance provided to the extent legal liability is established where the amount expected to be recovered exceeds the costs of the recovery.

"(b) BENEFICIARY PROTECTION.—

"(1) IN GENERAL.—Each State plan shall provide that in the case of a person furnishing services under the plan for which a third party may be liable for payment—

"(A) the person may not seek to collect from the individual (or financially responsible relative) payment of an amount for the service more than could be collected under the plan in the absence of such third party liability, and

"(B) may not refuse to furnish services to such an individual because of a third party's potential liability for payment for the service.

"(2) PENALTY.—A State plan may provide for a reduction of any payment amount otherwise due with respect to a person who furnishes services under the plan in an amount equal to up to 3 times the amount of any payment sought to be collected by that person in violation of paragraph (1)(A).

"(c) GENERAL LIABILITY.—The State shall prohibit any health insurer, including a group health plan as defined in section 607 of the Employee Retirement Income Security Act of 1974, a service benefit plan, or a health maintenance organization, in enrolling an individual or in making any payments for benefits to the individual or on the individual's behalf, from taking into account that the individual is eligible for or is provided medical assistance under a State plan for any State.

"(d) ACQUISITION OF RIGHTS OF BENEFICIARIES.—To the extent that payment has been made under a State plan in any case where a third party has a legal liability to make payment for such assistance, the State shall have in effect laws under which, to the extent that payment has been made under the plan for health care items or services furnished to an individual, the State is considered to have acquired the rights of such individual to payment by any other party for such health care items or services.

"(e) ASSIGNMENT OF MEDICAL SUPPORT RIGHTS.—The State plan shall provide for mandatory assignment of rights of payment for medical support and other medical care owed to recipients in accordance with section 1556.

"(f) REQUIRED LAWS RELATING TO MEDICAL CHILD SUPPORT.—

"(1) IN GENERAL.—Each State with a State plan under this title shall have in effect the following laws:

"(A) A law that prohibits an insurer from denying enrollment of a child under the health coverage of the child's parent on the ground that—

"(i) the child was born out of wedlock,

"(ii) the child is not claimed as a dependent on the parent's Federal income tax return, or

"(iii) the child does not reside with the parent or in the insurer's service area.

"(B) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an insurer, a law that requires such insurer—

"(i) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);

"(ii) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

"(iii) not to disenroll, or eliminate coverage of, such a child unless the insurer is provided satisfactory written evidence that—

"(I) such court or administrative order is no longer in effect, or

"(II) the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment.

"(C) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in the State, a law that requires such employer—

"(i) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);

"(ii) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

"(iii) not to disenroll (or eliminate coverage of) any such child unless—

"(I) the employer is provided satisfactory written evidence that such court or administrative order is no longer in effect, or the child is or will be enrolled in comparable health coverage which will take effect not later than the effective date of such disenrollment, or

"(II) the employer has eliminated family health coverage for all of its employees; and

"(iv) to withhold from such employee's compensation the employee's share (if any) of premiums for health coverage (except that the amount so withheld may not exceed the maximum amount permitted to be withheld under section 303(b) of the Consumer Credit Protection Act), and to pay such share of premiums to the insurer, except that the Secretary may provide by regulation for appropriate circumstances under which an employer may withhold less than such employee's share of such premiums.

"(D) A law that prohibits an insurer from imposing requirements on a State agency, which has been assigned the rights of an individual eligible for medical assistance under this title and covered for health benefits from the

insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

"(E) A law that requires an insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent—

"(i) to provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage,

"(ii) to permit the custodial parent (or provider, with the custodial parent's approval) to submit claims for covered services without the approval of the noncustodial parent, and

"(iii) to make payment on claims submitted in accordance with clause (ii) directly to such custodial parent, the provider, or the State agency.

"(F) A law that permits the State agency under this title to garnish the wages, salary, or other employment income of, and requires withholding amounts from State tax refunds to, any person who—

"(i) is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under this title,

"(ii) has received payment from a third party for the costs of such services to such child, but

"(iii) has not used such payments to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services,

to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under this title, but any claims for current or past-due child support shall take priority over any such claims for the costs of such services.

"(2) DEFINITION.—For purposes of this subsection, the term 'insurer' includes a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a health maintenance organization, and an entity offering a service benefit plan.

"(g) ESTATE RECOVERIES AND LIENS PERMITTED.—

"(1) IN GENERAL.—A State may take such actions as it considers appropriate to adjust or recover from the individual or the individual's estate any amounts paid as medical assistance to or on behalf of the individual under the State plan, including through the imposition of liens against the property or estate of the individual to the extent consistent with section 1506.

"(2) NO LIEN ON FAMILY FARMS.—For purposes of paragraph (1), a State may not impose a lien on the family farm owned by the individual that is the principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986) of such individual as a condition of the spouse of the individual receiving nursing facility or other long term care benefits under the State plan.

"(3) NO LIEN ON TRUSTS OF DISABLED INDIVIDUALS UNDER AGE 65.—No lien may be imposed against a trust containing the assets of an individual under age 65 who is disabled (as defined in section 1614(a)(3)) and which is established for the benefit of such individual by a parent, grandparent, legal guardian of the individual, or a court, if the State will receive all amounts remaining in the trust upon the death of such individual up to an amount equal to the total medical assistance paid on behalf of the individual under a State plan under this title.

"SEC. 1556. ASSIGNMENT OF RIGHTS OF PAYMENT.

"(a) IN GENERAL.—For the purpose of assisting in the collection of medical support payments and other payments for medical care owed to recipients of medical assistance under the State plan, each State plan shall—

"(1) provide that, as a condition of eligibility for medical assistance under the plan to an individual who has the legal capacity to execute an assignment for himself, the individual is required—

"(A) to assign the State any rights, of the individual or of any other person who is eligible for medical assistance under the plan and on whose behalf the individual has the legal authority to execute an assignment of such rights, to support (specified as support for the purpose of medical care by a court or administrative order) and to payment for medical care from any third party,

"(B) to cooperate with the State (i) in establishing the paternity of such person (referred to in subparagraph (A)) if the person is a child born out of wedlock, and (ii) in obtaining support and payments (described in subparagraph (A)) for himself and for such person, unless (in either case) the individual is a pregnant woman or the individual is found to have good cause for refusing to cooperate as determined by the State, and

"(C) to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for care and services available under the plan, unless such individual has good cause for refusing to cooperate as determined by the State; and

"(2) provide for entering into cooperative arrangements, including financial arrangements, with any appropriate agency of any State (including, with respect to the enforcement and collection of rights of payment for medical care by or through a parent, with a State's agency established or designated under section 454(3)) and with appropriate courts and law enforcement officials, to assist the agency or agencies administering the plan with respect to—

"(A) the enforcement and collection of rights to support or payment assigned under this section, and

"(B) any other matters of common concern.

"(b) USE OF AMOUNTS COLLECTED.—Such part of any amount collected by the State under an assignment made under the provisions of this section shall be retained by the State as is necessary to reimburse it for medical assistance payments made on behalf of an

individual with respect to whom such assignment was executed (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing of such medical assistance), and the remainder of such amount collected shall be paid to such individual.

"SEC. 1557. QUALITY ASSURANCE REQUIREMENTS FOR NURSING FACILITIES.

"(a) NURSING FACILITY DEFINED.—In this title, the term 'nursing facility' means an institution (or a distinct part of an institution) which—

"(1) is primarily engaged in providing to residents—

"(A) skilled nursing care and related services for residents who require medical or nursing care,

"(B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons, or

"(C) on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities,

and is not primarily for the care and treatment of mental diseases;

"(2) has in effect a transfer agreement (meeting the requirements of section 1861(l)) with one or more hospitals having agreements in effect under section 1866; and

"(3) meets the requirements for a nursing facility described in subsections (b), (c), and (d) of this section.

Such term also includes any facility which is located in a State on an Indian reservation and is certified by the Secretary as meeting the requirements of paragraph (1) and subsections (b), (c), and (d).

"(b) REQUIREMENTS RELATING TO PROVISION OF SERVICES.—

"(1) QUALITY OF LIFE.—

"(A) IN GENERAL.—A nursing facility must care for its residents in such a manner and in such an environment as will promote maintenance or enhancement of the quality of life of each resident.

"(B) QUALITY ASSESSMENT AND ASSURANCE.—A nursing facility must maintain a quality assessment and assurance committee, consisting of the director of nursing services, a physician designated by the facility, and at least 3 other members of the facility's staff, which (i) meets at least quarterly to identify issues with respect to which quality assessment and assurance activities are necessary and (ii) develops and implements appropriate plans of action to correct identified quality deficiencies. A State or the Secretary may not require disclosure of the records of such committee except insofar as such disclosure is related to the compliance of such committee with the requirements of this subparagraph.

"(2) SCOPE OF SERVICES AND ACTIVITIES UNDER PLAN OF CARE.—A nursing facility must provide services and activities to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident in accordance with a written plan of care which—

"(A) describes the medical, nursing, and psychosocial needs of the resident and how such needs will be met;

"(B) is initially prepared, with the participation to the extent practicable of the resident or the resident's family or legal representative, by a team which includes the resident's attending physician and a registered professional nurse with responsibility for the resident; and

"(C) is periodically reviewed and revised by such team after each assessment under paragraph (3).

"(3) RESIDENTS' ASSESSMENT.—

"(A) REQUIREMENT.—A nursing facility must conduct a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity, which assessment—

"(i) describes the resident's capability to perform daily life functions and significant impairments in functional capacity;

"(ii) is based on a uniform minimum data set specified by the Secretary under subsection (f)(6)(A);

"(iii) uses an instrument which is specified by the State under subsection (e)(5); and

"(iv) includes the identification of medical problems.

"(B) CERTIFICATION.—

"(i) IN GENERAL.—Each such assessment must be conducted or coordinated (with the appropriate participation of health professionals) by a registered professional nurse who signs and certifies the completion of the assessment. Each individual who completes a portion of such an assessment shall sign and certify as to the accuracy of that portion of the assessment.

"(ii) PENALTY FOR FALSIFICATION.—

"(I) An individual who willfully and knowingly certifies under clause (i) a material and false statement in a resident assessment is subject to a civil money penalty of not more than $1,000 with respect to each assessment.

"(II) An individual who willfully and knowingly causes another individual to certify under clause (i) a material and false statement in a resident assessment is subject to a civil money penalty of not more than $5,000 with respect to each assessment.

"(III) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this clause in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(iii) USE OF INDEPENDENT ASSESSORS.—If a State determines, under a survey under subsection (g) or otherwise, that there has been a knowing and willful certification of false assessments under this paragraph, the State may require (for a period specified by the State) that resident assessments under this paragraph be conducted and certified by individuals who

are independent of the facility and who are approved by the State.

"(C) FREQUENCY.—

"(i) IN GENERAL.—Such an assessment must be conducted—

"(I) promptly upon (but no later than 14 days after the date of) admission for each individual admitted;

"(II) promptly after a significant change in the resident's physical or mental condition; and

"(III) in no case less often than once every 12 months.

"(ii) RESIDENT REVIEW.—The nursing facility must examine each resident no less frequently than once every 3 months and, as appropriate, revise the resident's assessment to assure the continuing accuracy of the assessment.

"(D) USE.—The results of such an assessment shall be used in developing, reviewing, and revising the resident's plan of care under paragraph (2).

"(E) COORDINATION.—Such assessments shall be coordinated with any State-required preadmission screening program to the maximum extent practicable in order to avoid duplicative testing and effort. In addition, a nursing facility shall notify the State mental health authority or State mental retardation or developmental disability authority, as applicable, promptly after a significant change in the physical or mental condition of a resident who is mentally ill or mentally retarded.

"(4) PROVISION OF SERVICES AND ACTIVITIES.—

"(A) IN GENERAL.—To the extent needed to fulfill all plans of care described in paragraph (2), a nursing facility must provide (or arrange for the provision of)—

"(i) nursing and related services and specialized rehabilitative services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident;

"(ii) medically-related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident;

"(iii) pharmaceutical services (including procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals) to meet the needs of each resident;

"(iv) dietary services that assure that the meals meet the daily nutritional and special dietary needs of each resident;

"(v) an on-going program, directed by a qualified professional, of activities designed to meet the interests and the physical, mental, and psychosocial well-being of each resident;

"(vi) routine dental services (to the extent covered under the State plan) and emergency dental services to meet the needs of each resident; and

"(vii) treatment and services required by mentally ill and mentally retarded residents not otherwise provided or arranged for (or required to be provided or arranged for) by the State.

The services provided or arranged by the facility must meet professional standards of quality.

"(B) QUALIFIED PERSONS PROVIDING SERVICES.—Services described in clauses (i), (ii), (iii), (iv), and (vi) of subparagraph (A) must be provided by qualified persons in accordance with each resident's written plan of care.

"(C) REQUIRED NURSING CARE; FACILITY WAIVERS.—

"(i) GENERAL REQUIREMENTS.—A nursing facility—

"(I) except as provided in clause (ii), must provide 24-hour licensed nursing services which are sufficient to meet the nursing needs of its residents, and

"(II) except as provided in clause (ii), must use the services of a registered professional nurse for at least 8 consecutive hours a day, 7 days a week.

"(ii) WAIVER BY STATE.—To the extent that a facility is unable to meet the requirements of clause (i), a State may waive such requirements with respect to the facility if—

"(I) the facility demonstrates to the satisfaction of the State that the facility has been unable, despite diligent efforts (including offering wages at the community prevailing rate for nursing facilities), to recruit appropriate personnel,

"(II) the State determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility,

"(III) the State finds that, for any such periods in which licensed nursing services are not available, a registered professional nurse or a physician is obligated to respond immediately to telephone calls from the facility,

"(IV) the State agency granting a waiver of such requirements provides notice of the waiver to the State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) and the protection and advocacy system in the State for the mentally ill and the mentally retarded, and

"(V) the nursing facility that is granted such a waiver by a State notifies residents of the facility (or, where appropriate, the guardians or legal representatives of such residents) and members of their immediate families of the waiver.

A waiver under this clause shall be subject to annual review and to the review of the Secretary and subject to clause (iii) shall be accepted by the Secretary for purposes of this title to the same extent as is the State's certification of the facility. In granting or re-

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newing a waiver, a State may require the facility to use other qualified, licensed personnel.

"(iii) ASSUMPTION OF WAIVER AUTHORITY BY SECRETARY.—If the Secretary determines that a State has shown a clear pattern and practice of allowing waivers in the absence of diligent efforts by facilities to meet the staffing requirements, the Secretary shall assume and exercise the authority of the State to grant waivers.

"(5) REQUIRED TRAINING OF NURSE AIDES.—

"(A) IN GENERAL.—(i) Except as provided in clause (ii), a nursing facility must not use on a full-time basis any individual as a nurse aide in the facility, for more than 4 months unless the individual—

"(I) has completed a training and competency evaluation program, or a competency evaluation program, approved by the State under subsection (e)(1)(A), and

"(II) is competent to provide nursing or nursing-related services.

"(ii) A nursing facility must not use on a temporary, per diem, leased, or on any other basis other than as a permanent employee any individual as a nurse aide in the facility, unless the individual meets the requirements described in clause (i).

"(B) OFFERING COMPETENCY EVALUATION PROGRAMS FOR CURRENT EMPLOYEES.—A nursing facility must provide, for individuals used as a nurse aide by the facility, for a competency evaluation program approved by the State under subsection (e)(1) and such preparation as may be necessary for the individual to complete such a program.

"(C) COMPETENCY.—The nursing facility must not permit an individual, other than in a training and competency evaluation program approved by the State, to serve as a nurse aide or provide services of a type for which the individual has not demonstrated competency and must not use such an individual as a nurse aide unless the facility has inquired of any State registry established under subsection (e)(2)(A) that the facility believes will include information concerning the individual.

"(D) RE-TRAINING REQUIRED.—For purposes of subparagraph (A), if, since an individual's most recent completion of a training and competency evaluation program, there has been a continuous period of 24 consecutive months during none of which the individual performed nursing or nursing-related services for monetary compensation, such individual shall complete a new training and competency evaluation program, or a new competency evaluation program.

"(E) REGULAR IN-SERVICE EDUCATION.—The nursing facility must provide such regular performance review and regular in-service education as assures that individuals used as nurse aides are competent to perform services as nurse aides, including training for individuals providing

nursing and nursing-related services to residents with cognitive impairments.

"(F) NURSE AIDE DEFINED.—In this paragraph, the term 'nurse aide' means any individual providing nursing or nursing-related services to residents in a nursing facility, but does not include an individual—

"(i) who is a licensed health professional (as defined in subparagraph (G)) or a registered dietitian, or

"(ii) who volunteers to provide such services without monetary compensation.

"(G) LICENSED HEALTH PROFESSIONAL DEFINED.—In this paragraph, the term 'licensed health professional' means a physician, physician assistant, nurse practitioner, physical, speech, or occupational therapist, physical or occupational therapy assistant, registered professional nurse, licensed practical nurse, or licensed or certified social worker.

"(6) PHYSICIAN SUPERVISION AND CLINICAL RECORDS.—A nursing facility must—

"(A) require that the health care of every resident be provided under the supervision of a physician (or, at the option of a State, under the supervision of a nurse practitioner, clinical nurse specialist, or physician assistant who is not an employee of the facility but who is working in collaboration with a physician);

"(B) provide for having a physician available to furnish necessary medical care in case of emergency; and

"(C) maintain clinical records on all residents, which records include the plans of care (described in paragraph (2)) and the residents' assessments (described in paragraph (3)), as well as the results of any pre-admission screening conducted under subsection (e)(7).

"(7) REQUIRED SOCIAL SERVICES.—In the case of a nursing facility with more than 120 beds, the facility must have at least one social worker (with at least a bachelor's degree in social work or similar professional qualifications) employed full-time to provide or assure the provision of social services.

"(c) REQUIREMENTS RELATING TO RESIDENTS' RIGHTS.—

"(1) GENERAL RIGHTS.—

"(A) SPECIFIED RIGHTS.—A nursing facility must protect and promote the rights of each resident, including each of the following rights:

"(i) FREE CHOICE.—The right to choose a personal attending physician, to be fully informed in advance about care and treatment, to be fully informed in advance of any changes in care or treatment that may affect the resident's well-being, and (except with respect to a resident adjudged incompetent) to participate in planning care and treatment or changes in care and treatment.

"(ii) FREE FROM RESTRAINTS.—The right to be free from physical or mental abuse, corporal punishment, involuntary seclusion, and any physical or chemical restraints imposed for purposes of discipline or conven-

ience and not required to treat the resident's medical symptoms. Restraints may only be imposed—

"(I) to ensure the physical safety of the resident or other residents, and

"(II) only upon the written order of a physician that specifies the duration and circumstances under which the restraints are to be used (except in emergency circumstances specified by the Secretary until such an order could reasonably be obtained).

"(iii) PRIVACY.—The right to privacy with regard to accommodations, medical treatment, written and telephonic communications, visits, and meetings of family and of resident groups.

"(iv) CONFIDENTIALITY.—The right to confidentiality of personal and clinical records and to access to current clinical records of the resident upon request by the resident or the resident's legal representative, within 24 hours (excluding hours occurring during a weekend or holiday) after making such a request.

"(v) ACCOMMODATION OF NEEDS.—The right—

"(I) to reside and receive services with reasonable accommodation of individual needs and preferences, except where the health or safety of the individual or other residents would be endangered, and

"(II) to receive notice before the room or roommate of the resident in the facility is changed.

"(vi) GRIEVANCES.—The right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances and the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.

"(vii) PARTICIPATION IN RESIDENT AND FAMILY GROUPS.—The right of the resident to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility.

"(viii) PARTICIPATION IN OTHER ACTIVITIES.—The right of the resident to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

"(ix) EXAMINATION OF SURVEY RESULTS.—The right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Secretary or a State with respect to the facility and any plan of correction in effect with respect to the facility.

"(x) REFUSAL OF CERTAIN TRANSFERS.—The right to refuse a transfer to another room within the facility, if a purposes of the transfer is to relocate the resident from a portion of the facility that is not a skilled nurs-

ing facility (for purposes of title XVIII) to a portion of the facility that is such a skilled nursing facility.

"(xi) OTHER RIGHTS.—Any other right established by the Secretary.

Clause (i) shall not be construed as precluding a State from requiring a resident of a nursing facility to choose a personal attending physician who participates in a managed care network under a contract with the State to provide medical assistance under this title. Clause (iii) shall not be construed as requiring the provision of a private room. A resident's exercise of a right to refuse transfer under clause (x) shall not affect the resident's eligibility or entitlement to medical assistance under this title or a State's entitlement to Federal medical assistance under this title with respect to services furnished to such a resident.

"(B) NOTICE OF RIGHTS.—A nursing facility must—

"(i) inform each resident, orally and in writing at the time of admission to the facility, of the resident's legal rights during the stay at the facility and of the requirements and procedures for establishing eligibility for medical assistance under this title, including the right to request an assessment under section 1505(c)(1)(B);

"(ii) make available to each resident, upon reasonable request, a written statement of such rights (which statement is updated upon changes in such rights) including the notice (if any) of the State developed under subsection (e)(6);

"(iii) inform each resident who is entitled to medical assistance under this title—

"(I) at the time of admission to the facility or, if later, at the time the resident becomes eligible for such assistance, of the items and services that are included in nursing facility services under the State plan and for which the resident may not be charged, and of those other items and services that the facility offers and for which the resident may be charged and the amount of the charges for such items and services, and

"(II) of changes in the items and services described in subclause (I) and of changes in the charges imposed for items and services described in that subclause; and

"(iv) inform each other resident, in writing before or at the time of admission and periodically during the resident's stay, of services available in the facility and of related charges for such services, including any charges for services not covered under title XVIII or by the facility's basic per diem charge.

The written description of legal rights under this subparagraph shall include a description of the protection of personal funds under paragraph (6) and a statement that a resident may file a complaint with a State survey and cer-

tification agency respecting resident abuse and neglect and misappropriation of resident property in the facility.

"(C) RIGHTS OF INCOMPETENT RESIDENTS.—In the case of a resident adjudged incompetent under the laws of a State, the rights of the resident under this title shall devolve upon, and, to the extent judged necessary by a court of competent jurisdiction, be exercised by, the person appointed under State law to act on the resident's behalf.

"(D) USE OF PSYCHOPHARMACOLOGIC DRUGS.—Psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan (included in the written plan of care described in paragraph (2)) designed to eliminate or modify the symptoms for which the drugs are prescribed and only if, at least annually an independent, external consultant reviews the appropriateness of the drug plan of each resident receiving such drugs.

"(2) TRANSFER AND DISCHARGE RIGHTS.—

"(A) IN GENERAL.—A nursing facility must permit each resident to remain in the facility and must not transfer or discharge the resident from the facility unless—

"(i) the transfer or discharge is necessary to meet the resident's welfare and the resident's welfare cannot be met in the facility;

"(ii) the transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;

"(iii) the safety of individuals in the facility is endangered;

"(iv) the health of individuals in the facility would otherwise be endangered;

"(v) the resident has failed, after reasonable and appropriate notice, to pay (or to have paid under this title or title XVIII on the resident's behalf) for a stay at the facility; or

"(vi) the facility ceases to operate.

In each of the cases described in clauses (i) through (iv), the basis for the transfer or discharge must be documented in the resident's clinical record. In the cases described in clauses (i) and (ii), the documentation must be made by the resident's physician, and in the case described in clause (iv) the documentation must be made by a physician. For purposes of clause (v), in the case of a resident who becomes eligible for assistance under this title after admission to the facility, only charges which may be imposed under this title shall be considered to be allowable.

"(B) PRE-TRANSFER AND PRE-DISCHARGE NOTICE.—

"(i) IN GENERAL.—Before effecting a transfer or discharge of a resident, a nursing facility must—

"(I) notify the resident (and, if known, an immediate family member of the resident or legal representative) of the transfer or discharge and the reasons therefor,

"(II) record the reasons in the resident's clinical record (including any documentation required under subparagraph (A)), and

"(III) include in the notice the items described in clause (iii).

"(ii) TIMING OF NOTICE.—The notice under clause (i)(I) must be made at least 30 days in advance of the resident's transfer or discharge except—

"(I) in a case described in clause (iii) or (iv) of subparagraph (A);

"(II) in a case described in clause (ii) of subparagraph (A), where the resident's health improves sufficiently to allow a more immediate transfer or discharge;

"(III) in a case described in clause (i) of subparagraph (A), where a more immediate transfer or discharge is necessitated by the resident's urgent medical needs; or

"(IV) in a case where a resident has not resided in the facility for 30 days.

In the case of such exceptions, notice must be given as many days before the date of the transfer or discharge as is practicable.

"(iii) ITEMS INCLUDED IN NOTICE.—Each notice under clause (i) must include—

"(I) notice of the resident's right to appeal the transfer or discharge under the State process established under subsection (e)(3);

"(II) the name, mailing address, and telephone number of the State long-term care ombudsman (established under title III or VII of the Older Americans Act of 1965);

"(III) in the case of residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy system for developmentally disabled individuals established under part C of the Developmental Disabilities Assistance and Bill of Rights Act; and

"(IV) in the case of mentally ill residents (as defined in subsection (e)(7)(G)(i)), the mailing address and telephone number of the agency responsible for the protection and advocacy system for mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act.

"(C) ORIENTATION.—A nursing facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

"(D) NOTICE ON BED-HOLD POLICY AND READMISSION.—

"(i) NOTICE BEFORE TRANSFER.—Before a resident of a nursing facility is transferred for hospitalization or therapeutic leave, a nursing facility must provide writ-

ten information to the resident and an immediate family member or legal representative concerning—

"(I) the provisions of the State plan under this title regarding the period (if any) during which the resident will be permitted under the State plan to return and resume residence in the facility, and

"(II) the policies of the facility regarding such a period, which policies must be consistent with clause (iii).

"(ii) NOTICE UPON TRANSFER.—At the time of transfer of a resident to a hospital or for therapeutic leave, a nursing facility must provide written notice to the resident and an immediate family member or legal representative of the duration of any period described in clause (i).

"(iii) PERMITTING RESIDENT TO RETURN.—A nursing facility must establish and follow a written policy under which a resident—

"(I) who is eligible for medical assistance for nursing facility services under a State plan,

"(II) who is transferred from the facility for hospitalization or therapeutic leave, and

"(III) whose hospitalization or therapeutic leave exceeds a period paid for under the State plan for the holding of a bed in the facility for the resident,

will be permitted to be readmitted to the facility immediately upon the first availability of a bed in a room (not including a private room) in the facility if, at the time of readmission, the resident requires the services provided by the facility.

"(3) ACCESS AND VISITATION RIGHTS.—A nursing facility must—

"(A) permit immediate access to any resident by any representative of the Secretary, by any representative of the State, by an ombudsman or agency described in subclause (II), (III), or (IV) of paragraph (2)(B)(iii), or by the resident's individual physician;

"(B) permit immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives of the resident;

"(C) permit immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident;

"(D) permit reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time; and

"(E) permit representatives of the State ombudsman (described in paragraph (2)(B)(iii)(II)), with the permission of the resident (or the resident's legal representative) and

consistent with State law, to examine a resident's clinical records.

"(4) EQUAL ACCESS TO QUALITY CARE.—

"(A) IN GENERAL.—A nursing facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services required under the State plan for all individuals regardless of source of payment.

"(B) CONSTRUCTION.—

"(i) NOTHING PROHIBITING ANY CHARGES FOR NON-MEDICAL ASSISTANCE PATIENTS.—Subparagraph (A) shall not be construed as prohibiting a nursing facility from charging any amount for services furnished, consistent with the notice in paragraph (1)(B) describing such charges.

"(ii) NO ADDITIONAL SERVICES REQUIRED.—Subparagraph (A) shall not be construed as requiring a State to offer additional services on behalf of a resident than are otherwise provided under the State plan.

"(5) ADMISSIONS POLICY.—

"(A) ADMISSIONS.—With respect to admissions practices, a nursing facility must—

"(i) (I) not require individuals applying to reside or residing in the facility to waive their rights to benefits under a State plan under this title or title XVIII, (II) not require oral or written assurance that such individuals are not eligible for, or will not apply for, benefits under a State plan under this title or title XVIII, and (III) prominently display in the facility written information, and provide to such individuals oral and written information, about how to apply for and use such benefits and how to receive refunds for previous payments covered by such benefits;

"(ii) not require a third party guarantee of payment to the facility as a condition of admission (or expedited admission) to, or continued stay in, the facility; and

"(iii) in the case of an individual who is provided medical assistance for nursing facility services, not charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid under the State plan under this title, any gift, money, donation, or other consideration as a precondition of admitting (or expediting the admission of) the individual to the facility or as a requirement for the individual's continued stay in the facility.

"(B) CONSTRUCTION.—

"(i) NO PREEMPTION OF STRICTER STANDARDS.—Subparagraph (A) shall not be construed as preventing States or political subdivisions therein from prohibiting, under State or local law, the discrimination against individuals who are provided medical assistance under the State plan with respect to admissions practices of nursing facilities.

"(ii) CONTRACTS WITH LEGAL REPRESENTATIVES.—Subparagraph (A)(ii) shall not be construed as preventing a facility from requiring an individual, who has legal access to a resident's income or resources available to pay for care in the facility, to sign a contract (without incurring personal financial liability) to provide payment from the resident's income or resources for such care.

"(iii) CHARGES FOR ADDITIONAL SERVICES REQUESTED.—Subparagraph (A)(iii) shall not be construed as preventing a facility from charging a resident, eligible for medical assistance under the State plan, for items or services the resident has requested and received and that are not specified in the State plan as included in covered nursing facility services.

"(iv) BONA FIDE CONTRIBUTIONS.—Subparagraph (A)(iii) shall not be construed as prohibiting a nursing facility from soliciting, accepting, or receiving a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to the resident (or potential resident), but only to the extent that such contribution is not a condition of admission, expediting admission, or continued stay in the facility.

"(6) PROTECTION OF RESIDENT FUNDS.—

"(A) IN GENERAL.—The nursing facility—

"(i) may not require residents to deposit their personal funds with the facility, and

"(ii) upon the written authorization of the resident, must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this paragraph.

"(B) MANAGEMENT OF PERSONAL FUNDS.—Upon written authorization of a resident under subparagraph (A)(ii), the facility must manage and account for the personal funds of the resident deposited with the facility as follows:

"(i) DEPOSIT.—The facility must deposit any amount of personal funds in excess of $50 with respect to a resident in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts and credits all interest earned on such separate account to such account. With respect to any other personal funds, the facility must maintain such funds in a non-interest bearing account or petty cash fund.

"(ii) ACCOUNTING AND RECORDS.—The facility must assure a full and complete separate accounting of each such resident's personal funds, maintain a written record of all financial transactions involving the personal funds of a resident deposited with the facility, and afford the resident (or a legal representative of the resident) reasonable access to such record.

"(iii) NOTICE OF CERTAIN BALANCES.—The facility must notify each resident receiving medical assistance under the State plan when the amount in the resident's account reaches $200 less than the dollar

amount determined under section 1611(a)(3)(B) and the fact that if the amount in the account (in addition to the value of the resident's other nonexempt resources) reaches the amount determined under such section the resident may lose eligibility for such medical assistance or for benefits under title XVI.

"(iv) CONVEYANCE UPON DEATH.—Upon the death of a resident with such an account, the facility must convey promptly the resident's personal funds (and a final accounting of such funds) to the individual administering the resident's estate. All other personal property, including medical records, shall be considered part of the resident's estate and shall only be released to the administrator of the estate.

"(C) ASSURANCE OF FINANCIAL SECURITY.—The facility must purchase a surety bond, or otherwise provide assurance satisfactory to the State, to assure the security of all personal funds of residents deposited with the facility.

"(D) LIMITATION ON CHARGES TO PERSONAL FUNDS.—The facility may not impose a charge against the personal funds of a resident for any item or service for which payment is made under this title or title XVIII.

"(7) LIMITATION ON CHARGES IN CASE OF MEDICAL-ASSISTANCE-ELIGIBLE INDIVIDUALS.—

"(A) IN GENERAL.—A nursing facility may not impose charges, for certain medical-assistance-eligible individuals for nursing facility services covered by the State under its plan under this title, that exceed the payment amounts established by the State for such services under this title.

"(B) CERTAIN MEDICAL-ASSISTANCE-ELIGIBLE INDIVIDUALS DEFINED.—In subparagraph (A), the term 'certain medical-assistance-eligible individual' means an individual who is entitled to medical assistance for nursing facility services in the facility under this title but with respect to whom such benefits are not being paid because, in determining the amount of the individual's income to be applied monthly to payment for the costs of such services, the amount of such income exceeds the payment amounts established by the State for such services under this title.

"(8) POSTING OF SURVEY RESULTS.—A nursing facility must post in a place readily accessible to residents, and family members and legal representatives of residents, the results of the most recent survey of the facility conducted under subsection (g).

"(d) REQUIREMENTS RELATING TO ADMINISTRATION AND OTHER MATTERS.—

"(1) ADMINISTRATION.—

"(A) IN GENERAL.—A nursing facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident (consistent with requirements established under subsection (f)(5)).

"(B) REQUIRED NOTICES.—If a change occurs in—

"(i) the persons with an ownership or control interest (as defined in section 1124(a)(3)) in the facility,

"(ii) the persons who are officers, directors, agents, or managing employees (as defined in section 1126(b)) of the facility,

"(iii) the corporation, association, or other company responsible for the management of the facility, or

"(iv) the individual who is the administrator or director of nursing of the facility,

the nursing facility must provide notice to the State agency responsible for the licensing of the facility, at the time of the change, of the change and of the identity of each new person, company, or individual described in the respective clause.

"(C) NURSING FACILITY ADMINISTRATOR.—The administrator of a nursing facility, whether freestanding or hospital-based, must meet such standards as are established by the Secretary under subsection (f)(4).

"(2) LICENSING AND LIFE SAFETY CODE.—

"(A) LICENSING.—A nursing facility must be licensed under applicable State and local law.

"(B) LIFE SAFETY CODE.—A nursing facility must meet such provisions of such edition (as specified by the Secretary in regulation) of the Life Safety Code of the National Fire Protection Association as are applicable to nursing homes; except that—

"(i) the Secretary may waive, for such periods as he deems appropriate, specific provisions of such Code which if rigidly applied would result in unreasonable hardship upon a facility, but only if such waiver would not adversely affect the health and safety of residents or personnel, and

"(ii) the provisions of such Code shall not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects residents of and personnel in nursing facilities.

"(3) SANITARY AND INFECTION CONTROL AND PHYSICAL ENVIRONMENT.—A nursing facility must—

"(A) establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment in which residents reside and to help prevent the development and transmission of disease and infection, and

"(B) be designed, constructed, equipped, and maintained in a manner to protect the health and safety of residents, personnel, and the general public.

"(4) MISCELLANEOUS.—

"(A) COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND PROFESSIONAL STANDARDS.—A nursing facility, whether freestanding or hospital-based, must operate and provide services in compliance with all applicable Federal, State, and local laws and regulations (including the requirements of section 1124) and with accepted professional

standards and principles which apply to professionals providing services in such a facility.

"(B) OTHER.—A nursing facility must meet such other requirements relating to the health and safety of residents or relating to the physical facilities thereof as the Secretary may find necessary.

"(e) STATE REQUIREMENTS RELATING TO NURSING FACILITY REQUIREMENTS.—A State with a State plan under this title shall provide for the following:

"(1) SPECIFICATION AND REVIEW OF NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS AND OF NURSE AIDE COMPETENCY EVALUATION PROGRAMS.—The State must—

"(A) specify those training and competency evaluation programs, and those competency evaluation programs, that the State approves for purposes of subsection (b)(5) and that meet the requirements established under subsection (f)(2), and

"(B) provide for the review and reapproval of such programs, at a frequency and using a methodology consistent with the requirements established under subsection (f)(2)(A)(iii).

"(2) NURSE AIDE REGISTRY.—

"(A) IN GENERAL.—The State shall establish and maintain a registry of all individuals who have satisfactorily completed a nurse aide training and competency evaluation program, or a nurse aide competency evaluation program, approved under paragraph (1) in the State, or any individual described in subsection (f)(2)(B)(ii) or in subparagraph (B), (C), or (D) of section 6901(b)(4) of the Omnibus Budget Reconciliation Act of 1989.

"(B) INFORMATION IN REGISTRY.—The registry under subparagraph (A) shall provide (in accordance with regulations of the Secretary) for the inclusion of specific documented findings by a State under subsection (g)(1)(C) of resident neglect or abuse or misappropriation of resident property involving an individual listed in the registry, as well as any brief statement of the individual disputing the findings. The State shall make available to the public information in the registry. In the case of inquiries to the registry concerning an individual listed in the registry, any information disclosed concerning such a finding shall also include disclosure of any such statement in the registry relating to the finding or a clear and accurate summary of such a statement.

"(C) PROHIBITION AGAINST CHARGES.—A State may not impose any charges on a nurse aide relating to the registry established and maintained under subparagraph (A).

"(3) STATE APPEALS PROCESS FOR TRANSFERS AND DISCHARGES.—The State must provide for a fair mechanism, meeting the guidelines established under subsection (f)(3), for hearing appeals on transfers and discharges of residents of such facilities.

"(4) NURSING FACILITY ADMINISTRATOR STANDARDS.—The State must implement and enforce the nursing facility admin-

istrator standards developed under subsection (f)(4) respecting the qualification of administrators of nursing facilities. Any such standards promulgated shall apply to administrators of hospital-based facilities as well as administrators of freestanding facilities.

"(5) SPECIFICATION OF RESIDENT ASSESSMENT INSTRUMENT.—The State shall specify the instrument to be used by nursing facilities in the State in complying with the requirement of subsection (b)(3)(A)(iii). Such instrument shall be—

"(A) one of the instruments designated under subsection (f)(6)(B), or

"(B) an instrument which the Secretary has approved as being consistent with the minimum data set of core elements, common definitions, and utilization guidelines specified by the Secretary under subsection (f)(6)(A).

"(6) NOTICE OF RIGHTS.—Each State shall develop (and periodically update) a written notice of the rights and obligations of residents of nursing facilities (and spouses of such residents) under this title.

"(7) STATE REQUIREMENTS FOR PREADMISSION SCREENING AND RESIDENT REVIEW.—

"(A) PREADMISSION SCREENING.—

"(i) IN GENERAL.—The State must have in effect a preadmission screening program, for identifying mentally ill and mentally retarded individuals (as defined in subparagraph (B)) who are admitted to nursing facilities and for determining whether they require the level of services of such a facility.

"(ii) STATE REQUIREMENT FOR RESIDENT REVIEW.—The State shall notify the State mental health authority or the State mental retardation or developmental disability authority, as appropriate, of the individuals so identified.

"(B) DEFINITIONS.—In this paragraph:

"(i) An individual is considered to be 'mentally ill' if the individual has a serious mental illness (as defined by the Secretary in consultation with the National Institute of Mental Health) and does not have a primary diagnosis of dementia (including Alzheimer's disease or a related disorder) or a diagnosis (other than a primary diagnosis) of dementia and a primary diagnosis that is not a serious mental illness.

"(ii) An individual is considered to be 'mentally retarded' if the individual is mentally retarded or a person with a related condition.

"(f) RESPONSIBILITIES RELATING TO NURSING FACILITY REQUIREMENTS.—

"(1) GENERAL RESPONSIBILITY.—It is the duty and responsibility of the Secretary to assure that requirements which govern the provision of care in nursing facilities under State plans approved under this title, and the enforcement of such requirements, are adequate to protect the health, safety, welfare, and rights of residents and to promote the effective and efficient use of public moneys.

"(2) REQUIREMENTS FOR NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS AND FOR NURSE AIDE COMPETENCY EVALUATION PROGRAMS.—

"(A) IN GENERAL.—For purposes of subsections (b)(5) and (e)(1)(A), the Secretary shall establish—

"(i) requirements for the approval of nurse aide training and competency evaluation programs, including requirements relating to (I) the areas to be covered in such a program (including at least basic nursing skills, personal care skills, recognition of mental health and social service needs, care of cognitively impaired residents, basic restorative services, and residents' rights) and content of the curriculum, (II) minimum hours of initial and ongoing training and retraining (including not less than 75 hours in the case of initial training), (III) qualifications of instructors, and (IV) procedures for determination of competency;

"(ii) requirements for the approval of nurse aide competency evaluation programs, including requirements relating to the areas to be covered in such a program, including at least basic nursing skills, personal care skills, recognition of mental health and social service needs, care of cognitively impaired residents, basic restorative services, and residents' rights, and procedures for determination of competency;

"(iii) requirements respecting the minimum frequency and methodology to be used by a State in reviewing such programs' compliance with the requirements for such programs; and

"(iv) requirements, under both such programs, that—

"(I) provide procedures for determining competency that permit a nurse aide, at the nurse aide's option, to establish competency through procedures or methods other than the passing of a written examination and to have the competency evaluation conducted at the nursing facility at which the aide is (or will be) employed (unless the facility is described in subparagraph (B)(iii)(I)),

"(II) prohibit the imposition on a nurse aide who is employed by (or who has received an offer of employment from) a facility on the date on which the aide begins either such program of any charges (including any charges for textbooks and other required course materials and any charges for the competency evaluation) for either such program, and

"(III) in the case of a nurse aide not described in subclause (II) who is employed by (or who has received an offer of employment from) a facility not later than 12 months after completing either such program, the State shall provide for the reimbursement of costs incurred in completing such

program on a pro rata basis during the period in which the nurse aide is so employed.

"(B) APPROVAL OF CERTAIN PROGRAMS.—Such requirements—

"(i) may permit approval of programs offered by or in facilities, as well as outside facilities (including employee organizations);

"(ii) shall permit a State to find that an individual who has completed (before July 1, 1989) a nurse aide training and competency evaluation program shall be deemed to have completed such a program approved under subsection (b)(5) if the State determines that, at the time the program was offered, the program met the requirements for approval under such paragraph; and

"(iii) subject to subparagraph (C), shall prohibit approval of such a program—

"(I) offered by or in a nursing facility which, within the previous 2 years—

"(a) has operated under a waiver under subsection (b)(4)(C)(ii) that was granted on the basis of a demonstration that the facility is unable to provide the nursing care required under subsection (b)(4)(C)(i) for a period in excess of 48 hours during a week;

"(b) has been subject to an extended (or partial extended) survey under section 1819(g)(2)(B)(i) or subsection (g)(2)(B)(i); or

"(c) has been assessed a civil money penalty described in section 1819(h)(2)(B)(ii) or subsection (h)(2)(A)(ii) of not less than $5,000, or has been subject to a remedy described in subsection (h)(1)(B)(i), clause (i), (iii), or (iv) of subsection (h)(2)(A), clause (i) or (iii) of section 1819(h)(2)(B), or section 1819(h)(4), or

"(II) offered by or in a nursing facility unless the State makes the determination, upon an individual's completion of the program, that the individual is competent to provide nursing and nursing-related services in nursing facilities.

A State may not delegate (through subcontract or otherwise) its responsibility under clause (iii)(II) to the nursing facility.

"(C) WAIVER AUTHORIZED.—Clause (iii) of subparagraph (B) shall not apply to a program offered in (but not by) a nursing facility in a State if the State—

"(i) determines that there is no other such program offered within a reasonable distance of the facility,

"(ii) ensures, through an oversight effort, that an adequate environment exists for operating the program in the facility, and

"(iii) provides notice of such determination and assurances to the State long-term care ombudsman.

"(3) FEDERAL GUIDELINES FOR STATE APPEALS PROCESS FOR TRANSFERS AND DISCHARGES.—For purposes of subsections (c)(2)(B)(iii) and (e)(3), the Secretary shall establish guidelines for minimum standards which State appeals processes under subsection (e)(3) must meet to provide a fair mechanism for hearing appeals on transfers and discharges of residents from nursing facilities.

"(4) QUALIFICATION OF ADMINISTRATORS.—For purposes of subsections (d)(1)(C) and (e)(4), the Secretary shall develop standards to be applied in assuring the qualifications of administrators of nursing facilities. Any such standards must apply to administrators of hospital-based facilities as well as administrators of freestanding facilities.

"(5) CRITERIA FOR ADMINISTRATION.—The Secretary shall establish criteria for assessing a nursing facility's compliance with the requirement of subsection (d)(1) with respect to—

"(A) its governing body and management,

"(B) agreements with hospitals regarding transfers of residents to and from the hospitals and to and from other nursing facilities,

"(C) disaster preparedness,

"(D) direction of medical care by a physician,

"(E) laboratory and radiological services,

"(F) clinical records, and

"(G) resident and advocate participation.

"(6) SPECIFICATION OF RESIDENT ASSESSMENT DATA SET AND INSTRUMENTS.—The Secretary shall—

"(A) specify a minimum data set of core elements and common definitions for use by nursing facilities in conducting the assessments required under subsection (b)(3), and establish guidelines for utilization of the data set; and

"(B) designate one or more instruments which are consistent with the specification made under subparagraph (A) and which a State may specify under subsection (e)(5)(A) for use by nursing facilities in complying with the requirements of subsection (b)(3)(A)(iii).

"(7) LIST OF ITEMS AND SERVICES FURNISHED IN NURSING FACILITIES NOT CHARGEABLE TO THE PERSONAL FUNDS OF A RESIDENT.—The Secretary shall issue regulations that define those costs which may be charged to the personal funds of residents in nursing facilities who are individuals receiving medical assistance with respect to nursing facility services under this title and those costs which are to be included in the payment amount under this title for nursing facility services.

"(8) CRITERIA FOR MONITORING STATE WAIVERS.—The Secretary shall develop criteria and procedures for monitoring State performances in granting waivers pursuant to subsection (b)(4)(C)(ii).

"(g) SURVEY AND CERTIFICATION PROCESS.—

"(1) STATE AND FEDERAL RESPONSIBILITY.—

"(A) IN GENERAL.—Under each State plan under this title, the State shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of nursing facilities (other than facilities of the

State) with the requirements of subsections (b), (c), and (d). The Secretary shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of State nursing facilities with the requirements of such subsections.

"(B) EDUCATIONAL PROGRAM.—Each State shall conduct periodic educational programs for the staff and residents (and their representatives) of nursing facilities in order to present current regulations, procedures, and policies under this section.

"(C) INVESTIGATION OF ALLEGATIONS OF RESIDENT NEGLECT AND ABUSE AND MISAPPROPRIATION OF RESIDENT PROPERTY.—The State shall provide, through the agency responsible for surveys and certification of nursing facilities under this subsection, for a process for the receipt and timely review and investigation of allegations of neglect and abuse and misappropriation of resident property by a nurse aide of a resident in a nursing facility or by another individual used by the facility in providing services to such a resident. The State shall, after notice to the individual involved and a reasonable opportunity for a hearing for the individual to rebut allegations, make a finding as to the accuracy of the allegations. If the State finds that a nurse aide has neglected or abused a resident or misappropriated resident property in a facility, the State shall notify the nurse aide and the registry of such finding. If the State finds that any other individual used by the facility has neglected or abused a resident or misappropriated resident property in a facility, the State shall notify the appropriate licensure authority. A State shall not make a finding that an individual has neglected a resident if the individual demonstrates that such neglect was caused by factors beyond the control of the individual.

"(2) SURVEYS.—

"(A) ANNUAL STANDARD SURVEY.—

"(i) IN GENERAL.—Each nursing facility shall be subject to a standard survey, to be conducted without any prior notice to the facility. Any individual who notifies (or causes to be notified) a nursing facility of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of not to exceed $2,000. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). The Secretary shall review each State's procedures for scheduling and conduct of standard surveys to assure that the State has taken all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

"(ii) CONTENTS.—Each standard survey shall include, for a case-mix stratified sample of residents—

"(I) a survey of the quality of care furnished, as measured by indicators of medical, nursing, and rehabilitative care, dietary and nutrition services, activities and social participation, and sanitation, infection control, and the physical environment,

"(II) written plans of care provided under subsection (b)(2) and an audit of the residents' assessments under subsection (b)(3) to determine the accuracy of such assessments and the adequacy of such plans of care, and

"(III) a review of compliance with residents' rights under subsection (c).

"(iii) FREQUENCY.—

"(I) IN GENERAL.—Each nursing facility shall be subject to a standard survey not later than 15 months after the date of the previous standard survey conducted under this subparagraph. The statewide average interval between standard surveys of a nursing facility shall not exceed 12 months.

"(II) SPECIAL SURVEYS.—If not otherwise conducted under subclause (I), a standard survey (or an abbreviated standard survey) may be conducted within 2 months of any change of ownership, administration, management of a nursing facility, or director of nursing in order to determine whether the change has resulted in any decline in the quality of care furnished in the facility.

"(B) EXTENDED SURVEYS.—

"(i) IN GENERAL.—Each nursing facility which is found, under a standard survey, to have provided substandard quality of care shall be subject to an extended survey. Any other facility may, at the Secretary's or State's discretion, be subject to such an extended survey (or a partial extended survey).

"(ii) TIMING.—The extended survey shall be conducted immediately after the standard survey (or, if not practicable, not later than 2 weeks after the date of completion of the standard survey).

"(iii) CONTENTS.—In such an extended survey, the survey team shall review and identify the policies and procedures which produced such substandard quality of care and shall determine whether the facility has complied with all the requirements described in subsections (b), (c), and (d). Such review shall include an expansion of the size of the sample of residents' assessments reviewed and a review of the staffing, of in-service training, and, if appropriate, of contracts with consultants.

"(iv) CONSTRUCTION.—Nothing in this paragraph shall be construed as requiring an extended or partial extended survey as a prerequisite to imposing a sanction against a facility under subsection (h) on the basis of findings in a standard survey.

"(C) SURVEY PROTOCOL.—Standard and extended surveys shall be conducted—

"(i) based upon the protocol which the Secretary has developed, tested, and validated, as of the date of the enactment of this title, and

"(ii) by individuals, of a survey team, who meet such minimum qualifications as the Secretary establishes.

"(D) CONSISTENCY OF SURVEYS.—Each State shall implement programs to measure and reduce inconsistency in the application of survey results among surveyors.

"(E) SURVEY TEAMS.—

"(i) IN GENERAL.—Surveys under this subsection shall be conducted by a multidisciplinary team of professionals (including a registered professional nurse).

"(ii) PROHIBITION OF CONFLICTS OF INTEREST.—A State may not use as a member of a survey team under this subsection an individual who is serving (or has served within the previous 2 years) as a member of the staff of, or as a consultant to, the facility surveyed respecting compliance with the requirements of subsections (b), (c), and (d), or who has a personal or familial financial interest in the facility being surveyed.

"(iii) TRAINING.—The Secretary shall provide for the comprehensive training of State and Federal surveyors in the conduct of standard and extended surveys under this subsection, including the auditing of resident assessments and plans of care. No individual shall serve as a member of a survey team unless the individual has successfully completed a training and testing program in survey and certification techniques that has been approved by the Secretary.

"(3) VALIDATION SURVEYS.—

"(A) IN GENERAL.—The Secretary shall conduct onsite surveys of a representative sample of nursing facilities in each State, within 2 months of the date of surveys conducted under paragraph (2) by the State, in a sufficient number to allow inferences about the adequacies of each State's surveys conducted under paragraph (2). In conducting such surveys, the Secretary shall use the same survey protocols as the State is required to use under paragraph (2). If the State has determined that an individual nursing facility meets the requirements of subsections (b), (c), and (d), but the Secretary determines that the facility does not meet such requirements, the Secretary's determination as to the facility's noncompliance with such requirements is binding and supersedes that of the State survey.

"(B) SCOPE.—With respect to each State, the Secretary shall conduct surveys under subparagraph (A) each year with respect to at least 5 percent of the number of nursing facilities surveyed by the State in the year, but in no case less than 5 nursing facilities in the State.

"(C) REDUCTION IN ADMINISTRATIVE COSTS FOR SUBSTANDARD PERFORMANCE.—If the Secretary finds, on the

basis of such surveys, that a State has failed to perform surveys as required under paragraph (2) or that a State's survey and certification performance otherwise is not adequate, the Secretary may provide for the training of survey teams in the State and shall provide for a reduction of the payment otherwise made to the State under section 1512(a)(3)(C) with respect to a quarter equal to 33 percent multiplied by a fraction, the denominator of which is equal to the total number of residents in nursing facilities surveyed by the Secretary that quarter and the numerator of which is equal to the total number of residents in nursing facilities which were found pursuant to such surveys to be not in compliance with any of the requirements of subsections (b), (c), and (d). A State that is dissatisfied with the Secretary's findings under this subparagraph may obtain reconsideration and review of the findings under section 1116 in the same manner as a State may seek reconsideration and review under that section of the Secretary's determination under section 1116(a)(1).

"(D) SPECIAL SURVEYS OF COMPLIANCE.—Where the Secretary has reason to question the compliance of a nursing facility with any of the requirements of subsections (b), (c), and (d), the Secretary may conduct a survey of the facility and, on the basis of that survey, make independent and binding determinations concerning the extent to which the nursing facility meets such requirements.

"(4) INVESTIGATION OF COMPLAINTS AND MONITORING NURSING FACILITY COMPLIANCE.—Each State shall maintain procedures and adequate staff to—

"(A) investigate complaints of violations of requirements by nursing facilities, and

"(B) monitor, on-site, on a regular, as needed basis, a nursing facility's compliance with the requirements of subsections (b), (c), and (d), if—

"(i) the facility has been found not to be in compliance with such requirements and is in the process of correcting deficiencies to achieve such compliance;

"(ii) the facility was previously found not to be in compliance with such requirements, has corrected deficiencies to achieve such compliance, and verification of continued compliance is indicated; or

"(iii) the State has reason to question the compliance of the facility with such requirements.

A State may maintain and utilize a specialized team (including an attorney, an auditor, and appropriate health care professionals) for the purpose of identifying, surveying, gathering and preserving evidence, and carrying out appropriate enforcement actions against substandard nursing facilities.

"(5) DISCLOSURE OF RESULTS OF INSPECTIONS AND ACTIVITIES.—

"(A) PUBLIC INFORMATION.—Each State, and the Secretary, shall make available to the public—

"(i) information respecting all surveys and certifications made respecting nursing facilities, including

statements of deficiencies, within 14 calendar days after such information is made available to those facilities, and approved plans of correction,

"(ii) copies of cost reports of such facilities filed under this title or under title XVIII,

"(iii) copies of statements of ownership under section 1124, and

"(iv) information disclosed under section 1126.

"(B) NOTICE TO OMBUDSMAN.—Each State shall notify the State long-term care ombudsman (established under title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act) of the State's findings of noncompliance with any of the requirements of subsections (b), (c), and (d), or of any adverse action taken against a nursing facility under paragraphs (1), (2), or (3) of subsection (h), with respect to a nursing facility in the State.

"(C) NOTICE TO PHYSICIANS AND NURSING FACILITY ADMINISTRATOR LICENSING BOARD.—If a State finds that a nursing facility has provided substandard quality of care, the State shall notify—

"(i) the attending physician of each resident with respect to which such finding is made, and

"(ii) any State board responsible for the licensing of the nursing facility administrator of the facility.

"(D) ACCESS TO FRAUD CONTROL UNITS.—Each State shall provide its State fraud and abuse control unit (established under section 1554) with access to all information of the State agency responsible for surveys and certifications under this subsection.

"(h) ENFORCEMENT PROCESS.—

"(1) IN GENERAL.—If a State finds, on the basis of a standard, extended, or partial extended survey under subsection (g)(2) or otherwise, that a nursing facility no longer meets a requirement of subsection (b), (c), or (d)—

"(A) the State shall require the facility to correct the deficiency involved;

"(B) if the State finds that the facility's deficiencies immediately jeopardize the health or safety of its residents, the State shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in paragraph (2)(A)(iii), or terminate the facility's participation under the State plan and may provide, in addition, for one or more of the other remedies described in paragraph (2); and

"(C) if the State finds that the facility's deficiencies do not immediately jeopardize the health or safety of its residents, the State may—

"(i) terminate the facility's participation under the State plan,

"(ii) provide for one or more of the remedies described in paragraph (2), or

"(iii) do both.

Nothing in this paragraph shall be construed as restricting the remedies available to a State to remedy a nursing facility's deficiencies. If a State finds that a nursing facility meets the requirements of subsections (b), (c), and (d), but, as of a previous period, did not meet such requirements, the State may provide for a civil money penalty under paragraph (2)(A)(ii) for the days in which it finds that the facility was not in compliance with such requirements.

"(2) SPECIFIED REMEDIES.—

"(A) LISTING.—Except as provided in subparagraph (B), each State shall establish by law (whether statute or regulation) at least the following remedies:

"(i) Denial of payment under the State plan with respect to any individual admitted to the nursing facility involved after such notice to the public and to the facility as may be provided for by the State.

"(ii) A civil money penalty assessed and collected, with interest, for each day in which the facility is or was out of compliance with a requirement of subsection (b), (c), or (d). Funds collected by a State as a result of imposition of such a penalty (or as a result of the imposition by the State of a civil money penalty for activities described in subsection (b)(3)(B)(ii)(I), (b)(3)(B)(ii)(II), or (g)(2)(A)(i)) shall be applied to the protection of the health or property of residents of nursing facilities that the State or the Secretary finds deficient, including payment for the costs of relocation of residents to other facilities, maintenance of operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds lost.

"(iii) The appointment of temporary management to oversee the operation of the facility and to assure the health and safety of the facility's residents, where there is a need for temporary management while—

"(I) there is an orderly closure of the facility, or

"(II) improvements are made in order to bring the facility into compliance with all the requirements of subsections (b), (c), and (d).

The temporary management under this clause shall not be terminated under subclause (II) until the State has determined that the facility has the management capability to ensure continued compliance with all the requirements of subsections (b), (c), and (d).

"(iv) The authority, in the case of an emergency, to close the facility, to transfer residents in that facility to other facilities, or both.

The State also shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the remedies and shall provide for the imposition of incrementally more

severe fines for repeated or uncorrected deficiencies. In addition, the State may provide for other specified remedies, such as directed plans of correction.

"(B) GUIDANCE AND ALTERNATIVE REMEDIES.—(i) The Secretary shall provide through regulations guidance to States in establishing remedies under clauses (i) through (iv) of subparagraph (A).

"(ii) A State may establish alternative remedies (other than termination of participation) other than those described in clauses (i) through (iv) of subparagraph (A), if the State demonstrates to the Secretary's satisfaction that the alternative remedies are as effective in deterring noncompliance and correcting deficiencies as those described in such subparagraph.

"(C) ASSURING PROMPT COMPLIANCE.—If a nursing facility has not complied with any of the requirements of subsections (b), (c), and (d), within 3 months after the date the facility is found to be out of compliance with such requirements, the State shall impose the remedy described in subparagraph (A)(i) for all individuals who are admitted to the facility after such date.

"(D) REPEATED NONCOMPLIANCE.—In the case of a nursing facility which, on 3 consecutive standard surveys conducted under subsection (g)(2), has been found to have provided substandard quality of care, the State shall (regardless of what other remedies are provided)—

"(i) impose the remedy described in subparagraph (A)(i), and

"(ii) monitor the facility under subsection (g)(4)(B),

until the facility has demonstrated, to the satisfaction of the State, that it is in compliance with the requirements of subsections (b), (c), and (d), and that it will remain in compliance with such requirements.

"(E) FUNDING.—The reasonable expenditures of a State to provide for temporary management and other expenses associated with implementing the remedies described in clauses (iii) and (iv) of subparagraph (A) shall be considered, for purposes of section 1512(a)(3)(C), to be necessary for the proper and efficient administration of the State plan.

"(F) INCENTIVES FOR HIGH QUALITY CARE.—In addition to the remedies specified in this paragraph, a State may establish a program to reward, through public recognition, incentive payments, or both, nursing facilities that provide the highest quality care to residents who are entitled to medical assistance under this title. For purposes of section 1512(a)(3)(C), proper expenses incurred by a State in carrying out such a program shall be considered to be expenses necessary for the proper and efficient administration of the State plan.

"(3) SECRETARIAL AUTHORITY.—

"(A) FOR STATE NURSING FACILITIES.—With respect to a State nursing facility, the Secretary shall have the authority and duties of a State under this subsection, including

the authority to impose remedies described in clauses (i), (ii), and (iii) of paragraph (2)(A). Nothing in this subparagraph shall be construed as restricting the remedies available to the Secretary to remedy a nursing facility's deficiencies.

"(B) OTHER NURSING FACILITIES.—With respect to any other nursing facility in a State, if the Secretary finds that a nursing facility no longer meets a requirement of subsection (b), (c), (d), or (e), and further finds that the facility's deficiencies—

"(i) immediately jeopardize the health or safety of its residents, the Secretary shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in subparagraph (C)(iii), or terminate the facility's participation under the State plan and may provide, in addition, for one or more of the other remedies described in subparagraph (C); or

"(ii) do not immediately jeopardize the health or safety of its residents, the Secretary may impose any of the remedies described in subparagraph (C).

Nothing in this subparagraph shall be construed as restricting the remedies available to the Secretary to remedy a nursing facility's deficiencies. If the Secretary finds that a nursing facility meets such requirements but, as of a previous period, did not meet such requirements, the Secretary may provide for a civil money penalty under subparagraph (C)(ii) for the days on which he finds that the facility was not in compliance with such requirements.

"(C) SPECIFIED REMEDIES.—The remedies specified in this subparagraph are as follows:

"(i) DENIAL OF PAYMENT.—Denial of any further payments to the State in accordance with section 1529(f) for medical assistance furnished by the facility to all individuals in the facility or to individuals admitted to the facility after the effective date of the finding.

"(ii) AUTHORITY WITH RESPECT TO CIVIL MONEY PENALTIES.—Imposition of a civil money penalty against the facility in an amount not to exceed $10,000 for each day of noncompliance. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(iii) APPOINTMENT OF TEMPORARY MANAGEMENT.—Appointment of temporary management to oversee the operation of the facility and to assure the health and safety of the facility's residents, where there is a need for temporary management while—

"(I) there is an orderly closure of the facility, or

"(II) improvements are made in order to bring the facility into compliance with all the requirements of subsections (b), (c), and (d).

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The temporary management under this clause shall not be terminated under subclause (II) until the Secretary has determined that the facility has the management capability to ensure continued compliance with all the requirements of subsections (b), (c), and (d).

The Secretary shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the remedies and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies. In addition, the Secretary may provide for other specified remedies, such as directed plans of correction.

"(D) CONTINUATION OF PAYMENTS PENDING REMEDIATION.—The Secretary may continue payments, over a period of not longer than 6 months after the effective date of the findings, under this title with respect to a nursing facility not in compliance with a requirement of subsection (b), (c), or (d), if—

"(i) the State survey agency finds that it is more appropriate to take alternative action to assure compliance of the facility with the requirements than to terminate the certification of the facility,

"(ii) the State has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action, and

"(iii) the State agrees to repay to the Federal Government payments received under this subparagraph if the corrective action is not taken in accordance with the approved plan and timetable.

The Secretary shall establish guidelines for approval of corrective actions requested by States under this subparagraph.

"(4) SPECIAL RULES REGARDING PAYMENTS TO FACILITIES.—

"(A) CONTINUATION OF PAYMENTS PENDING REMEDIATION.—The State or the Secretary, as appropriate, may continue payments, over a period of not longer than 6 months after the effective date of the findings, under this title with respect to a nursing facility not in compliance with a requirement of subsection (b), (c), or (d). The State may continue such payments only if—

"(i) the State survey agency finds that it is more appropriate to take alternative action to assure compliance of the facility with the requirements than to terminate the certification of the facility,

"(ii) the State has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action, and

"(iii) the State agrees to repay to the Federal Government payments received under this subparagraph if the corrective action is not taken in accordance with the approved plan and timetable.

The Secretary shall establish guidelines for approval of corrective actions requested by States under this subparagraph.

"(B) EFFECTIVE PERIOD OF DENIAL OF PAYMENT.—A finding to deny payment under this subsection shall terminate when the State or Secretary (as the case may be) finds that the facility is in substantial compliance with all the requirements of subsections (b), (c), and (d).

"(5) IMMEDIATE TERMINATION OF PARTICIPATION FOR FACILITY WHERE STATE OR SECRETARY FINDS NONCOMPLIANCE AND IMMEDIATE JEOPARDY.—If either the State or the Secretary finds that a nursing facility has not met a requirement of subsection (b), (c), or (d), and finds that the failure immediately jeopardizes the health or safety of its residents, the State or the Secretary, respectively shall notify the other of such finding, and the State or the Secretary, respectively, shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in paragraph (2)(A)(iii) or (3)(C)(iii), or terminate the facility's participation under the State plan. If the facility's participation in the State plan is terminated by either the State or the Secretary, the State shall provide for the safe and orderly transfer of the residents eligible under the State plan consistent with the requirements of subsection (c)(2).

"(6) SPECIAL RULES WHERE STATE AND SECRETARY DO NOT AGREE ON FINDING OF NONCOMPLIANCE.—

"(A) STATE FINDING OF NONCOMPLIANCE AND NO SECRETARIAL FINDING OF NONCOMPLIANCE.—If the Secretary finds that a nursing facility has met all the requirements of subsections (b), (c), and (d), but a State finds that the facility has not met such requirements and the failure does not immediately jeopardize the health or safety of its residents, the State's findings shall control and the remedies imposed by the State shall be applied.

"(B) SECRETARIAL FINDING OF NONCOMPLIANCE AND NO STATE FINDING OF NONCOMPLIANCE.—If the Secretary finds that a nursing facility has not met all the requirements of subsections (b), (c), and (d), and that the failure does not immediately jeopardize the health or safety of its residents, but the State has not made such a finding, the Secretary—

"(i) may impose any remedies specified in paragraph (3)(C) with respect to the facility, and

"(ii) shall (pending any termination by the Secretary) permit continuation of payments in accordance with paragraph (3)(D).

"(7) SPECIAL RULES FOR TIMING OF TERMINATION OF PARTICIPATION WHERE REMEDIES OVERLAP.—If both the Secretary and the State find that a nursing facility has not met all the requirements of subsections (b), (c), and (d), and neither finds

that the failure immediately jeopardizes the health or safety of its residents—

"(A)(i) if both find that the facility's participation under the State plan should be terminated, the State's timing of any termination shall control so long as the termination date does not occur later than 6 months after the date of the finding to terminate;

"(ii) if the Secretary, but not the State, finds that the facility's participation under the State plan should be terminated, the Secretary shall (pending any termination by the Secretary) permit continuation of payments in accordance with paragraph (3)(D); or

"(iii) if the State, but not the Secretary, finds that the facility's participation under the State plan should be terminated, the State's decision to terminate, and timing of such termination, shall control; and

"(B)(i) if the Secretary or the State, but not both, establishes one or more remedies which are additional or alternative to the remedy of terminating the facility's participation under the State plan, such additional or alternative remedies shall also be applied, or

"(ii) if both the Secretary and the State establish one or more remedies which are additional or alternative to the remedy of terminating the facility's participation under the State plan, only the additional or alternative remedies of the Secretary shall apply.

"(8) CONSTRUCTION.—The remedies provided under this subsection are in addition to those otherwise available under Federal or State law and shall not be construed as limiting such other remedies, including any remedy available to an individual at common law. The remedies described in clauses (i), (iii), and (iv) of paragraph (2)(A) may be imposed during the pendency of any hearing. The provisions of this subsection shall apply to a nursing facility (or portion thereof) notwithstanding that the facility (or portion thereof) also is a skilled nursing facility for purposes of title XVIII.

"(9) SHARING OF INFORMATION.—Notwithstanding any other provision of law, all information concerning nursing facilities required by this section to be filed with the Secretary or a State agency shall be made available by such facilities to Federal or State employees for purposes consistent with the effective administration of programs established under this title and title XVIII, including investigations by State fraud control units.

"(i) CONSTRUCTION.—Where requirements or obligations under this section are identical to those provided under section 1819 of this Act, the fulfillment of those requirements or obligations under section 1819 shall be considered to be the fulfillment of the corresponding requirements or obligations under this section.

"(j) REPORT.—Not later than 2 years after the date of the enactment of the Medicaid Restructuring Act of 1996, and annually thereafter, the Secretary shall submit a report to the Congress analyzing—

"(1) the differences between the reimbursement rates established under the State plan under this title, and the reimbursement rates that applied under the State plan under title XIX (as in effect on the date of the enactment of such Act) for nursing facility services and other medical assistance provided by such facilities; and

"(2) whether and how such differences have affected the quality of such services or assistance.

"SEC. 1558. OTHER PROVISIONS PROMOTING PROGRAM INTEGRITY.

"(a) PUBLIC ACCESS TO SURVEY RESULTS.—Each State plan shall provide that upon completion of a survey of any health care facility or organization by a State agency to carry out the plan, the agency shall make public in readily available form and place the pertinent findings of the survey relating to the compliance of the facility or organization with requirements of law.

"(b) RECORD KEEPING.—Each State plan shall provide for agreements with persons or institutions providing services under the plan under which the person or institution agrees—

"(1) to keep such records, including ledgers, books, and original evidence of costs, as are necessary to fully disclose the extent of the services provided to individuals receiving assistance under the plan, and

"(2) to furnish the State agency with such information regarding any payments claimed by such person or institution for providing services under the plan, as the State agency may from time to time request.

"(c) QUALITY ASSURANCE.—

"(1) IN GENERAL.—Each State plan shall provide a program to—

"(A) ensure the quality of services provided under the plan, including such services provided to individuals with chronic mental or physical illness, and

"(B) measure, evaluate, and improve the quality of care delivered under such plan, including services delivered by a capitated health care organization or through a primary care case management provider.

"(2) ESTABLISHMENT OF MINIMUM STANDARDS FOR SERVICES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.—

"(A) IN GENERAL.—The Secretary, in consultation with the States, shall establish, monitor, and enforce minimum health, safety, and welfare standards for eligible low-income individuals with developmental disabilities who receive intermediate care facility services for the mentally retarded, home and community-based health care services and related supportive services, community supported living arrangements, assisted living arrangements, and transitional living arrangements in the community. Such standards shall ensure that individuals receiving such services are protected from neglect, physical and sexual abuse, financial exploitation, inappropriate involuntary restraint, and the provision of health care services by unqualified personnel.

"(B) PUBLIC PARTICIPATION.—The State plan shall contain provisions that ensure the involvement of consumers,

family members, and the local community in planning the provision of such services to such individuals and ensuring the quality assurance of such services.

"(d) PROHIBITION AGAINST CONFLICTS OF INTEREST.—Each State plan shall provide that each State or local officer or employee who is responsible for the expenditure of substantial amounts of funds under the State plan, each individual who formerly was such an officer or employee, and each partner of such an officer or employee shall be prohibited from committing any act, in relation to any activity under the plan, the commission of which, in connection with any activity concerning the United States Government, by an officer or employee of the United States Government, an individual who was such an officer or employee, or a partner of such an officer or employee is prohibited by section 207 or 208 of title 18, United States Code.

"(e) NONDISCRIMINATION PROVISIONS.—Any program or activity that receives funds under this part shall be subject to enforcement authorized under the following provisions of law:

"(1) The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

"(2) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(4) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

"PART E—GENERAL PROVISIONS

"SEC. 1571. DEFINITIONS.

"(a) MEDICAL ASSISTANCE.—For purposes of this title, the term 'medical assistance' means payment of part or all of the cost of any of the following, or assistance in the purchase, in whole or in part, of health benefit coverage that includes any of the following, for eligible low-income individuals (as defined in subsection (b)) as specified under the State plan:

"(1) Inpatient hospital services.

"(2) Outpatient hospital services.

"(3) Physician services.

"(4) Surgical services.

"(5) Clinic services and other ambulatory health care services.

"(6) Nursing facility services.

"(7) Intermediate care facility services for the mentally retarded.

"(8) Prescription drugs and biologicals and the administration of such drugs and biologicals, only if such drugs and biologicals are not furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.

"(9) Over-the-counter medications.

"(10) Laboratory and radiological services.

"(11) Prepregnancy family planning services and supplies.

"(12) Inpatient mental health services, including services furnished in a State-operated mental hospital, and residential or

other 24-hour therapeutically planned structured services, except that for individuals not less than age 22 and not more than age 64, such services shall be limited to acute services only.

"(13) Outpatient and intensive community-based mental health services, including psychiatric rehabilitation, day treatment, intensive in-home services for children, and partial hospitalization.

"(14) Durable medical equipment and other medically-related or remedial devices (such as prosthetic devices, implants, eyeglasses, hearing aids, dental devices, and adaptive devices).

"(15) Disposable medical supplies.

"(16) Home and community-based health care services and related supportive services (such as home health nursing services, home health aide services, personal care, assistance with activities of daily living, chore services, day care services, respite care services, training for family members, and minor modifications to the home).

"(17) Community supported living arrangements, assisted living arrangements, and transitional living arrangements in the community.

"(18) Nursing care services (such as nurse practitioner services, nurse midwife services, advanced practice nurse services, private duty nursing care, pediatric nurse services, and respiratory care services) in a home, school, or other setting.

"(19) Abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

"(20) Dental services.

"(21) Inpatient substance abuse treatment services and residential substance abuse treatment services.

"(22) Outpatient substance abuse treatment services.

"(23) Case management services.

"(24) Care coordination services.

"(25) Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.

"(26) Hospice care.

"(27) Any other medical, diagnostic, screening, preventive, restorative, remedial, therapeutic, or rehabilitative services (whether in a facility, home, school, or other setting) if recognized by State law and only if the service is—

"(A) prescribed by or furnished by a physician or other licensed or registered practitioner within the scope of practice as defined by State law,

"(B) performed under the general supervision or at the direction of a physician, or

"(C) furnished by a health care facility that is operated by a State or local government or is licensed under State law and operating within the scope of the license.

"(28) Premiums, or capitation payments (as defined in section 1504(e)(2)) for private health care insurance coverage, including private long-term care insurance coverage.

"(29) Medical transportation.

"(30) Medicare cost-sharing (as defined in subsection (c)).

"(31) Enabling services (such as transportation, translation, and outreach services) only if designed to increase the accessibility of primary and preventive health care services for eligible low-income individuals.

"(32) Federally-qualified health center services (as defined in subsection (f)(2)(A)), capitation payments (as defined in section 1504(e)(2)) provided by a State to a capitated health care organization which is (or is controlled by, as determined under section 1504(a)(4)) one or more Federally-qualified health centers (as defined in subsection (f)(2)(B)), and supplemental payments to a Federally-qualified health center (as so defined) that participates in a capitated health care organization which is (or is controlled by, as determined under section 1504(a)(4)) one or more Federally-qualified health centers (as so defined).

"(33) Rural health clinic services (as defined in subsection (f)(1)), capitation payments (as defined in section 1504(e)(2)) provided by a State to a capitated health care organization which is (or is controlled by, as determined under section 1504(a)(4)) one or more rural health clinics (as defined in subsection (f)(1)), and supplemental payments to a rural health clinic (as so defined) that participates in a capitated health care organization which is (or is controlled by, as determined under section 1504(a)(4)) one or more rural health clinics (as so defined).

"(34) Physician assistant services (to the extent such services are authorized under State law or regulation).

"(35) Any other health care services or items specified by the Secretary and not excluded under this section.

"(b) ELIGIBLE LOW-INCOME INDIVIDUAL.—

"(1) STATE PLAN ELIGIBILITY STANDARDS.—

"(A) IN GENERAL.—The term 'eligible low-income individual' means an individual—

"(i) who has been determined eligible by the State for medical assistance under the State plan and is not an inmate of a public institution (except as a patient in a State psychiatric hospital), and

"(ii) whose family income (as determined under the plan) does not exceed a percentage (specified in the State plan and not to exceed 275 percent) of the poverty line for a family of the size involved.

"(B) CONTINUATION OF KATIE BECKETT ELIGIBILITY.—At the option of a State, subparagraph (A)(ii) shall not apply in the case of an individual who—

"(i) is 18 years of age or younger and qualifies as a disabled individual under section 1614(a); and

"(ii) with respect to whom there has been a determination by the State that—

"(I) the individual requires a level of care provided in a hospital, nursing facility, or intermediate care facility for the mentally retarded; and

"(II) it is appropriate to provide such care for the individual outside such an institution.

"(2) AMOUNT OF INCOME.—In determining the amount of income under paragraph (1)(B), a State may exclude costs in-

curred for medical care or other types of remedial care recognized by the State.

"(3) COMPUTATION OF INCOME FOR CERTAIN CHILDREN.—In determining the amount of family income under paragraph (1)(B) in the case of a child described in section 1501(a)(1)(F), the State shall only count the income of the child and not that of the family in which the child is placed.

"(c) MEDICARE COST-SHARING.—For purposes of this title, the term 'medicare cost-sharing' means any of the following:

"(1)(A) Premiums under section 1839.

"(B) Premiums under section 1818 or 1818A.

"(2) Coinsurance under title XVIII (including coinsurance described in section 1813).

"(3) Deductibles established under title XVIII (including those described in sections 1813 and 1833(b)).

"(4) The difference between the amount that is paid under section 1833(a) and the amount that would be paid under such section if any reference to '80 percent' therein were deemed a reference to '100 percent'.

"(5) Premiums for enrollment of an individual with an eligible organization under section 1876.

"(d) ADDITIONAL DEFINITIONS.—For purposes of this title:

"(1) CHILD.—The term 'child' means an individual under 19 years of age.

"(2) ELDERLY INDIVIDUAL.—The term 'elderly individual' means an individual who has attained retirement age, as defined under section 216(l)(1).

"(3) POVERTY LINE DEFINED.—The term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

"(4) PREGNANT WOMAN.—The term 'pregnant woman' includes a woman during the 60-day period beginning on the last day of the pregnancy.

"(e) EPSDT SERVICES.—In this title, the term 'EPSDT services' means 'early and periodic screening, diagnostic, and treatment services' as defined in section 1905(r) (as in effect on June 1, 1996).

"(f) CENTER AND CLINIC SERVICES.—In this title:

"(1) RURAL HEALTH CLINIC RELATED DEFINITIONS.—The terms 'rural health clinic services' and 'rural health clinic' have the meanings given such terms in section 1861(aa), except that (A) clause (ii) of section 1861(aa)(2) shall not apply to such terms, and (B) the physician arrangement required under section 1861(aa)(2)(B) shall only apply with respect to rural health clinic services and, with respect to other ambulatory care services, the physician arrangement required shall be only such as may be required under the State plan for those services.

"(2) FEDERALLY-QUALIFIED HEALTH CENTER RELATED DEFINITIONS.—

"(A) SERVICES.—

"(i) IN GENERAL.—The term 'Federally-qualified health center services' means services of the type described in subparagraphs (A) through (C) of section 1861(aa)(1), and any other ambulatory care services

which are otherwise included in the State plan, when furnished to an individual as a patient of a Federally-qualified health center and, for this purpose, any reference to a rural health clinic or a physician described in section 1861(aa)(2)(B) is deemed a reference to a Federally-qualified health center or a physician at the center, respectively.

"(ii) CERTAIN SUPPLEMENTAL PAYMENTS INCLUDED.—

"(B) CENTER.—The term 'Federally-qualified health center' means a entity which—

"(i) is receiving a grant under section 329, 330, 340, or 340A of the Public Health Service Act,

"(ii)(I) is receiving funding from such a grant under a contract with the recipient of such a grant, and

"(II) meets the requirements to receive a grant under section 329, 330, 340, or 340A of such Act,

"(iii) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, is determined by the Secretary to meet the requirements for receiving such a grant, or

"(iv) was treated by the Secretary, for purposes of part B of title XVIII, as a comprehensive Federally funded health center as of January 1, 1990;

and includes an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (Public Law 93–638) or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act for the provision of primary health services. In applying clause (ii), the Secretary may waive any requirement referred to in such clause for up to 2 years for good cause shown.

"(g) MEDICALLY-RELATED SERVICES.—In this title, the term 'medically-related services' means services reasonably related to, or in direct support of, the State's attainment of one or more of the strategic objectives and performance goals established under section 1521, but does not include items and services included on the list under subsection (a).

"SEC. 1572. TREATMENT OF TERRITORIES.

"Notwithstanding any other requirement of this title, the Secretary may waive or modify any requirement of this title with respect to the medical assistance program for a State other than the 50 States and the District of Columbia, other than a waiver of—

"(1) the applicable Federal medical assistance percentage,

"(2) the limitation on total payments in a fiscal year to the amount of the allotment under section 1511(c), or

"(3) the requirement that payment may be made for medical assistance only with respect to amounts expended by the State for care and services described in section 1571(a) and medically-related services (as defined in section 1571(g)).

"SEC. 1573. DESCRIPTION OF TREATMENT OF INDIAN HEALTH SERVICE FACILITIES AND RELATED PROGRAMS.

"In the case of a State in which one or more facilities of the Indian Health Service is located or in which a facility or program de-

scribed in section 1512(f)(3)(iii) is located, the State plan shall include a description of—

"(1) what provision (if any) has been made for payment for items and services furnished by such facilities or through such programs, and

"(2) the manner in which medical assistance for low-income eligible individuals who are Indians will be provided, as determined by the State in consultation with the appropriate Indian tribes and tribal organizations.

"SEC. 1574. APPLICATION OF CERTAIN GENERAL PROVISIONS.

"The following sections in part A of title XI shall apply to States under this title in the same manner as they applied to a State under title XIX:

"(1) Section 1101(a)(1) (relating to definition of State).

"(2) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with the provisions of part B.

"(3) Section 1124 (relating to disclosure of ownership and related information).

"(4) Section 1126 (relating to disclosure of information about certain convicted individuals).

"(5) Section 1128B(d) (relating to criminal penalties for certain additional charges).

"(6) Section 1132 (relating to periods within which claims must be filed).

"SEC. 1575. OPTIONAL MASTER DRUG REBATE AGREEMENTS.

"(a) REQUIREMENT FOR MANUFACTURER TO ENTER INTO AGREEMENT.—

"(1) IN GENERAL.—Pursuant to section 1513(f), in order for payment to be made to a State under part B for medical assistance for covered outpatient drugs of a manufacturer, the manufacturer shall enter into and have in effect a master rebate agreement described in subsection (b) with the Secretary on behalf of States electing to participate in the agreement.

"(2) COVERAGE OF DRUGS NOT COVERED UNDER REBATE AGREEMENTS.—Nothing in this section shall be construed to prohibit a State in its discretion from providing coverage under its State plan of a covered outpatient drug for which no rebate agreement is in effect under this section.

"(3) EFFECT ON EXISTING AGREEMENTS.—If a State has a rebate agreement in effect with a manufacturer on the date of the enactment of this section which provides for a minimum aggregate rebate equal to or greater than the minimum aggregate rebate which would otherwise be paid under the master agreement under this section, at the option of the State—

"(A) such agreement shall be considered to meet the requirements of the master rebate agreement, and

"(B) the State shall be considered to have elected to participate in the master rebate agreement.

"(4) LIMITATION ON PRICES OF DRUGS PURCHASED BY COVERED ENTITIES.—

"(A) AGREEMENT WITH SECRETARY.—A manufacturer meets the requirements of this paragraph if the manufac-

turer has entered into an agreement with the Secretary that meets the requirements of section 340B of the Public Health Service Act with respect to covered outpatient drugs purchased by a covered entity on or after the first day of the first month that begins after the date of the enactment of title VI of the Veterans Health Care Act of 1992.

"(B) COVERED ENTITY DEFINED.—In this subsection, the term 'covered entity' means an entity described in subsection (a)(4) of section 340B of the Public Health Service Act.

"(C) ESTABLISHMENT OF ALTERNATIVE MECHANISM TO ENSURE AGAINST DUPLICATE DISCOUNTS OR REBATES.—If the Secretary does not establish a mechanism under section 340B(a)(5)(A) of the Public Health Service Act within 12 months of the date of the enactment of such section, the following requirements shall apply:

"(i) Each covered entity shall inform the single State agency under this title when it is seeking reimbursement for medical assistance with respect to a unit of any covered outpatient drug which is subject to an agreement under section 340B(a) of such Act.

"(ii) Each such single State agency shall provide a means by which a covered entity shall indicate on any drug reimbursement claims form (or format, where electronic claims management is used) that a unit of the drug that is the subject of the form is subject to an agreement under section 340B of such Act, and not submit to any manufacturer a claim for a rebate payment under subsection (b) with respect to such a drug.

"(D) EFFECT OF SUBSEQUENT AMENDMENTS.—In determining whether an agreement under subparagraph (A) meets the requirements of section 340B of the Public Health Service Act, the Secretary shall not take into account any amendments to such section that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992.

"(E) DETERMINATION OF COMPLIANCE.—A manufacturer is deemed to meet the requirements of this paragraph if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of section 340B of the Public Health Service Act (as in effect immediately after the enactment title VI of the Veterans Health Care Act of 1992)+, and would have entered into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after such enactment.

"(b) TERMS OF REBATE AGREEMENT.—

"(1) PERIODIC REBATES.—The master rebate agreement under this section shall require the manufacturer to provide, to the State plan of each State participating in the agreement, a rebate for a rebate period in an amount specified in subsection (c) for covered outpatient drugs of the manufacturer dispensed

after the effective date of the agreement, for which payment was made under the plan for such period. Such rebate shall be paid by the manufacturer not later than 30 days after the date of receipt of the information described in paragraph (2) for the period involved.

"(2) STATE PROVISION OF INFORMATION.—

"(A) STATE RESPONSIBILITY.—Each State participating in the master rebate agreement shall report to each manufacturer not later than 60 days after the end of each rebate period and in a form consistent with a standard reporting format established by the Secretary, information on the total number of units of each dosage form and strength and package size of each covered outpatient drug, for which payment was made under the State plan for the period, and shall promptly transmit a copy of such report to the Secretary.

"(B) AUDITS.—A manufacturer may audit the information provided (or required to be provided) under subparagraph (A). Adjustments to rebates shall be made to the extent that information indicates that utilization was greater or less than the amount previously specified.

"(3) MANUFACTURER PROVISION OF PRICE INFORMATION.—

"(A) IN GENERAL.—Each manufacturer which is subject to the master rebate agreement under this section shall report to the Secretary—

"(i) not later than 30 days after the last day of each rebate period under the agreement, on the average manufacturer price (as defined in subsection (i)(1)) and, for single source drugs and innovator multiple source drugs, the manufacturer's best price (as defined in subsection (c)(1)(C)) for each covered outpatient drug for the rebate period under the agreement, and

"(ii) not later than 30 days after the date of entering into an agreement under this section, on the average manufacturer price (as defined in subsection (i)(1)) as of October 1, 1990, for each of the manufacturer's covered outpatient drugs.

"(B) VERIFICATION SURVEYS OF AVERAGE MANUFACTURER PRICE.—The Secretary may survey wholesalers and manufacturers that directly distribute their covered outpatient drugs, when necessary, to verify manufacturer prices reported under subparagraph (A). The Secretary may impose a civil monetary penalty in an amount not to exceed $10,000 on a wholesaler, manufacturer, or direct seller, if the wholesaler, manufacturer, or direct seller of a covered outpatient drug refuses a request for information by the Secretary in connection with a survey under this subparagraph. The provisions of section 1128A (other than subsections (a) (with respect to amounts of penalties or additional assessments) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(C) PENALTIES.—

"(i) FAILURE TO PROVIDE TIMELY INFORMATION.—In the case of a manufacturer which is subject to the master rebate agreement that fails to provide information required under subparagraph (A) on a timely basis, the amount of the penalty shall be $10,000 for each day in which such information has not been provided and such amount shall be paid to the Treasury. If such information is not reported within 90 days of the deadline imposed, the agreement shall be suspended for services furnished after the end of such 90-day period and until the date such information is reported (but in no case shall such suspension be for a period of less than 30 days).

"(ii) FALSE INFORMATION.—Any manufacturer which is subject to the master rebate agreement, or a wholesaler or direct seller, that knowingly provides false information under subparagraph (A) or (B) is subject to a civil money penalty in an amount not to exceed $100,000 for each item of false information. Any such civil money penalty shall be in addition to other penalties as may be prescribed by law. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(D) CONFIDENTIALITY OF INFORMATION.—Notwithstanding any other provision of law, information disclosed by manufacturers or wholesalers under this paragraph or under an agreement with the Secretary of Veterans Affairs described in section 1513(f) is confidential and shall not be disclosed by the Secretary or the Secretary of Veterans Affairs or a State agency (or contractor therewith) in a form which discloses the identity of a specific manufacturer or wholesaler or the prices charged for drugs by such manufacturer or wholesaler, except—

"(i) as the Secretary determines to be necessary to carry out this section,

"(ii) to permit the Comptroller General to review the information provided, and

"(iii) to permit the Director of the Congressional Budget Office to review the information provided.

"(4) LENGTH OF AGREEMENT.—

"(A) IN GENERAL.—The master rebate agreement under this section shall be effective for an initial period of not less than 1 year and shall be automatically renewed for a period of not less than 1 year unless terminated under subparagraph (B).

"(B) TERMINATION.—

"(i) BY THE SECRETARY.—The Secretary may provide for termination of the master rebate agreement with respect to a manufacturer for violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 60

days after the date of notice of such termination. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, but such hearing shall not delay the effective date of the termination. Failure of a State to provide any advance notice of such a termination as required by regulation shall not affect the State's right to terminate coverage of the drugs affected by such termination as of the effective date of such termination.

"(ii) BY A MANUFACTURER.—A manufacturer may terminate its participation in the master rebate agreement under this section for any reason. Any such termination shall not be effective until the calendar quarter beginning at least 60 days after the date the manufacturer provides notice to the Secretary.

"(iii) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

"(iv) NOTICE TO STATES.—In the case of a termination under this subparagraph, the Secretary shall provide notice of such termination to the States within not less than 30 days before the effective date of such termination.

"(v) APPLICATION TO TERMINATIONS OF OTHER AGREEMENTS.—The provisions of this subparagraph shall apply to the terminations of master agreements described in section 8126(a) of title 38, United States Code.

"(C) DELAY BEFORE REENTRY.—In the case of any rebate agreement with a manufacturer under this section which is terminated, another such agreement with the manufacturer (or a successor manufacturer) may not be entered into until a period of 1 calendar quarter has elapsed since the date of the termination, unless the Secretary finds good cause for an earlier reinstatement of such an agreement.

"(5) SETTLEMENT OF DISPUTES.—

"(A) SECRETARY.—The Secretary shall have the authority to resolve, settle, and compromise disputes regarding the amounts of rebates owed under this section and section 1927.

"(B) STATE.—Each State, with respect to covered outpatient drugs paid for under the State plan, shall have authority, independent of the Secretary's authority under subparagraph (A), to resolve, settle, and compromise disputes regarding the amounts of rebates owed under this section. Any such action shall be deemed to comply with the requirements of this title, and such covered outpatient drugs shall be eligible for payment under the State plan under this title.

"(C) AMOUNT OF REBATE.—The Secretary shall limit the amount of the rebate payable in any case in which the Secretary determines that, because of unusual circumstances

or questionable data, the provisions of subsection (c) result in a rebate amount that is inequitable or otherwise inconsistent with the purposes of this section.

"(c) DETERMINATION OF AMOUNT OF REBATE.—

"(1) BASIC REBATE FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) IN GENERAL.—Except as provided in paragraph (2), the amount of the rebate specified in this subsection with respect to a State participating in the master rebate agreement for a rebate period (as defined in subsection (i)(7)) with respect to each dosage form and strength of a single source drug or an innovator multiple source drug shall be equal to the product of—

"(i) the total number of units of each dosage form and strength paid for under the State plan in the rebate period (as reported by the State); and

"(ii) the greater of—

"(I) the difference between the average manufacturer price and the best price (as defined in subparagraph (C)) for the dosage form and strength of the drug, or

"(II) the minimum rebate percentage (specified in subparagraph (B)) of such average manufacturer price, for the rebate period.

"(B) MINIMUM REBATE PERCENTAGE.—For purposes of subparagraph (A)(ii)(II), the 'minimum rebate percentage' is 15 percent.

"(C) BEST PRICE DEFINED.—For purposes of this section—

"(i) IN GENERAL.—The term 'best price' means, with respect to a single source drug or innovator multiple source drug of a manufacturer, the lowest price available from the manufacturer during the rebate period to any wholesaler, retailer, provider, health maintenance organization, nonprofit entity, or governmental entity within the United States, excluding—

"(I) any prices charged on or after October 1, 1992, to the Indian Health Service, the Department of Veterans Affairs, a State home receiving funds under section 1741 of title 38, United States Code, the Department of Defense, the Public Health Service, or a covered entity described in section 340B(a)(4) of the Public Health Service Act,

"(II) any prices charged under the Federal Supply Schedule of the General Services Administration,

"(III) any prices used under a State pharmaceutical assistance program, and

"(IV) any depot prices and single award contract prices, as defined by the Secretary, of any agency of the Federal Government.

"(ii) SPECIAL RULES.—The term 'best price'—

"(I) shall be inclusive of cash discounts, free goods that are contingent on any purchase re-

quirement, volume discounts, and rebates (other than rebates under this section),

"(II) shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package,

"(III) shall not take into account prices that are merely nominal in amount, and

"(IV) shall exclude rebates paid under this section or any other rebates paid to a State participating in the master rebate agreement.

"(2) ADDITIONAL REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) IN GENERAL.—The amount of the rebate specified in this subsection with respect to a State participating in the master rebate agreement for a rebate period, with respect to each dosage form and strength of a single source drug or an innovator multiple source drug, shall be increased by an amount equal to the product of—

"(i) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the State plan for the rebate period; and

"(ii) the amount (if any) by which—

"(I) the average manufacturer price for the dosage form and strength of the drug for the period, exceeds

"(II) the average manufacturer price for such dosage form and strength for the calendar quarter beginning July 1, 1990 (without regard to whether or not the drug has been sold or transferred to an entity, including a division or subsidiary of the manufacturer, after the first day of such quarter), increased by the percentage by which the Consumer Price Index for All Urban Consumers (United States city average) for the month before the month in which the rebate period begins exceeds such index for September 1990.

"(B) TREATMENT OF SUBSEQUENTLY APPROVED DRUGS.—In the case of a covered outpatient drug approved by the Food and Drug Administration after October 1, 1990, clause (ii)(II) of subparagraph (A) shall be applied by substituting 'the first full calendar quarter after the day on which the drug was first marketed' for 'the calendar quarter beginning July 1, 1990' and 'the month prior to the first month of the first full calendar quarter after the day on which the drug was first marketed' for 'September 1990'.

"(3) REBATE FOR OTHER DRUGS.—

"(A) IN GENERAL.—The amount of the rebate paid to a State participating in the master rebate agreement for a rebate period with respect to each dosage form and strength of covered outpatient drugs (other than single source drugs and innovator multiple source drugs) shall be equal to the product of—

"(i) the applicable percentage (as described in subparagraph (B)) of the average manufacturer price for the dosage form and strength for the rebate period, and

"(ii) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the State plan for the rebate period.

"(B) APPLICABLE PERCENTAGE DEFINED.—For purposes of subparagraph (A)(i), the 'applicable percentage' is 11 percent.

"(4) LIMITATION ON AMOUNT OF REBATE TO AMOUNTS PAID FOR CERTAIN DRUGS.—

"(A) IN GENERAL.—Upon request of the manufacturer of a covered outpatient drug, the Secretary shall limit, in accordance with subparagraph (B), the amount of the rebate under this subsection with respect to a dosage form and strength of such drug if the majority of the estimated number of units of such dosage form and strength that are subject to rebates under this section were dispensed to inpatients of nursing facilities.

"(B) AMOUNT OF REBATE.—In the case of a covered outpatient drug subject to subparagraph (A), the amount of the rebate specified in this subsection for a rebate period, with respect to each dosage form and strength of such drug, shall not exceed the amount paid under the State plan with respect to such dosage form and strength of the drug in the rebate period (without consideration of any dispensing fees paid).

"(5) SUPPLEMENTAL REBATES PROHIBITED.—No rebates shall be required to be paid by manufacturers with respect to covered outpatient drugs furnished to individuals in any State that provides for the collection of such rebates in excess of the rebate amount payable under this section.

"(d) LIMITATIONS ON COVERAGE OF DRUGS BY STATES PARTICIPATING IN MASTER AGREEMENT.—

"(1) PERMISSIBLE RESTRICTIONS.—A State participating in the master rebate agreement under this section may—

"(A) subject to prior authorization under its State plan any covered outpatient drug so long as any such prior authorization program complies with the requirements of paragraph (5); and

"(B) exclude or otherwise restrict coverage under its plan of a covered outpatient drug if—

"(i) the drug is contained in the list referred to in paragraph (2);

"(ii) the drug is subject to such restrictions pursuant to the master rebate agreement or any agreement described in subsection (a)(4); or

"(iii) the State has excluded coverage of the drug from its formulary established in accordance with paragraph (4).

"(2) LIST OF DRUGS SUBJECT TO RESTRICTION.—The following drugs or classes of drugs, or their medical uses, may be ex-

cluded from coverage or otherwise restricted by a State participating in the master rebate agreement:

"(A) Agents when used for anorexia, weight loss, or weight gain.

"(B) Agents when used to promote fertility.

"(C) Agents when used for cosmetic purposes or hair growth.

"(D) Agents when used for the symptomatic relief of cough and colds.

"(E) Agents when used to promote smoking cessation.

"(F) Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations.

"(G) Nonprescription drugs.

"(H) Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee.

"(I) Barbiturates.

"(J) Benzodiazepines.

"(3) ADDITIONS TO DRUG LISTINGS.—The Secretary shall, by regulation, periodically update the list of drugs or classes of drugs described in paragraph (2), or their medical uses, which the Secretary has determined to be subject to clinical abuse or inappropriate use.

"(4) REQUIREMENTS FOR FORMULARIES.—A State participating in the master rebate agreement may establish a formulary if the formulary meets the following requirements:

"(A) The formulary is developed by a committee consisting of physicians, pharmacists, and other appropriate individuals appointed by the Governor of the State.

"(B) Except as provided in subparagraph (C), the formulary includes the covered outpatient drugs of any manufacturer which has entered into and complies with the agreement under subsection (a) (other than any drug excluded from coverage or otherwise restricted under paragraph (2)).

"(C) A covered outpatient drug may be excluded with respect to the treatment of a specific disease or condition for an identified population (if any) only if, based on the drug's labeling (or, in the case of a drug the prescribed use of which is not approved under the Federal Food, Drug, and Cosmetic Act but is a medically accepted indication, based on information from the appropriate compendia described in subsection (i)(5)), the excluded drug does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome of such treatment for such population over other drugs included in the formulary and there is a written explanation (available to the public) of the basis for the exclusion.

"(D) The State plan permits coverage of a drug excluded from the formulary (other than any drug excluded from coverage or otherwise restricted under paragraph (2)) pur-

suant to a prior authorization program that is consistent with paragraph (5).

"(E) The formulary meets such other requirements as the Secretary may impose in order to achieve program savings consistent with protecting the health of program beneficiaries.

A prior authorization program established by a State under paragraph (5) is not a formulary subject to the requirements of this paragraph.

"(5) REQUIREMENTS OF PRIOR AUTHORIZATION PROGRAMS.—The State plan of a State participating in the master rebate agreement may require, as a condition of coverage or payment for a covered outpatient drug for which Federal financial participation is available in accordance with this section, the approval of the drug before its dispensing for any medically accepted indication (as defined in subsection (i)(5)) only if the system providing for such approval—

"(A) provides response by telephone or other telecommunication device within 24 hours of a request for prior authorization, and

"(B) except with respect to the drugs on the list referred to in paragraph (2), provides for the dispensing of at least a 72-hour supply of a covered outpatient prescription drug in an emergency situation (as defined by the Secretary).

"(6) OTHER PERMISSIBLE RESTRICTIONS.—A State participating in the master rebate agreement may impose limitations, with respect to all such drugs in a therapeutic class, on the minimum or maximum quantities per prescription or on the number of refills, if such limitations are necessary to discourage waste, and may address instances of fraud or abuse by individuals in any manner authorized under this Act.

"(e) DRUG USE REVIEW.—

"(1) IN GENERAL.—A State participating in the master rebate agreement may provide for a drug use review program to educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs.

"(2) APPLICATION OF STATE STANDARDS.—A State with a drug use review program under this subsection shall establish and operate the program under such standards as it may establish.

"(f) ELECTRONIC CLAIMS MANAGEMENT.—In accordance with chapter 35 of title 44, United States Code (relating to coordination of Federal information policy), the Secretary shall encourage each State to establish, as its principal means of processing claims for covered outpatient drugs under its State plan, a point-of-sale electronic claims management system, for the purpose of performing on-line, real time eligibility verifications, claims data capture, adjudication of claims, and assisting pharmacists (and other authorized persons) in applying for and receiving payment.

"(g) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than May 1 of each year, the Secretary shall transmit to the Committee on Finance of the Senate, and the Committee on Commerce of the House of Representatives, a report on the operation of this section in the preceding fiscal year.

"(2) DETAILS.—Each report shall include information on—

"(A) ingredient costs paid under this title for single source drugs, multiple source drugs, and nonprescription covered outpatient drugs,

"(B) the total value of rebates received and number of manufacturers providing such rebates,

"(C) the effect of inflation on the value of rebates required under this section,

"(D) trends in prices paid under this title for covered outpatient drugs, and

"(E) Federal and State administrative costs associated with compliance with the provisions of this title.

"(h) EXEMPTION FOR CAPITATED HEALTH CARE ORGANIZATIONS, HOSPITALS, AND CERTAIN NURSING FACILITIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the requirements of the master rebate agreement under this section shall not apply with respect to covered outpatient drugs dispensed by or through—

"(A) a capitated health care organization (as defined in section 1504(d)(1)),

"(B) a hospital that dispenses covered outpatient drugs using a drug formulary system and bills the State no more than the hospital's purchasing costs for covered outpatient drugs, or

"(C) a nursing facility which receives payment under this title for health care services, including prescription drugs, on a capitated basis or which dispenses covered outpatient drugs using a drug formulary system.

"(2) CONSTRUCTION IN DETERMINING BEST PRICE.—Nothing in paragraph (1) shall be construed as excluding amounts paid by the entities described in such paragraph for covered outpatient drugs from the determination of the best price (as defined in subsection (c)(1)(C)) for such drugs.

"(i) DEFINITIONS.—In the section—

"(1) AVERAGE MANUFACTURER PRICE.—The term 'average manufacturer price' means, with respect to a covered outpatient drug of a manufacturer for a rebate period, the average price paid to the manufacturer for the drug in the United States by wholesalers for drugs distributed to the retail pharmacy class of trade, after deducting customary prompt pay discounts.

"(2) COVERED OUTPATIENT DRUG.—Subject to the exceptions in paragraph (3), the term 'covered outpatient drug' means—

"(A) of those drugs which are treated as prescribed drugs for purposes of section 1571(a)(8), a drug which may be dispensed only upon prescription (except as provided in subparagraph (D)), and—

"(i) which is approved as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act;

"(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

"(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for some or all conditions of use prescribed, recommended, or suggested in its labeling;

"(B) a biological product, other than a vaccine which—

"(i) may only be dispensed upon prescription,

"(ii) is licensed under section 351 of the Public Health Service Act, and

"(iii) is produced at an establishment licensed under such section to produce such product;

"(C) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act; and

"(D) a drug, including a biological product or insulin, which may be sold without a prescription (commonly referred to as an 'over-the-counter drug'), if the drug is prescribed by a physician (or other person authorized to prescribe under State law).

"(3) LIMITING DEFINITION.—The term 'covered outpatient drug' does not include any drug, biological product, or insulin provided as part of, or as incident to and in the same setting as, any of the following (and for which payment may be made under a State plan as part of payment for the following and not as direct reimbursement for the drug):

"(A) Inpatient hospital services.

"(B) Hospice services.

"(C) Dental services, except that drugs for which the State plan authorizes direct reimbursement to the dispensing dentist are covered outpatient drugs.

"(D) Physicians' services.

"(E) Outpatient hospital services.

"(F) Nursing facility services and services provided by an intermediate care facility for the mentally retarded.

"(G) Other laboratory and x-ray services.

"(H) Renal dialysis services.

Such term also does not include any such drug or product for which a National Drug Code number is not required by the Food and Drug Administration or a drug or biological product used for a medical indication which is not a medically accepted indication. Any drug, biological product, or insulin excluded from the definition of such term as a result of this paragraph shall be treated as a covered outpatient drug for purposes of determining the best price (as defined in subsection (c)(1)(C)) for such drug, biological product, or insulin.

"(4) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug, the entity holding legal title to or possession of the National Drug Code number for such drug.

"(5) MEDICALLY ACCEPTED INDICATION.—The term 'medically accepted indication' means any use for a covered outpatient drug which is approved under the Federal Food, Drug, and Cosmetic Act, or the use of which is supported by one or more citations included or approved for inclusion in any of the following compendia:

"(A) American Hospital Formulary Service Drug Information.

"(B) United States Pharmacopeia-Drug Information.

"(C) American Medical Association Drug Evaluations.

"(D) The DRUGDEX Information System.

"(E) The peer-reviewed medical literature.

"(6) MULTIPLE SOURCE DRUG; INNOVATOR MULTIPLE SOURCE DRUG; NONINNOVATOR MULTIPLE SOURCE DRUG; SINGLE SOURCE DRUG.—

"(A) DEFINED.—

"(i) MULTIPLE SOURCE DRUG.—The term 'multiple source drug' means, with respect to a rebate period, a covered outpatient drug (not including any drug described in paragraph (2)(D)) for which there are 2 or more drug products which—

"(I) are rated as therapeutically equivalent (under the Food and Drug Administration's most recent publication of 'Approved Drug Products with Therapeutic Equivalence Evaluations'),

"(II) except as provided in subparagraph (B), are pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C) and as determined by the Food and Drug Administration, and

"(III) are sold or marketed in the State during the period.

"(ii) INNOVATOR MULTIPLE SOURCE DRUG.—The term 'innovator multiple source drug' means a multiple source drug that was originally marketed under an original new drug application or product licensing ap-

plication approved by the Food and Drug Administration.

"(iii) NONINNOVATOR MULTIPLE SOURCE DRUG.—The term 'noninnovator multiple source drug' means a multiple source drug that is not an innovator multiple source drug.

"(iv) SINGLE SOURCE DRUG.—The term 'single source drug' means a covered outpatient drug (other than a drug described in paragraph (2)(D)) which is produced or distributed under an original new drug application approved by the Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributors operating under the new drug application or product licensing application.

"(B) EXCEPTION.—Subparagraph (A)(i)(II) shall not apply if the Food and Drug Administration changes by regulation the requirement that, for purposes of the publication described in subparagraph (A)(i)(I), in order for drug products to be rated as therapeutically equivalent, they must be pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) drug products are pharmaceutically equivalent if the products contain identical amounts of the same active drug ingredient in the same dosage form and meet compendial or other applicable standards of strength, quality, purity, and identity,

"(ii) drugs are bioequivalent if they do not present a known or potential bioequivalence problem, or, if they do present such a problem, they are shown to meet an appropriate standard of bioequivalence, and

"(iii) a drug product is considered to be sold or marketed in a State if it appears in a published national listing of average wholesale prices selected by the Secretary, if the listed product is generally available to the public through retail pharmacies in that State.

"(7) REBATE PERIOD.—The term 'rebate period' means, with respect to an agreement under subsection (a), a calendar quarter or other period specified by the Secretary with respect to the payment of rebates under such agreement.".

SEC. 2924. STATE ELECTION; TERMINATION OF CURRENT PROGRAM; AND TRANSITION.

(a) TERMINATION OF CURRENT PROGRAM; LIMITATION ON MEDICAID PAYMENTS IN FISCAL YEAR 1997.—

(1) REPEAL OF TITLE.—Title XIX of the Social Security Act is repealed effective October 1, 1997, except that the repeal of section 1928 of such Act is effective on the date of the enactment of this Act and the succeeding two sections of such title shall be effective during fiscal year 1996 in the same manner and to the same extent as such sections were effective during fiscal year 1995.

(2) LIMITATION ON OBLIGATION AUTHORITY.—Notwithstanding any other provision of such title—

(A) FISCAL YEAR 1997.—Subject to subparagraph (B), the Secretary of Health and Human Services (in this section referred to as the "Secretary") may enter into obligations under such title with any State (as defined for purposes of such title) for expenses incurred during fiscal year 1997, but not in excess of the sum determined under clauses (i) and (ii) of section 1511(a)(2)(A) of the Social Security Act (as added by section 2) for that State for fiscal year 1997.

(B) NONE AFTER EFFECTIVE DATE.—The Secretary is not authorized to enter into any obligation with any State under title XIX of such Act for expenses incurred on or after the earlier of—

(i) October 1, 1997, or

(ii) the first day of the first quarter on which the State plan under title XV of such Act (as added by section 2) is first effective.

(C) AGREEMENT.—A State's submission of claims for payment under section 1903 of such Act on or after October 1, 1996, is deemed to constitute the State's acceptance of the obligation limitation under subparagraph (A) (including the formula for computing the amount of such obligation limitation).

(D) EFFECT ON MEDICAL ASSISTANCE.—Effective October 1, 1996—

(i) except as provided in this paragraph, the Federal Government has no obligation to provide payment with respect to items and services provided under title XIX of the Social Security Act, and

(ii) such title and title XV of such Act shall not be construed as providing for an entitlement, under Federal law in relation to the Federal Government, in an individual or person (including any provider) at the time of provision or receipt of services.

(3) REQUIREMENT FOR TIMELY SUBMITTAL OF CLAIMS.—No payment shall be made to a State under title XIX of such Act with respect to an obligation incurred before October 1, 1996, unless the State has submitted to the Secretary, by not later than April 1, 1997, a claim for Federal financial participation for expenses paid by the State with respect to such obligations. Nothing in paragraph (2) shall be construed as affecting the obligation of the Federal Government to pay claims described in the previous sentence.

(b) TRANSITION PROVISIONS.—

(1) Notwithstanding any other provision of law, in the case where payment has been made under section 1903(a) of the Social Security Act to a State before March 1, 1996, and for which a disallowance has not been taken as of such date (or, if so taken, has not been completed, including judicial review, by such date), the Secretary of Health and Human Services shall discontinue the disallowance proceeding and, if such disallowance has been taken as of the date of the enactment of this Act, any payment reductions effected shall be rescinded and the payments returned to the State.

(2) The repeal under subsection (a)(1) of section 1928 of the Social Security Act shall not affect the distribution of vaccines purchased and delivered to the States before the date of the enactment of this Act. No vaccine may be purchased after such date by the Federal Government or any State under any contract under section 1928(d) of the Social Security Act.

(3) No judicial or administrative decision rendered regarding requirements imposed under title XIX of the Social Security Act with respect to a State shall have any application to the State plan of the State under title XV of such Act. A State may, pursuant to the previous sentence, seek the abrogation or modification of any such decision after the date of termination of the State medicaid plan under title XIX of such Act.

(4) No cause of action under title XIX of the Social Security Act which seeks to require a State to establish or maintain minimum payment rates under such title or claim which seeks reimbursement for any period before the date of the enactment of this Act based on the alleged failure of the State to comply with such title and which has not become final as of such date shall be brought or continued.

(5) Section 6408(a)(3) of the Omnibus Budget Reconciliation Act of 1989 (as amended by section 13642 of the Omnibus Budget Reconciliation Act of 1993) and section 2 of Public Law 102–276 (as amended by section 13644 of the Omnibus Budget Reconciliation Act of 1993) are each amended by striking "December 31, 1995" and inserting "October 1, 1997".

(c) ANTI-FRAUD PROVISIONS.—Section 1128(h)(1) of the Social Security Act (42 U.S.C. 1320a–7(h)(1)) is amended by inserting "or a State plan under title XV" after "title XIX".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation, as appropriate, with heads of other Federal agencies and the States (as defined in section 1101(a)(8) of the Social Security Act for purposes of title XIX of such Act), shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of, and amendments made by, this subtitle.

(2) TRANSITIONAL RULE.—Any reference in any provision of law to title XIX of the Social Security Act or any provision thereof shall be deemed to be a reference to such title or provision as in effect on the day before the date of the enactment of this Act.

(3) AMENDMENT TO SECTION 1115.—Section 1115(a) of the Social Security Act (42 U.S.C. 1315(a)) is amended—

(A) in the matter preceding paragraph (1), by striking "or XIX" and inserting "XIX, or XV";

(B) in paragraph (1), by inserting "or of title XV," after "1902,"; and

(C) in paragraph (2), by inserting "or under title XV," after "1903,".

(4) CERTIFICATION OF CHRISTIAN SCIENCE NURSING FACILITIES.—

(A) IN GENERAL.—Title XIX (42 U.S.C. 1396 et seq.) is amended—

(i) in the matter following paragraph (62) of section 1902(a) (42 U.S.C. 1396a(a)), by striking "the First Church of Christ, Scientist, Boston, Massachusetts" and inserting "The Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc."; and

(ii) in section 1908(e)(1) (the first place it appears) (42 U.S.C. 1396g(1)(e)), by striking "the First Church of Christ, Scientist, Boston, Massachusetts" and inserting "The Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect on January 1, 1997.

SEC. 2925. INTEGRATION DEMONSTRATION PROJECT.

(a) DESCRIPTION OF PROJECTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") may waive such requirements of titles XVIII and XV of the Social Security Act as may be necessary for States to conduct demonstration projects under this section. Such projects shall demonstrate the manner in which States may use funds from the programs under such titles to develop and implement innovative programs for individuals dually eligible for benefits under both titles, including such individuals who are chronically ill. The Secretary shall grant waivers in a manner that permits States flexibility in contracting with medicare risk providers and other providers for services, oversight of contract administration and quality management, and administration of a single enrollment process. Such a waiver may restrict time period during which project participants may disenroll without cause from capitated health plans under the medicare program.

(2) VOLUNTARY PARTICIPATION.—A State may not require an individual eligible to receive items and services under the medicare and title XV programs to participate in a demonstration project under this section.

(b) BUDGET NEUTRALITY AND REINVESTMENT OF SAVINGS.—

(1) BUDGET NEUTRALITY.—The Secretary shall not approve a demonstration project under this section for a State unless the State demonstrates that the amount of the Federal expenditures under the program will not exceed the amount of the Federal expenditures that would have been made if the project had not been approved.

(2) USE OF SAVINGS.—The Secretary shall permit a State to retain any savings achieved under a project and to use such savings for—

(A) expanding eligibility for low income medicare beneficiaries who are at risk of institutionalization and who, if institutionalized, are likely to qualify for benefits under title XV of the Social Security Act, and

(B) providing a scope of services under the project that exceeds the scope of services normally covered under such title.

(c) LIMITATION ON NUMBER OF PROJECTS.—Not more than 10 demonstration projects shall be conducted under this section.

(d) DURATION.—

(1) IN GENERAL.—Subject to paragraph (2), a demonstration project conducted under this section shall be conducted for an initial period of 5 years and, upon the request of a State and a finding by the Secretary that the project has been successful, shall be extended indefinitely.

(2) TERMINATION.—The Secretary may, with 90 days' notice, terminate any demonstration project conducted under this section that is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(e) APPLICATIONS.—Each State, or a coalition of States, desiring to conduct a demonstration project under this section shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an explanation of a plan for evaluating the project. The Secretary shall approve or deny an application not later than 90 days after the receipt of such application.

(f) PAYMENTS.—For each calendar quarter occurring during a demonstration project conducted under this section, the Secretary shall provide for payments to the State in a manner consistent with subsection (b)(1).

(g) OVERSIGHT.—The Secretary shall establish quality standards for evaluating and monitoring the demonstration projects conducted under this section. Such quality standards shall include reporting requirements which contain the following:

(1) A description of the demonstration project.

(2) An analysis of beneficiary satisfaction under such project.

(3) An analysis of the quality of the services delivered under the project.

(4) A description of the savings to the medicare and title XV programs as a result of the demonstration project.

SEC. 2926. NATIONAL COMMISSION ON MEDICAID AND STATE-BASED HEALTH CARE REFORM.

(a) ESTABLISHMENT OF COMMISSION.—

(1) IN FENERAL.—There is established a commission to be known as the National Commission on Medicaid and State-Based Health Care Reform (in this section referred to as the "Commission").

(2) COMPOSITION.—The Commission shall be composed as follows:

(A) 2 FEDERAL OFFICIALS.—The President shall appoint 2 Federal officials, one of whom the President shall designate as Chair of the Commission.

(B) 4 MEMBERS OF THE CONGRESS.—Four members of the Congress shall be appointed as follows:

(i) The Speaker of the House of Representatives shall appoint one Member of the House.

(ii) The minority leader of the House of Representatives shall appoint one Member of the House.

(iii) The majority leader of the Senate shall appoint one Member of the Senate.

(iv) The minority leader of the Senate shall appoint one Member of the Senate.

(C) 5 STATE GOVERNMENT REPRESENTATIVES.—Five State government representatives shall be appointed as follows:

(i) The majority leaders of the House of Representatives and the Senate shall jointly appoint 3 individuals who are governors, State legislators, or State medicaid officials.

(ii) The minority leaders of the House of Representatives and the Senate shall jointly appoint 2 individuals who are governors, State legislators, or State medicaid officials.

(D) 6 EXPERTS.—Six experts shall be appointed as follows:

(i) The majority leaders of the House of Representatives and the Senate shall jointly appoint 4 individuals, who are not officials of the Federal or State governments, and who may be consumers, or who are individuals who have expertise in a health-related field, such as medicine, public health, or delivery and financing of health care services.

(ii) The President shall appoint 2 individuals who are not officials of the Federal or State governments, and who may be consumers, or who are individuals who have expertise in a health-related field, such as medicine, public health, or delivery and financing of health care services.

(3) INITIAL APPOINTMENT.—Members of the Commission shall first be appointed by not later than 90 days after the date of the enactment of this Act.

(4) COMPENSATION AND EXPENSES.—

(A) COMPENSATION.—Each member of the Commission shall serve without compensation.

(B) TRAVEL EXPENSES.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(b) DUTIES OF COMMISSION.—

(1) STUDY.—

(A) IN GENERAL.—The Commission shall study and make recommendations to the Congress, the President, and the Secretary of Health and Human Services regarding the program of medical assistance under title XIX of the Social Security Act (or title XV of such Act, if applicable) and modifications that may be made to such program to improve the program and to encourage further State health reform relating to access, quality, and cost containment.

(B) SPECIFIC CONCERNS.—The studies and recommendations of the Commission shall specifically address the following:

(i) The progress achieved with respect to performance objectives relating to access and quality.

(ii) Changes needed to ensure adequate access to health care and long term care for low-income individuals.

(iii) Promotion of quality care.

(iv) Deterrence of fraud and abuse.

(v) Providing each State with additional flexibility in implementing the program of medical assistance under title XIX of the Social Security Act (or title XV of such Act, if applicable), consistent with maintaining the guarantee of coverage under such program.

(vi) Causes and strategies for limiting Federal and State expenditures under such program.

(vii) Enhancing the equity and fairness in the distribution of Federal per beneficiary expenditures and matching rates to the States.

(C) CONSULTATION.—In addressing the issue described in subparagraph (B)(vii), the Commission shall consult with the Comptroller General of the General Accounting Office and shall consider the following:

(i) The rate of poverty in each State.

(ii) The total taxable resources in each State.

(iii) Differences in the efficient operation of the program of medical assistance under title XIX of the Social Security Act (or title XV of such Act, if applicable) among the States.

(iv) Per capita income in each State.

(v) The relative health care case mix in each State.

(vi) The wages of health care employees in each State.

(vii) The cost of living in each State.

(2) REPORTS.—

(A) FIRST REPORT.—

(i) IN GENERAL.—The Commission shall submit a first report to the Congress by not later than June 1, 1997.

(ii) REQUIREMENT.—The report submitted to Congress under clause (i) shall include the Commission's recommendation with respect to the issue described in paragraph (1)(B)(vii) in the form of a legislative proposal containing such statutory provisions as the Commission may determine are necessary or appropriate to implement such recommendation.

(B) SUBSEQUENT REPORTS.—The Commission shall issue subsequent reports to the Congress by not later than December 31, 1997, and December 31, 1998, respectively.

(c) ADMINISTRATION.—

(1) APPOINTMENT OF STAFF.—

(A) EXECUTIVE DIRECTOR.—The Commission shall have an Executive Director who shall be appointed by the Chair

with the approval of the Commission. The Executive Director shall be paid at a rate not to exceed the rate of basic pay payable for level III of the Executive Schedule.

(B) STAFF.—With the approval of the Commission, the Executive Director may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(C) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(2) PROVISION OF ADMINISTRATIVE SUPPORT SERVICES BY HHS.—Upon the request of the Commission, the Secretary of Health and Human Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $4,000,000 for each of fiscal years 1997 and 1998, and $2,000,000 for fiscal year 1999.

(e) TERMINATION.—The Commission shall terminate on December 31, 1998.

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